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## INTRODUCTION

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

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

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

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

### ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2012

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
1	December 27, 2011	January 6, 2012
2	January 3, 2012	January 13, 2012
3	January 9, 2012	January 20, 2012
4	January 17, 2012	January 27, 2012
5	January 23, 2012	February 3, 2012
6	January 30, 2012	February 10, 2012
7	February 6, 2012	February 17, 2012
8	February 14, 2012	February 24, 2012
9	February 21, 2012	March 2, 2012
10	February 27, 2012	March 9, 2012
11	March 5, 2012	March 16, 2012
12	March 12, 2012	March 23, 2012
13	March 19, 2012	March 30, 2012
14	March 26, 2012	April 6, 2012
15	April 2, 2012	April 13, 2012
16	April 9, 2012	April 20, 2012
17	April 16, 2012	April 27, 2012
18	April 23, 2012	May 4, 2012
19	April 30, 2012	May 11, 2012
20	May 7, 2012	May 18, 2012
21	May 14, 2012	May 25, 2012
22	May 21, 2012	June 1, 2012
23	May 29, 2012	June 8, 2012

24	June 4, 2012	June 15, 2012
25	June 11, 2012	June 22, 2012
26	June 18, 2012	June 29, 2012
27	June 25, 2012	July 6, 2012
28	July 2, 2012	July 13, 2012
29	July 9, 2012	July 20, 2012
30	July 16, 2012	July 27, 2012
31	July 23, 2012	August 3, 2012
32	July 30, 2012	August 10, 2012
33	August 6, 2012	August 17, 2012
34	August 13, 2012	August 24, 2012
35	August 20, 2012	August 31, 2012
36	August 27, 2012	September 7, 2012
37	September 4, 2012	September 14, 2012
38	September 10, 2012	September 21, 2012
39	September 17, 2012	September 28, 2012
40	September 24, 2012	October 5, 2012
41	October 1, 2012	October 12, 2012
42	October 9, 2012	October 19, 2012
43	October 15, 2012	October 26, 2012
44	October 22, 2012	November 2, 2012
45	October 29, 2012	November 9, 2012
46	November 5, 2012	November 16, 2012
47	November 13, 2012	November 26, 2012
48	November 19, 2012	November 30, 2012
49	November 26, 2012	December 7, 2012
50	December 3, 2012	December 14, 2012
51	December 10, 2012	December 21, 2012
52	December 17, 2012	December 28, 2012

**Editor's Note:** The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from May 1<sup>st</sup> to July 2<sup>nd</sup>, 2012.

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Meat and Poultry Inspection Act
- 2) Code Citation: 8 Ill. Adm. Code 125
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
125.144	Amendment
125.200	Amendment
125.260	Amendment
125.270	Amendment
125.280	Amendment
125.380	Amendment
125.390	Amendment
125.400	Amendment
- 4) Statutory Authority: The Meat and Poultry Inspection Act [225 ILCS 650]
- 5) 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 Federal Poultry Products Inspection Act and as required by Section 16 of the Meat and Poultry Inspection Act, the Department is proposing amendments to the federal meat and poultry products in rules. Sections 125.144, 125.200, 125.270, 125.280, 125.380 and 125.390 are being amended to include technical amendments to the final labeling regulations that were published in the Federal Register on December 23, 1999. The regulations related to harmonizing and improving the efficiency of the procedures used by the Food Safety and Inspection Service (FSIS) and the Food and Drug Administration (FDA) for reviewing and listing the food ingredients and sources of radiation listed or approved for use in the production of meat and poultry products.  
  
In Section 125.400, FSIS is also amending the definitions and standards for the official U.S. classes of poultry so that they more accurately and clearly describe the characteristics of poultry in the market today. Poultry classes are defined primarily in terms of the age and sex of the bird. Genetic improvements and poultry management techniques have reduced the grow-out period for some poultry classes, while extensive cross breeding has produced poultry with higher meat yields but blurred breed distinctions. FSIS is taking this action to ensure that the labeling of poultry products is truthful and not misleading.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENTS

- 7) Will this rulemaking replace any emergency rulemaking in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed amendments pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendments appears in the *Illinois Register*. Please mail written comments on the proposed rulemaking to the attention of:
- Linda Rhodes  
Illinois Department of Agriculture  
State Fairgrounds, P. O. Box 19281  
Springfield, IL 62794-9281
- 217/785-5713  
217/785-4505 (fax)
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Meat and poultry facilities
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not anticipated at the time of the last two regulatory agendas were published.

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

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENTS

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

Section	
125.10	Definitions
125.20	Incorporation by Reference of Federal Rules
125.30	Application for License; Approval
125.40	Official Number
125.50	Inspections; Suspension or Revocation of License
125.60	Administrative Hearings; Appeals (Repealed)
125.70	Assignment and Authority of Program Employees
125.80	Schedule of Operations; Overtime
125.90	Official Marks of Inspection, Devices and Certificates
125.100	Records and Reports
125.110	Exemptions
125.120	Disposal of Dead Animals and Poultry
125.130	Reportable Animal and Poultry Diseases
125.140	Detention; Seizure; Condemnation
125.141	Sanitation Standard Operating Procedures (SOP's)
125.142	Hazard Analysis and Critical Control Point (HACCP) Systems
125.143	Imported Products
125.144	Preparation and Processing Operations
125.145	Control of <i>Listeria Monocytogenes</i> in Ready-to-Eat Meat and Poultry Products
125.146	Consumer Protection Standards: Raw Products
125.147	Rules of Practice
125.148	Quantity of Contents Labeling and Procedures and Requirements for Accurate Weights

SUBPART B: MEAT INSPECTION

Section	
125.150	Livestock and Meat Products Entering Official Establishments
125.160	Equine and Equine Products

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENTS

125.170	Facilities for Inspection
125.180	Sanitation (Repealed)
125.190	Ante-Mortem Inspection
125.200	Post-Mortem Inspection
125.210	Disposal of Diseased or Otherwise Adulterated Carcasses and Parts
125.220	Humane Slaughter of Animals
125.230	Handling and Disposal of Condemned or Other Inedible Products at Official Establishment
125.240	Rendering or Other Disposal of Carcasses and Parts Passed for Cooking
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

## SUBPART C: POULTRY INSPECTION

Section	
125.310	Application of Inspection
125.320	Facilities for Inspection
125.330	Sanitation
125.340	Operating Procedures
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].

SOURCE: Adopted at 9 Ill. Reg. 1782, effective January 24, 1985; peremptory amendment at 9 Ill. Reg. 2337, effective January 28, 1985; peremptory amendment at 9 Ill. Reg. 2980, effective

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENTS

February 20, 1985; preemptory amendment at 9 Ill. Reg. 4856, effective April 1, 1985; preemptory amendment at 9 Ill. Reg. 9240, effective June 5, 1985; preemptory amendment at 9 Ill. Reg. 10102, effective June 13, 1985; preemptory amendment at 9 Ill. Reg. 11673, effective July 17, 1985; preemptory amendment at 9 Ill. Reg. 13748, effective August 23, 1985; preemptory amendment at 9 Ill. Reg. 15575, effective October 2, 1985; preemptory amendment at 9 Ill. Reg. 19759, effective December 5, 1985; preemptory amendment at 10 Ill. Reg. 447, effective December 23, 1985; preemptory amendment at 10 Ill. Reg. 1307, effective January 7, 1986; preemptory amendment at 10 Ill. Reg. 3318, effective January 24, 1986; preemptory amendment at 10 Ill. Reg. 3880, effective February 7, 1986; preemptory amendment at 10 Ill. Reg. 11478, effective June 25, 1986; preemptory amendment at 10 Ill. Reg. 14858, effective August 22, 1986; preemptory amendment at 10 Ill. Reg. 15305, effective September 10, 1986; preemptory amendment at 10 Ill. Reg. 16743, effective September 19, 1986; preemptory amendment at 10 Ill. Reg. 18203, effective October 15, 1986; preemptory amendment at 10 Ill. Reg. 19818, effective November 12, 1986; preemptory amendment at 11 Ill. Reg. 1696, effective January 5, 1987; preemptory amendment at 11 Ill. Reg. 2930, effective January 23, 1987; preemptory amendment at 11 Ill. Reg. 9645, effective April 29, 1987; preemptory amendment at 11 Ill. Reg. 10321, effective May 15, 1987; preemptory amendment at 11 Ill. Reg. 11184, effective June 5, 1987; preemptory amendment at 11 Ill. Reg. 14830, effective August 25, 1987; preemptory amendment at 11 Ill. Reg. 18799, effective November 3, 1987; preemptory amendment at 11 Ill. Reg. 19805, effective November 19, 1987; preemptory amendment at 12 Ill. Reg. 2154, effective January 6, 1988; amended at 12 Ill. Reg. 3417, effective January 22, 1988; preemptory amendment at 12 Ill. Reg. 4879, effective February 25, 1988; preemptory amendment at 12 Ill. Reg. 6313, effective March 21, 1988; preemptory amendment at 12 Ill. Reg. 6819, effective March 29, 1988; preemptory amendment at 12 Ill. Reg. 13621, effective August 8, 1988; preemptory amendment at 12 Ill. Reg. 19116, effective November 1, 1988; preemptory amendment at 12 Ill. Reg. 20894, effective December 21, 1988; preemptory amendment at 13 Ill. Reg. 228, effective January 11, 1989; preemptory amendment at 13 Ill. Reg. 2160, effective February 13, 1989; amended at 13 Ill. Reg. 3696, effective March 13, 1989; preemptory amendment at 13 Ill. Reg. 15853, effective October 5, 1989; preemptory amendment at 13 Ill. Reg. 16838, effective October 11, 1989; preemptory amendment at 13 Ill. Reg. 17495, effective January 18, 1990; amended at 14 Ill. Reg. 3424, effective February 26, 1990; preemptory amendment at 14 Ill. Reg. 4953, effective March 23, 1990; preemptory amendment at 14 Ill. Reg. 11401, effective July 6, 1990; preemptory amendment at 14 Ill. Reg. 13355, effective August 20, 1990; preemptory amendment at 14 Ill. Reg. 16064, effective September 24, 1990; preemptory amendment at 14 Ill. Reg. 21060, effective May 29, 1991; preemptory amendment at 15 Ill. Reg. 620, effective January 2, 1991; preemptory amendment withdrawn at 15 Ill. Reg. 1574, effective January 2, 1991; preemptory amendment at 15 Ill. Reg. 3117, effective September 3, 1991; preemptory amendment at 15 Ill. Reg. 8714, effective May 29, 1991; amended at 15 Ill. Reg. 8801, effective June 7, 1991; preemptory amendment at 15 Ill. Reg. 13976, effective September 20, 1991; preemptory amendment at 16 Ill. Reg. 1899, effective

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENTS

March 2, 1992; amended at 16 Ill. Reg. 8349, effective May 26, 1992; preemptory amendment at 16 Ill. Reg. 11687, effective July 10, 1992; preemptory amendment at 16 Ill. Reg. 11963, effective July 22, 1992; preemptory amendment at 16 Ill. Reg. 12234, effective July 24, 1992; preemptory amendment at 16 Ill. Reg. 16337, effective October 19, 1992; preemptory amendment at 16 Ill. Reg. 17165, effective October 21, 1992; preemptory amendment at 17 Ill. Reg. 2063, effective February 12, 1993; preemptory amendment at 17 Ill. Reg. 15725, effective September 7, 1993; preemptory amendment at 17 Ill. Reg. 16238, effective September 8, 1993; preemptory amendment at 17 Ill. Reg. 18215, effective October 5, 1993; preemptory amendment at 18 Ill. Reg. 304, effective December 23, 1993; preemptory amendment at 18 Ill. Reg. 2164, effective January 24, 1994; amended at 18 Ill. Reg. 4622, effective March 14, 1994; preemptory amendment at 18 Ill. Reg. 6442, effective April 18, 1994; preemptory amendment at 18 Ill. Reg. 8493, effective May 27, 1994; amended at 18 Ill. Reg. 11489, effective July 7, 1994; preemptory amendment at 18 Ill. Reg. 12546, effective July 29, 1994; preemptory amendment at 18 Ill. Reg. 14475, effective September 7, 1994; amended at 18 Ill. Reg. 14924, effective September 26, 1994; preemptory amendment at 18 Ill. Reg. 15452, effective September 27, 1994; preemptory amendment at 19 Ill. Reg. 1342, effective January 27, 1995; preemptory amendment at 19 Ill. Reg. 4765, effective March 13, 1995; preemptory amendment at 19 Ill. Reg. 7067, effective May 8, 1995; preemptory amendment at 19 Ill. Reg. 14896, effective October 6, 1995; preemptory amendment at 19 Ill. Reg. 15766, effective November 10, 1995; preemptory amendment at 19 Ill. Reg. 16866, effective December 22, 1995; preemptory amendment at 20 Ill. Reg. 5091, effective March 19, 1996; preemptory amendment at 20 Ill. Reg. 10403, effective July 17, 1996; amended at 20 Ill. Reg. 11928, effective September 1, 1996; preemptory amendment at 20 Ill. Reg. 12634, effective September 5, 1996; preemptory amendment at 20 Ill. Reg. 15371, effective November 13, 1996; preemptory amendment at 21 Ill. Reg. 1221, effective January 14, 1997; preemptory amendment at 21 Ill. Reg. 1719, effective January 28, 1997; preemptory amendment at 21 Ill. Reg. 6609, effective May 20, 1997; amended at 21 Ill. Reg. 11494, effective August 1, 1997; preemptory amendment at 21 Ill. Reg. 11788, effective August 8, 1997; preemptory amendment at 21 Ill. Reg. 12686, effective August 28, 1997; preemptory amendment at 21 Ill. Reg. 14575, effective October 22, 1997; preemptory amendment at 22 Ill. Reg. 3602, effective February 2, 1998; preemptory amendment at 22 Ill. Reg. 5740, effective March 5, 1998; preemptory amendment at 22 Ill. Reg. 9384, effective May 15, 1998; preemptory amendment at 22 Ill. Reg. 20645, effective November 16, 1998; amended at 23 Ill. Reg. 450, effective January 1, 1999; preemptory amendment at 23 Ill. Reg. 3851, effective March 11, 1999; preemptory amendment at 23 Ill. Reg. 10880, effective August 19, 1999; preemptory amendment at 24 Ill. Reg. 3933, effective February 22, 2000; preemptory amendment at 24 Ill. Reg. 5699, effective March 14, 2000; preemptory amendment at 24 Ill. Reg. 6734, effective April 14, 2000; amended at 24 Ill. Reg. 7197, effective April 27, 2000; preemptory amendment at 24 Ill. Reg. 14074, effective August 30, 2000; preemptory amendment at 24 Ill. Reg. 14451, effective September 15, 2000; preemptory amendment at 25 Ill. Reg. 7341, effective April 26, 2001; preemptory amendment at 25 Ill. Reg. 12434, effective September 13, 2001; preemptory amendment at 25

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENTS

Ill. Reg. 15444, effective November 19, 2001; preemptory amendment at 26 Ill. Reg. 980, effective January 11, 2002; preemptory amendment at 26 Ill. Reg. 7750, effective May 10, 2002; amended at 27 Ill. Reg. 10205, effective July 1, 2003; preemptory amendment at 27 Ill. Reg. 13634, effective July 28, 2003; emergency amendment at 27 Ill. Reg. 14197, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; preemptory amendment at 27 Ill. Reg. 15172, effective September 15, 2003; preemptory amendment at 27 Ill. Reg. 17281, effective November 1, 2003; preemptory amendment at 27 Ill. Reg. 18270, effective November 14, 2003; amended at 28 Ill. Reg. 2131, effective February 1, 2004; preemptory amendment at 28 Ill. Reg. 3513, effective February 6, 2004; preemptory amendment at 28 Ill. Reg. 11934, effective August 5, 2004; preemptory amendment at 28 Ill. Reg. 15694, effective November 30, 2004; preemptory amendment at 28 Ill. Reg. 16368, effective December 6, 2004; preemptory amendment at 29 Ill. Reg. 2479, effective February 1, 2005; amended at 29 Ill. Reg. 5661, effective April 13, 2005; preemptory amendment at 29 Ill. Reg. 15645, effective October 7, 2005; amended at 29 Ill. Reg. 18432, effective October 28, 2005; preemptory amendment at 29 Ill. Reg. 20580, effective November 29, 2005; preemptory amendment at 29 Ill. Reg. 21058, effective December 21, 2005; preemptory amendment at 30 Ill. Reg. 2400, effective February 6, 2006; preemptory amendment at 30 Ill. Reg. 16081, effective September 25, 2006; preemptory amendment at 31 Ill. Reg. 5149, effective March 16, 2007; preemptory amendment at 31 Ill. Reg. 12624, effective August 20, 2007; preemptory amendment at 31 Ill. Reg. 16763, effective December 10, 2007; preemptory amendment at 32 Ill. Reg. 590, effective January 1, 2008; preemptory amendment at 32 Ill. Reg. 17831, effective October 30, 2008; preemptory amendment at 33 Ill. Reg. 1230, effective January 5, 2009; preemptory amendment at 33 Ill. Reg. 6338, effective April 17, 2009; preemptory amendment at 33 Ill. Reg. 12040, effective August 5, 2009; preemptory amendment at 35 Ill. Reg. 571, effective December 22, 2010; preemptory amendment at 35 Ill. Reg. 1802, effective January 14, 2011; preemptory amendment at 35 Ill. Reg. 19553, effective January 1, 2012; preemptory amendment at 36 Ill. Reg. 9264, effective June 6, 2012; amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: GENERAL PROVISIONS FOR BOTH  
MEAT AND/OR POULTRY INSPECTION**Section 125.144 Preparation and Processing Operations**

The Department incorporates by reference 9 CFR 424 (2004; [76 FR 82077, effective December 30, 2011](#)).

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: MEAT INSPECTION

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENTS

**Section 125.200 Post-Mortem Inspection**

- a) The Department incorporates by reference 9 CFR 310.1(a) and 310.2 through 310.23 (~~2004; 69 FR 1862 and 69 FR 1885, effective January 12, 2004; 70 FR 53043, effective October 7, 2005; 72 FR 38700, effective October 1, 2007; 75 FR 69575, effective December 15, 2010; 76 FR 82077, effective December 30, 2011~~), except that the preparation of meat and meat products for nonhuman food purposes (e.g., dog food) is not permitted at an official establishment. The preparation of nonhuman food products must be done in establishments licensed under the Illinois Dead Animal Disposal Act. The Department incorporates by reference 9 CFR 310.25 (1999; 64 FR 66553, effective November 29, 1999); the E. coli process control testing regulations set forth in 9 CFR 310.25(a) will be applicable on October 1, 1997, and the Salmonella pathogen reduction performance standards regulations set forth in 9 CFR 310.25(b) will be applicable simultaneously with applicability dates for implementation of HACCP in Section 125.142.
- b) The unusual circumstance and acceptable arrangements referred to in 9 CFR 310.1(a) shall mean in the case of emergency slaughter and in accordance with the procedure outlined in Section 125.190.
- c) In the case of emergency slaughter and where a veterinarian was obtained by the owner to perform ante-mortem inspection (see Section 125.190), the veterinarian may perform post-mortem inspection of the animal. The carcass and all parts, including viscera, shall be identified as set forth in 9 CFR 310.2 and held for the inspector. If the veterinarian performs the post-mortem inspection at the request of the owner, then the cost of such service shall be borne by the owner of the animal.
- d) Disinfectants that can be used in an official establishment shall be those set forth in Section 125.180.
- e) With regard to the incorporated language in 9 CFR 310.2(b)(4), alternate methods proposed by the operator of an official establishment for handling devices shall be approved if such method will accomplish the specific provisions as stated in that paragraph.
- f) Retained carcasses may be washed or trimmed provided such washing or trimming does not affect the disposition of the carcasses by removing conditions or lesions which caused the carcasses to be identified as retained.

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENTS

- g) Temporary identification of retained carcasses by an official establishment shall be permitted; however, Illinois Retained tags shall be used to identify the carcasses along with any temporary identification that is used.
- h) References in the incorporated language to 9 CFR 314 shall be interpreted to mean in accordance with Section 125.230.
- i) Facilities for handling and inspecting cow udders shall be as set forth in 9 CFR 416 (incorporated in Section 125.141).

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 125.260 Labeling, Marking and Containers**

- a) The Department incorporates by reference 9 CFR 317.1 through 317.2(j)(10), 317.2(j)(12) through 317.4(f)(2), [317.5](#), 317.6, 317.8, 317.10 through 317.13, 317.17 through 317.24, 317.300, 317.302, 317.308, 317.309, 317.312, 317.313, 317.343, 317.344, 317.345, 317.354, 317.356, 317.360, 317.361, 317.362, 317.363, 317.369, 317.380, 317.400 (~~2004; 69 FR 34913, effective July 31, 2004; 69 FR 48799, effective November 30, 2004; 69 FR 74405, effective January 13, 2005; 71 FR 1683, effective January 11, 2006; 72 FR 9651, effective March 5, 2007; 73 FR 50701, effective September 30, 2008; 73 FR 52189, effective October 9, 2008; 73 FR 75564, effective December 12, 2008; 74 FR 11837, effective March 20, 2009; 75 FR 71344, effective November 23, 2010; 75 FR 82148, effective January 1, 2012~~).
- b) The Department shall approve only those abbreviations for marks of inspection as specifically stated in Section 2.26(j)(3) and (k)(3), (4), (5) and (9) of the Act.
- c) Labeling and sketch labeling shall be approved by the Department if the label is in compliance with the provisions of this Section and the label is not misbranded in accordance with Section 2.20 of the Act. All labels and sketch labels shall be submitted to the Springfield office of the Department for approval.
- d) The Department shall approve temporary labeling as stated in 9 CFR 317.4(f). Labeling which has received temporary approval shall not be used beyond the temporary approval period unless the printer or manufacturer of the label is unable to provide the official establishment with the labels before the expiration of the temporary approval.

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENTS

- e) The quantity of contents as shown on the label shall be in compliance with the Weights and Measures Act [225 ILCS 470] and the rules adopted thereto (8 Ill. Adm. Code 600).
- f) Any Type I establishment is authorized to use generically approved labeling for meat and poultry products as defined in subsection (h) of this Section without the labeling being submitted for approval to the Department, provided the labeling is in accordance with this Section and shows all mandatory features in a prominent manner as required in 9 CFR 317.2 and 381 and is not otherwise false or misleading.
- g) The Department shall select samples of generically approved labeling from the records maintained by official establishments to determine compliance with labeling requirements. Any finding of false or misleading labeling shall institute the proceedings prescribed in 225 ILCS 650/13.
- h) Generically approved labeling is labeling that complies with the following:
  - 1) Labeling for a product that has a product standard as specified in 9 CFR 319 and 381 or the Standards and Labeling Policy Book and does not contain any special claims such as quality claims, nutrient content claims, health claims, negative claims, geographical origin claims or guarantees, or is not a domestic product labeled in a foreign language;
  - 2) Labeling for single-ingredient products, such as beef steak or lamb chops, that does not contain any special claims such as quality claims, nutrient content claims, health claims, negative claims, geographical origin claims or guarantees or is not a domestic product labeled with a foreign language;
  - 3) Labeling for containers of products sold under contract specifications to federal government agencies that the product is not offered for sale to the general public, provided that the contract specifications include specific requirements with respect to labeling and are made available to the inspector-in-charge;
  - 4) Labeling for shipping containers that contain fully labeled immediate containers, provided that the labeling complies with 9 CFR 316.13 and 381.127;

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PROPOSED AMENDMENTS

- 5) Labeling for products not intended for human food, provided it complies with 9 CFR 325, 381.152(c) and 381.193;
- 6) Meat inspection legends;
- 7) Inserts, tags, liners, pasters and similar devices containing printed or graphic matter and for use or to be placed within containers and coverings of products, provided the devices contain no reference to product and bear no misleading feature;
- 8) Labeling for consumer test products not intended for sale;
- 9) Labeling that was previously approved by the Department as sketch labeling, and the final labeling was prepared without modification or with the following modifications:
  - A) All features of the labeling are proportionately enlarged or reduced provided that all minimum size requirements specified in applicable regulations are met and the labeling is legible;
  - B) The substitution of any unit of measurement with its abbreviation or the substitution of any abbreviation with its unit of measurement, e.g., "lb." for "pound" or "oz." for "ounce" or of the word "pound" for "lb." or "ounce" for "oz.";
  - C) A master or stock label has been approved where the name and address of the distributor are omitted and the name and address are applied before being used (in that case, the words "prepared for" or similar statement must be shown together with the blank space reserved for the insertion of the name and address when the labels are offered for approval);
  - D) Wrappers or other covers bearing pictorial designs, emblematic designs or illustrations, e.g., floral arrangements, illustrations of animals, fireworks, etc., are used with approved labeling (The use of the designs will not make necessary the application of labeling not otherwise required.);

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- E) A change in the language or the arrangement of directions pertaining to the opening of containers or the serving of the product;
- F) The addition, deletion or amendment of a dated or undated coupon, a cents-off statement, cooking instructions, packer product code information or the UPC product code information;
- G) Any change in the name or address of the packer, manufacturer or distributor that appears in the signature line;
- H) Any change in the net weight, provided the size of the net weight statement complies with CFR 317.2 and 318.121;
- I) The addition, deletion or amendment of recipe suggestions for the product;
- J) Any change in punctuation;
- K) Newly assigned or revised establishment numbers for a particular establishment that has been approved by the Department;
- L) The addition or deletion of open dating information;
- M) A change in the type of packaging material on which label is printed;
- N) Brand name changes, provided that there are no design changes, the brand name does not use a term that connotes quality or other product characteristics, the brand name has no geographic significance, and the brand name does not affect the name of the product;
- O) The deletion of the word "new" on new product labeling;
- P) The addition, deletion or amendment of special handling statements, provided that the change is consistent with CFR 317.2(k) and 318.125(a);

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- Q) The addition of safe handling instructions as required by CFR 317.2(1) and 381.125(b);
  - R) Changes reflecting a change in the quantity of an ingredient shown in the formula without a change in the order of predominance shown on the label, provided that the change in quantity of ingredients complies with any minimum or maximum limits for the use of the ingredients prescribed in CFR 318, 319 and 381.147;
  - S) Changes in the color of the labeling, provided that sufficient contrast and legibility remain;
  - T) A change in the product vignette, provided that the change does not affect mandatory labeling information or misrepresent the content of the package;
  - U) A change in the establishment number by a corporation or parent company for an establishment under its ownership;
  - V) Changes in nutrition labeling that only involve quantitative adjustments to the nutrition labeling information, except for serving sizes, provided the nutrition labeling information maintains its accuracy and consistency;
  - W) Deletion of any claim, and the deletion of non-mandatory features or non-mandatory information; and
  - X) The addition or deletion of a direct translation of the English language into a foreign language for products marked "for export only".
- i) With regard to the incorporated language in 9 CFR 317.6, the extension of time for exhausting existing stocks of labels is not applicable since all labels presently in use are in compliance with the rules of this Part.
  - j) The Department does not issue a list of approved packaging materials and will permit for use any packaging material which has been approved by the U.S. Department of Agriculture (see 9 CFR 317.24 (2004)).
  - k) Labels to be used for the relabeling of inspected and passed product shall be

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permitted to leave the official establishment when the product must be relabeled because the original labels have become mutilated or damaged. The official establishment shall reimburse the Department for any overtime costs, if applicable, involved for the inspector to supervise the relabeling of a product. The overtime charges shall be as set forth in Section 125.80.

- l) The inspector shall grant authorization to transport labels, wrappers and containers bearing official marks from one official establishment to another official establishment provided the official establishment provides to the inspector the information required in 9 CFR 317.13 so that the inspector can notify the inspector at the destination point.
- m) Labeling of custom slaughter and/or custom processed meat and/or meat products and the containers containing custom slaughtered and/or custom processed meat and/or meat products shall be as set forth in Section 5 of the Act.
- n) References in the incorporated language to 9 CFR 312 shall be interpreted to mean in accordance with Section 125.90.

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 125.270 Entry into Official Establishment; Reinspection and Preparation of Product**

- a) The Department incorporates by reference 9 CFR 318.1(c) through 318.6, 318.9 through 318.10, 318.14 through 318.20, 318.22, 318.23, 318.24, 318.300 through 318.311 (~~2004; 69 FR 1862 and 69 FR 1874, effective January 12, 2004; 70 FR 53043, effective October 7, 2005; 72 FR 38700, effective October 1, 2007; 76 FR 82077, effective December 30, 2011~~).
- b) No meat or meat product shall be brought into an official establishment unless it is inspected or has been prepared in an official establishment or in a federally licensed establishment and is identified by an official inspection legend as set forth in Section 125.90, a federal inspection legend, or is exempt from inspection as stated in Section 125.110. Meat and meat products received in an official establishment during the absence of the inspector shall be identified as set forth in Section 125.200 and, unless exempt from inspection, shall not be used or prepared until they have been reinspected. Any meat and meat product originally prepared at any official establishment may not be returned to any part of such establishment other than the receiving area until it has been reinspected by the

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inspector and passed. Wild game carcasses shall comply with Section 5(B)(4) of the Act. The official establishment shall maintain an inventory of non-meat items (e.g., spices, preservatives) which are received at the official establishment. Any product that is brought on the premises of an official establishment contrary to the provisions of this Section shall be removed immediately from such establishment by the operator of the establishment.

- c) Reinspections of meat and/or meat products within the official establishment shall be performed through the use of a random digit table.
- d) Docks and receiving rooms for meat and/or meat products or other articles used by the establishment in the preparation of meat products entering an official establishment shall be approved by the inspector if the location of such docks or receiving rooms will not permit such product or article to pass through rooms containing inspected and passed products.
- e) The manner of defrosting frozen products and methods of treating to preserve products shall be in accordance with procedures as set forth in the "Meat and Poultry Inspection Manual" as adopted in Section 125.20.
- f) Casings or weasand shall be inspected and passed if it is in compliance with the specific provisions as stated in 9 CFR 318.5(i) for passage of such articles.
- g) The Department does not approve new substances to be used on meat or in meat products, their uses or the levels of use of an approved substance. Such substances will be permitted to be used and artificial flavorings may be used if they do not adulterate the meat and/or meat product in accordance with Section 2.11 of the Act and are in compliance with the provisions of this Section.
- h) References to exemptions from slaughter and custom slaughter shall mean those exemptions set forth in Section 125.110.
- i) References within the incorporated language to the federal Poultry Inspection Act, Section 403 of the Act, Section 7 of the Act, 9 CFR 303, and paragraph 23(a) of the Act shall be interpreted to mean in accordance with the Meat and Poultry Inspection Act and the rules of this Part.
- j) The Department does not approve thermometers for use in smokehouses, dry rooms and other compartments that are used in the treatment of pork.

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- k) Disinfectants shall be those as set forth in Section 125.180.
- l) Adequate vacuum shall be determined through the use of vacuum gauges.
- m) Canned products which may be processed without steam-pressure cooking shall be those products as stated in the "Meat and Poultry Inspection Manual" as adopted by the Department in Section 125.20.
- n) The inspector shall permit lots of canned product to be shipped from the official establishment prior to the completion of the incubation period on the representative samples in accordance with the specific provisions in 9 CFR 318.309.
- o) The standards and procedures for determining when ingredients of finished products are in compliance with this Section shall be as set forth in the "Meat and Poultry Inspection Manual" as adopted by the Department in Section 125.20.

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 125.280 Meat Definitions and Standards of Identity or Composition**

The Department incorporates by reference 9 CFR 319 (~~2004; 69 FR 1862, effective January 12, 2004; 69 FR 28042, effective July 31, 2004; 69 FR 34913, effective July 23, 2004; 70 FR 33803, effective January 1, 2008; 76 FR 82077, effective December 30, 2011~~). Methods for the destruction of live trichinae in pork shall be as set forth in Section 125.270 (specifically the incorporated language of 9 CFR 318.10(c)).

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: POULTRY INSPECTION

**Section 125.380 Labeling and Containers**

- a) The Department incorporates by reference 381.115 through 381.127, 381.129 through 381.132(f), 381.133, 381.134, 381.136 through 381.140, 381.144(a) through 381.144(d), 381.400, 381.402, 381.408, 381.409, 381.412, 381.413, 381.443; 381.444; 381.445; 381.454; 381.456, 381.460, 381.461, 381.462, 381.463, 381.469, 381.480, 381.500 (~~2004; 69 FR 28042, effective July 31, 2004; 69 FR 57899, effective November 30, 2004; 69 FR 4405, effective January 13, 2005; 71 FR 1683, effective January 11, 2006; 72 FR 9651, effective March 5,~~

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~~2007; 73 FR 50701, effective September 30, 2008; 73 FR 52189, effective October 9, 2008; 73 FR 75564, effective December 12, 2008; 74 FR 11837, effective March 20, 2009; 75 FR 71344, effective November 23, 2010; 75 FR 82148, effective January 1, 2012; 76 FR 82077, effective December 30, 2011).~~

- b) Each shipping container and each immediate container containing inspected and passed poultry and/or poultry products shall be identified in accordance with the labeling provisions of this Section.
- c) Immediate containers of poultry products packed in, bearing or containing any chemical additive shall bear a label naming the additive and the purpose of its use.
- d) Labels for consumer packages shall be approved if the label is not misbranded in accordance with Section 2.20 of the Act and is in compliance with this Section.
- e) The specific statements listed in 9 CFR 381.121 may be added to the label for the shipping container at the option of the licensee.
- f) The quantity of contents as shown on the label shall be in compliance with the Weights and Measures Act and the rules adopted thereto (8 Ill. Adm. Code 600).
- g) No labeling or containers that have not been approved shall be used until a final decision is rendered at an administrative hearing in accordance with Section 19 of the Act.
- h) The Department shall approve the manufacture of a device or label containing an official mark of inspection provided the device or label is in compliance with Section 125.90.
- i) Labeling and sketch labeling shall be approved by the Department if the label is in compliance with the provisions of this Section and the label is not misbranded in accordance with Section 2.20 of the Act. All labels and sketch labels shall be submitted to the Springfield office of the Department for approval.
- j) The Department shall approve temporary labeling as stated in 9 CFR 381.132(f). Labeling which has received temporary approval shall not be used beyond the temporary approval period unless the printer or manufacturer of the label is unable to provide the official establishment with the permanent labels before the expiration of the temporary approval.

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- k) A copy of each label submitted for approval shall be accompanied by a statement showing the common or usual names, the kinds and percentages of the ingredients comprising the poultry product and a statement indicating the method or preparation of the product with respect to which the label is to be used. Laboratories used for chemical analysis shall be any approved laboratory as defined in 8 Ill. Adm. Code 20.1.
- l) The Department does not approve terms for generic labeling and considers the approval of terms as generic to be the responsibility of the federal government.
- m) The Department does not issue a list of approved packaging materials and will permit for use any packaging material which has been approved by the U.S. Department of Agriculture (see 9 CFR 317.24 (1997)).
- n) Labels and devices approved for use pursuant to Section 125.90 and this Section shall be disposed of only when such labels or devices have been mutilated or damaged or when the establishment ceases to do business. Such labels and devices shall be given to the inspector for disposition.
- o) The inspector shall grant authorization to transport labels, wrappers and containers bearing official marks from one official establishment to another official establishment provided the official establishment provides to the inspector the information required in 9 CFR 381.138 so that the inspector can notify the inspector at the destination point.
- p) Labels to be used for the relabeling of inspected and passed product shall be permitted to leave the official establishment when the product must be relabeled because the original labels have become mutilated or damaged. The official establishment shall reimburse the Department for any overtime costs, if applicable, involved for the inspector to supervise the relabeling of a product. The overtime charges shall be as set forth in Section 125.80.
- q) Labeling of custom slaughtered and/or custom processed poultry and/or poultry products and the containers containing custom slaughtered and/or custom processed poultry products shall be as set forth in Section 5 of the Act.
- r) The Department shall approve only those abbreviations for marks of inspection as specifically stated in Section 2.26(j)(3), (4), (5) and (9) of the Act.

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 125.390 Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements**

- a) The Department incorporates by reference 9 CFR 381.145(b) through 381.146, 381.148, 381.150 through 381.151, 381.200, 381.300 through 381.311 (2004; [76 FR 82077, effective December 30, 2011](#)).
- b) No poultry or poultry product shall be brought into an official establishment unless it is inspected or has been prepared in an official establishment or in a federally licensed establishment and is identified by an official inspection legend as set forth in Section 125.90, the federal inspection legend, or is exempt from inspection as stated in Section 125.110. However, poultry or poultry products imported into the United States may be transported to an inspection site in accordance with the provisions of 9 CFR 381.200 for reinspection.
- c) Poultry and poultry products received in an official establishment during the absence of the inspector shall be identified as set forth in Section 125.360 and, unless exempt from inspection, shall not be used or prepared until they have been reinspected. Any poultry and/or poultry product originally prepared at any official establishment may not be returned to any part of such establishment other than the receiving area until it has been reinspected and passed by the inspector.
- d) The official establishment shall maintain an inventory of non-poultry items (e.g., spices, preservatives) which are received at the official establishment. Any product that is brought on the premises of an official establishment contrary to the provisions of this Section shall be removed immediately from such establishment by the operator of the establishment.
- e) Reinspections of poultry and/or poultry products within the official establishment shall be performed through the use of a random digit table.
- f) Poultry feet shall be approved for processing for human food in accordance with the procedures set forth in the "Meat and Poultry Inspection Manual" as adopted by the Department in Section 125.20.
- g) The Department does not approve new substances to be used on poultry or in poultry products, their uses or the levels of use of an approved substance. Such substances will be permitted to be used if they will not adulterate the poultry and/or poultry product in accordance with Section 2.11 of the Act and are in

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compliance with the provisions of this Section.

- h) Ready-to-heat-and-eat poultry or stuffed ready-to-roast poultry may be moved from an official establishment prior to freezing in accordance with the provisions of Section 125.330 (specifically the incorporated language in 9 CFR 381.66(f)(3)).
- i) Any method of cleaning immediate containers used for the holding of poultry and poultry products shall be approved if such method is in compliance with the sanitation requirements (see Section 125.330).
- j) Canned poultry products which may be processed without steam-pressure cooking shall be those products as stated in the "Meat and Poultry Inspection Manual" as adopted by the Department in Section 125.20.
- k) The inspector shall permit lots of canned poultry products to be shipped from the official establishment prior to the completion of the incubation period on the representative samples in accordance with the specific provisions in 9 CFR 381.309.
- l) Disinfectants which may be used in an official establishment shall be those products on the "List of Proprietary Substances and Nonfood Compounds" as adopted by the Department in Section 125.20.

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 125.400 Definitions and Standards of Identity or Composition**

- a) The Department incorporates by reference 9 CFR 381: Subpart P (~~2004; 70 FR 33803, effective January 1, 2008; 76 FR 68058, effective January 1, 2014~~).
- b) Cooling of poultry shall be in accordance with the provisions set forth in Section 125.330.
- c) Definitions and standards of identity or composition for poultry products shall be as set forth in this Section and in Section 13(d) of the Act.

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Chief Procurement Officer for General Services Standard Procurement
- 2) Code Citation: 44 Ill. Adm. Code 1
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1.8000	New
1.8005	New
1.8010	New
1.8015	New
1.8020	New
1.8025	New
1.8030	New
- 4) Statutory Authority: The Illinois Lottery Law [20 ILCS 1605/9.1(o)]
- 5) A Complete Description of the Subjects and Issues Involved: The selection of a private manager for the Illinois Lottery is exempt from the Illinois Procurement Code, with the exception of Section 20-160 and Article 50. See 30 ILCS 500/1-10(d). In P.A. 97-464 (effective October 15, 2011), the Illinois Lottery Law was amended to require the Chief Procurement Officer to adopt rules to establish a procurement process to select a successor private manager if a private manager agreement has been terminated.  
  
The proposed Subpart outlines the selection process the Department of Lottery will follow in choosing a successor private manager if a private management agreement is terminated, allows for the use of advisors to assist in the preparation of the request for qualifications and selection of a private manager, outlines the use of a public hearing in the selection process, advises on the award process and sets forth how a selection may be protested.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: The Chief Procurement Office for General Services relied on P.A. 97-464 to compose the rulemaking. Copies are available for review with the Chief Procurement Office for General Services at 401 S. Spring, 712 Stratton Office Building, Springfield, Illinois 62706.
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

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- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect or create or expand a State mandate under the State Mandates Act.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Chief Procurement Office for General Services will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40]. Written comments may be submitted within 45 days after the date of publication in the *Illinois Register* to:

Margaret L. van Dijk  
Senior Policy Advisor  
Chief Procurement Office for General Services  
712 Stratton Office Building  
Springfield, IL 62706

217-558-2228

[Margaret.vanDijk@illinois.gov](mailto:Margaret.vanDijk@illinois.gov)

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: The proposed amendments may have an impact on small businesses, small municipalities, and not-for-profit corporations as defined in Sections 1-75, 1-80, and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75, 1-80, 1-85]. These entities may submit comments in writing to the Chief Procurement Office for General Services at the above address in accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-20]. These entities shall indicate their status as a small business, small municipality, or not-for-profit corporation as part of any written comments they submit to the Chief Procurement Office for General Services.
- B) Reporting, bookkeeping or other procedures required for compliance: Businesses interested in contracting with the State will be required to meet all of the

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procurement ethics and disclosure requirements listed in Section 20-160 and Article 50 of the Illinois Procurement Code [30 ILCS 500/20-160 and 500/50 et seq.] including financial disclosure requirements, conflict of interest requirements, and registration with the State Board of Elections.

- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This amendment was not included in either of the two most recent agendas because it was not anticipated.

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT

SUBTITLE A: PROCUREMENT AND CONTRACT PROVISIONS

CHAPTER I: CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

PART 1

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES  
STANDARD PROCUREMENT

SUBPART A: GENERAL

Section

- 1.1 Title
- 1.5 Policy
- 1.8 Purpose and Implementation of This Part
- 1.10 Application
- 1.15 Definition of Terms Used in This Part
- 1.25 Property Rights
- 1.30 Constitutional Officers, and Legislative and Judicial Branches

SUBPART B: PROCUREMENT RULES

Section

- 1.525 Rules

SUBPART C: PROCUREMENT AUTHORITY

Section

- 1.1005 Exercise of Procurement Authority
- 1.1010 Appointment of State Purchasing Officer
- 1.1040 Central Procurement Authority of the CPO
- 1.1050 Procurement Authority of the SPO; Limitations
- 1.1060 Delegation
- 1.1070 Toll Highway Authority
- 1.1075 Department of Natural Resources
- 1.1080 Illinois Mathematics and Science Academy

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

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## Section

- 1.1510 Illinois Procurement Bulletin
- 1.1525 Bulletin Content
- 1.1550 Official State Newspaper
- 1.1560 Supplemental Notice
- 1.1570 Error in Notice
- 1.1580 Direct Solicitation
- 1.1590 Retention of Bulletin Information

## SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

## Section

- 1.2005 General Provisions
- 1.2010 Competitive Sealed Bidding
- 1.2012 Multi-Step Sealed Bidding
- 1.2015 Competitive Sealed Proposals
- 1.2020 Small Purchases
- 1.2025 Sole Economically Feasible Source Procurement
- 1.2030 Emergency Procurements
- 1.2035 Competitive Selection Procedures for Professional and Artistic Services
- 1.2036 Other Methods of Source Selection
- 1.2037 Tie Bids and Proposals
- 1.2038 Mistakes
- 1.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

## SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

## Section

- 1.2043 Suppliers
- 1.2044 Vendor List/Required Use
- 1.2045 Prequalification
- 1.2046 Responsibility

## SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

## Section

- 1.2047 Security Requirements

## SUBPART H: SPECIFICATIONS AND SAMPLES

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Section  
1.2050 Specifications and Samples

SUBPART I: CONTRACT TYPE

Section  
1.2055 Types of Contracts

SUBPART J: DURATION OF CONTRACTS

Section  
1.2060 Duration of Contracts – General

SUBPART K: CONTRACT MATTERS

Section  
1.2560 Prevailing Wage  
1.2570 Equal Employment Opportunity; Affirmative Action  
1.2575 Subcontractors

SUBPART L: CONTRACT PRICING

Section  
1.2800 All Costs Included

SUBPART M: CONSTRUCTION AND  
CONSTRUCTION RELATED PROFESSIONAL SERVICES

Section  
1.3005 Construction and Construction Related Professional Services

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section  
1.4005 Real Property Leases and Capital Improvement Leases

SUBPART O: PREFERENCES

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## Section

1.4505	Procurement Preferences
1.4510	Resident Bidder Preference
1.4530	Correctional Industries
1.4535	Sheltered Workshops for the Disabled
1.4540	Gas Mileage
1.4545	Small Business
1.4570	Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities
1.4575	Domestic Products

## SUBPART P: ETHICS

## Section

1.5013	Conflicts of Interest
1.5015	Negotiations for Future Employment
1.5020	Exemptions
1.5030	Revolving Door
1.5035	Disclosure of Financial Interests and Potential Conflicts of Interest
1.5037	Vendor Registration, Certification and Prohibition on Political Contributions

## SUBPART Q: CONCESSIONS

## Section

1.5310	Concessions
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## SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

## Section

1.5510	Complaints Against Vendors
1.5520	Suspension
1.5530	Resolution of Contract Controversies
1.5540	Violation of Law or Rule
1.5550	Protests

## SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

## Section

1.6010	Supply Management and Dispositions
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## SUBPART T: GOVERNMENTAL JOINT PURCHASING

## Section

1.6500	General
1.6510	No Agency Relationship
1.6520	Obligations of Participating Governmental Units
1.6530	Centralized Contracts – Estimated Quantities
1.6535	Centralized Contracts – Definite Quantities

## SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

## Section

1.7000	Severability
1.7010	Government Furnished Property
1.7015	Inspections
1.7020	Records and Audits
1.7025	Written Determinations
1.7030	No Waiver of Sovereign Immunity

SUBPART V: SELECTION OF A SUCCESSOR ILLINOIS LOTTERY PRIVATE  
MANAGER IF A PRIVATE MANAGEMENT AGREEMENT  
HAS BEEN TERMINATED

Section

<u>1.8000</u>	<u>Authority</u>
<u>1.8005</u>	<u>General</u>
<u>1.8010</u>	<u>Selection Process</u>
<u>1.8015</u>	<u>Lottery Advisors</u>
<u>1.8020</u>	<u>Public Hearing</u>
<u>1.8025</u>	<u>Award</u>
<u>1.8030</u>	<u>Action to Contest Selection</u>

AUTHORITY: The Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted at 7 Ill. Reg. 100, effective December 17, 1982; amended at 7 Ill. Reg. 13481, effective October 4, 1983; amended at 7 Ill. Reg. 13844, effective October 12, 1983; codified at 8 Ill. Reg. 14941; Sections 1.2210, 1.2220, 1.2230, 1.2240 recodified to Section 1.2210 at 9 Ill. Reg. 6118; amended at 10 Ill. Reg. 923, effective January 2, 1986; amended at 10

## CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

## NOTICE OF PROPOSED AMENDMENTS

Ill. Reg. 18707, effective October 22, 1986; amended at 11 Ill. Reg. 7225, effective April 6, 1987; amended at 11 Ill. Reg. 7595, effective April 14, 1987; amended at 13 Ill. Reg. 17804, effective November 7, 1989; emergency amendment at 16 Ill. Reg. 13118, effective August 7, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 600, effective January 5, 1993; amended at 17 Ill. Reg. 14576, effective August 27, 1993; amended at 20 Ill. Reg. 9015, effective July 1, 1996; old Part repealed by emergency rulemaking at 22 Ill. Reg. 12632, effective July 1, 1998, for a maximum of 150 days, and new Part adopted by emergency rulemaking at 22 Ill. Reg. 12726, effective July 1, 1998, for a maximum of 150 days; old Part repealed and new Part adopted at 22 Ill. Reg. 20875, effective November 25, 1998; emergency amendment at 23 Ill. Reg. 2812, effective February 16, 1999, for a maximum of 150 days; emergency expired on July 15, 1999; emergency amendment at 23 Ill. Reg. 5869, effective April 29, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7075, effective June 7, 1999; amended at 24 Ill. Reg. 1900, effective January 21, 2000; amended at 26 Ill. Reg. 13189, effective August 23, 2002; emergency amendment at 29 Ill. Reg. 20540, effective December 2, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 30 Ill. Reg. 5673, effective March 7, 2006, for the balance of the 150 days; emergency expired August 3, 2006; amended at 30 Ill. Reg. 138, effective December 22, 2005; amended at 30 Ill. Reg. 13378, effective July 25, 2006; amended at 30 Ill. Reg. 17305, effective October 20, 2006; amended at 30 Ill. Reg. 18635, effective November 17, 2006; emergency amendment at 33 Ill. Reg. 3205, effective January 28, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 9607, effective June 25, 2009; recodified, pursuant to PA 96-795, from Department of Central Management Services to Chief Procurement Officer for General Services at 35 Ill. Reg. 10143; amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART V: SELECTION OF A SUCCESSOR ILLINOIS LOTTERY PRIVATE  
MANAGER IF A PRIVATE MANAGEMENT AGREEMENT  
HAS BEEN TERMINATED

**Section 1.8000 Authority**

This Subpart is promulgated by the Chief Procurement Officer for General Services (CPO-GS) in accordance with the provisions of the Illinois Lottery Law (Lottery Law) [20 ILCS 1605]. This Part may be amended in accordance with the Lottery Law and the Illinois Administrative Procedure Act [5 ILCS 100].

(Source: Added at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1.8005 General**

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The Chief Procurement Officer (CPO-GS) shall adopt administrative rules, including emergency rules, to establish a procurement process to select a successor private manager if a private management agreement has been terminated. [20 ILCS 1605/9.1(o)]

(Source: Added at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1.8010 Selection Process**

- a) Notwithstanding any other law to the contrary, the Department of Lottery (Lottery) shall select a private manager through a competitive request for qualifications process consistent with Section 20-35 of the Illinois Procurement Code. [20 ILCS 1605/9.1(e)]
- b) Contents. The Request for Qualifications (RFQ) shall be in the form specified by the Lottery and shall contain at least the following information:
- 1) the type of services required;
  - 2) a description of the work involved;
  - 3) an estimate of when and for how long the services will be required;
  - 4) the type of contract to be used;
  - 5) a date by which proposals for the performance of the services shall be submitted;
  - 6) a statement of the minimum information that the proposal shall contain, which may, by way of example, include:
    - A) the name of the offeror, the location of the offeror's principal place of business and, if different, the place of performance of the proposed contract;
    - B) if deemed relevant, the age of the offeror's business and average number of employees over a previous period of time, as specified in the RFQ;

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- C) the abilities, qualifications and experience of all persons who would be assigned to provide the required services;
  - D) a listing of other contracts under which services similar in scope, size or discipline to the required services were performed or undertaken within a previous period of time, as specified in the RFQ;
  - E) a plan, giving as much detail as is practical, explaining how the services will be performed;
- 7) price or other proposed form of compensation (to be submitted in a separate envelope in the proposal package and not mentioned elsewhere in the proposal package);
- 8) the factors to be used in the evaluation and selection process and their relative importance; and
- 9) a plan for post-performance review to be conducted by the Lottery after completion of services and before final payment and to be made part of the procurement file.
- c) The RFQ may not require, stipulate, suggest or encourage a monetary or financial contribution, donation, incentive or economic investment as an explicit or implied term or condition for awarding the contract. The RFQ may not include a requirement that an individual or individuals employed by the Lottery or employed by Lottery advisors receive a consulting contract for professional services.
- d) Prior to the publication of the RFQ in the Illinois Procurement Bulletin, the Lottery shall obtain written approval of the evaluation factors from the CPO-GS or a designee.
- e) Evaluation. Proposals shall be evaluated only on the basis of evaluation factors stated in the RFQ. Price or other form of compensation will not be evaluated until ranking of all proposals and identification of the most qualified vendor. The minimum factors are:

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- 1) the offeror's ability to market the Lottery to those residents who are new, infrequent or lapsed players of the Lottery, especially those who are most likely to make regular purchases on the internet;
  - 2) the offeror's ability to address the State's concern with the social effects of gambling on those who can least afford to do so;
  - 3) the offeror's ability to provide the most successful management of the Lottery for the benefit of the people of the State based on current and past business practices or plans of the offeror;
  - 4) the offeror's past performance in servicing, equipping, operating or managing a lottery on behalf of Illinois, another State or foreign government and attracting persons who are not currently regular players of a lottery [20 ILCS 1605/9.1(e)] and maximizing revenue in an ethical and socially responsible manner;
  - 5) the plan for performing the required services;
  - 6) ability to perform the services as reflected by technical training and education, general experience, specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services;
  - 7) the personnel, equipment and facilities to perform the services currently available or demonstrated to be made available at the time of contracting; and
  - 8) a record of past performance of similar work.
- f) Delivery, Receipt and Handling of Proposals
- 1) Receipt. Upon its receipt, each proposal and modification shall be date and time-stamped but not opened and shall be stored in a secure place until the time and date set for opening. If a proposal is opened for identification purposes or opened in error, the file should state the reason for the error.
  - 2) Proposals shall be submitted to and opened by the Lottery.

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- A) Proposals and modifications shall be opened publicly at the time, date and place designated in the RFQ.
  - B) Opening shall be witnessed by a State witness or by any other person present, but the person opening proposals shall not serve as witness. A record shall be prepared that shall include the name of each offeror and a description sufficient to identify the supply or service item offered. The record of proposals shall be open to public inspection after award of the contract.
  - C) Proposals and modifications shall be opened in a manner designed to avoid disclosing contents to competitors. Only authorized State personnel and contractual agents may review the proposals prior to award.
- g) Discussions
- 1) Discussions Permissible. The Lottery may conduct discussions with any offeror to:
    - A) determine in greater detail the offeror's qualifications; and
    - B) explore with the offeror the scope and nature of the required services, the offeror's proposed method of performance, and the relative utility of alternative methods of approach. The Lottery may allow changes to the proposal based on those discussions.
  - 2) No Disclosure of Information. Discussions shall not disclose any information derived from proposals submitted by other offerors, and the agency conducting the procurement shall not disclose any information contained in any proposals until after award of the proposed contract.
  - 3) No discussions with offerors may occur unless the entire evaluation committee is present.
- h) Selection of the Best Qualified Offerors

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After conclusion of validation of qualifications, evaluation and discussion, the Lottery shall rank the acceptable offerors in the order of their respective qualifications.

- i) Evaluation of Pricing Data or other Proposed Compensation  
Pricing and other forms of proposed compensation submitted for all acceptable proposals timely submitted shall be opened and ranked only after the process set forth in subsection (h) has been completed.
- j) Negotiation and Award of Contract
  - 1) General. The Lottery shall designate a negotiation committee to attempt to negotiate a contract with the best qualified offeror for the required services at fair and reasonable compensation. The Lottery may, in the interest of efficiency, negotiate with the next highest ranked vendor, while negotiating with the best qualified vendor.
  - 2) The Lottery shall conduct compensation negotiations with the vendor determined to be most qualified based upon the evaluation factors contained in the RFQ prior to the publication of any notice of award.
  - 3) Elements of Negotiation. At a minimum, contract negotiations shall be directed toward:
    - A) making certain that the offeror has a clear understanding of the scope of the work, specifically, the essential requirements involved in providing the required services, and that the plan for service delivery is feasible;
    - B) determining that the offeror will make available the necessary personnel and facilities to perform the services within the required time; and
    - C) agreeing upon compensation that is fair and reasonable, and based upon realistic revenue projections, taking into account the estimated value of the required services and the scope, complexity and nature of those services.
  - 4) Successful Negotiation of Contract with Best Qualified Offeror

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- A) If compensation, contract requirements and contract documents can be agreed upon with the best qualified offeror, the contract shall be awarded to that offeror, unless the procurement is canceled.
  - B) Compensation must be determined in writing to be fair and reasonable by the Lottery Superintendent. The negotiation committee shall prepare a compensation analysis and recommendation for consideration by the Lottery Superintendent. The analysis shall be based on specifications contained in the RFQ and include, but is not limited to, the nature of the services needed, qualifications of the offerors, consideration of range of prices received in the course of the procurement, other available pricing information and the Lottery's identified budget.
- 5) Failure to Negotiate Contract with Best Qualified Offeror
- A) If compensation, contract requirements or contract documents cannot be agreed upon with the best qualified offeror, a written record stating the reasons shall be placed in the file. The Lottery shall advise such offeror of the termination of negotiations.
  - B) Upon failure to negotiate a contract with the best qualified offeror, the Lottery may enter into negotiations with the next most qualified offeror.
- k) Award  
Award shall be made to the offeror determined in writing by the Department to be best qualified based on the evaluation factors set forth in the request for qualifications and negotiation of compensation determined to be fair and reasonable. [30 ILCS 500/20-35].
- l) Notice of Award  
Written notice of award shall be public information and made a part of the contract file. The Lottery shall publish the names of its responsible decision makers, the successful vendor, a contract reference number or other identifier, and the value of the contract. Publication shall be in the Illinois Procurement Bulletin.

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(Source: Added at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1.8015 Lottery Advisors**

- a) The Lottery may retain the services of an advisor to assist in the preparation of the terms of the request for qualifications and the selection of the private manager.
- b) Any prospective advisor seeking to assist the Lottery must disclose all material business or financial relationships during the past three years with:
  - 1) any potential offeror; and
  - 2) any contractor or subcontractor presently providing goods, services or equipment to the Lottery.
- c) For the purpose of this Section, "material business or financial relationship" includes, but is not limited to, those relationships in which the individual (or his or her spouse or immediate family member) benefits by receiving a salary, royalty, intellectual property rights, consulting fee, honoraria, ownership interest (e.g., stocks, stock options or other ownership interest, excluding diversified mutual funds), any benefit associated with licensure, or other benefit. These benefits are usually, but not necessarily, associated with roles such as employment, management position, independent contractor (including contracted research), lobbying, consulting, speaking or teaching, membership on advisory committees or review panels, board membership, and other activities for which some form of remuneration is received or expected. There is no set minimal dollar amount for relationships to be considered material.
- d) All disclosures made under this Section shall include both domestic and international business or financial relationships.
- e) After evaluating the material business or financial relationships of each prospective advisor, the Lottery may select an advisor so long as the Department does not deem any of the business or financial relationships of the advisor likely to impair the advisor's objectivity.

(Source: Added at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1.8020 Public Hearing**

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- a) After receipt of all offerors' proposals, the Lottery shall select offerors as finalists.
- b) The Lottery shall hold a public hearing on the finalists' proposals.
- c) At least 7 days prior to the public hearing, the Lottery must provide public notice that includes:
  - 1) The date, time and place of the hearing;
  - 2) The subject matter of the hearing;
  - 3) A brief description of the private management agreement to be awarded;
  - 4) The identity of the offerors selected as finalists; and
  - 5) The address and telephone number of the Lottery.
- d) At the public hearing, the Lottery:
  - 1) Shall provide sufficient time to allow each of the finalists to present its proposal. Each finalist shall be afforded an identical, maximum amount of time for presentation, including any extensions of time that may be granted during the course of the hearing.
  - 2) Allow comments from the public and offerors that were not selected as finalists.

(Source: Added at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1.8025 Award**

- a) Prior to the Lottery's selection of the final offeror, the CPO-GS shall certify that the procurement process provided for under this Subpart has been followed. Notice of this determination shall be published in the Illinois Procurement Bulletin.
- b) The Lottery shall select a final offeror as private manager by publication of notice in the Illinois Procurement Bulletin. This notice shall include a detailed

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*explanation and the reasons why the final offeror is superior to other offerors and will provide management services in a manner that best achieves the objectives of the Illinois Lottery Law. [20 ILCS 1605(h)]*

- c) *Within seven days after award of the contract and subject to provisions of the Freedom of Information Act [5 ILCS 140], the Lottery shall make available for public inspection and copying all pre-award, post-award, administration and close-out documents relating to the contract. [30 ILCS 500/20-155].*

(Source: Added at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1.8030 Action to Contest Selection**

- a) *Any action to contest the selection of the private manager by the Lottery must be brought within 14 calendar days after the publication of the notice provided for in Section 1.8025(b).*
- b) *Any action to contest the final selection will be reviewed by the Protest Review Office in accordance with Section 1.5550. The CPO-GS shall make the final determination on the merits of any action to contest the final selection of the private manager.*
- c) *Protest Review Officer*  
*The CPO-GS may appoint one or more Protest Review Officers (PRO) to consider the procurement-related protests and make a recommendation to the CPO-GS for resolution of the protest. The CPO-GS may adopt the recommendation or take other action.*
- d) *Submission of Protest*
- 1) *A protesting party must submit a protest in writing to the PRO identified in the solicitation document. Fax and email qualify as writing, but the PRO does not guarantee receipt using those means.*
  - 2) *The protest must be physically received by the PRO at the location specified. A postmark or other carrier mark prior to the due date and time is not sufficient to show physical receipt.*

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- A) In regard to the solicitation notice or solicitation document including specifications, a protest must be received within 14 days after the date the solicitation was posted to the Bulletin and must be received by the PRO at the designated address before the date for opening bids or proposals.
- B) In regard to rejection of individual bids or proposals or awards, the protest must be received by close of business no later than 14 days after the protesting party knows or should have known of the facts giving rise to the protest to ensure consideration, and, in any event, must be received before execution of the applicable contract.
- 3) Any notice posted to the Illinois Procurement Bulletin establishes the "known or should have known" date for the subject matter of the notice.
- 4) Protests must be clearly marked on the delivery container, the fax cover sheet or the email subject line.
- 5) The written protest shall include as a minimum the following:
  - A) the name and address of the protesting party;
  - B) identification of the procurement, and, if a contract has been awarded, its number or other identifier;
  - C) a statement of reasons for the protest specifically identifying any alleged violation of a procurement statute, a procurement rule or the solicitation itself, including the evaluation and award (conclusions with supporting facts and arguments may not be sufficient); and
  - D) supporting exhibits, evidence, or documents to substantiate any claims unless not available within the filing time, in which case the expected availability date shall be indicated. If submitting the protest by fax, supporting documentation over 20 pages in length may not be included without authorization. If the protest is by fax or email, the protesting party may be required to submit documentation by mail or carrier within 2 business days after the request; and

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E) specific relief sought.

e) Requested Information

The protesting party must supply any additional information requested by the PRO within the time periods set in the request. If the protesting party fails to comply with this request, the PRO shall consider the protest on the basis of available information or may deny the protest.

f) Stay of Procurements During Protest

Unless the CPO-GS determines the needs of the State require an immediate execution of a contract, the following apply:

1) When a protest has been timely filed and before an award has been made, the Department of Lottery shall make no award of the contract until the protest has been resolved.

2) If timely received but after award, the award shall be stayed without penalty to the State.

g) Resolution

The CPO-GS will resolve the protest by means of a written determination. The resolution may include affirming the State's initial decision, in whole or in part, or revoking the State's decision in whole or in part.

h) Effect of Judicial Proceedings

If an action concerning the protest has commenced in a court or administrative body, the CPO-GS may defer resolution of the protest pending the judicial or administrative determination.

(Source: Added at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- 1) Heading of the Part: Managed Care Community Networks
- 2) Code Citation: 89 Ill. Adm. Code 143
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
143.300	Amendment
143.400	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: When the Managed Care Community Network (MCCN) financial requirements were established by rulemaking there were no MCCNs and reliance on capitated health plans was rather limited. However, there now is a large MCCN, with additional MCCNS potentially being formed, because of greater reliance on capitated health plans. The proposed amendments improve the resulting increased risk to the Department and individuals enrolled in a MCCN by requiring higher standards of minimum net worth and solvency for MCCNs, which proves to be less restrictive. Further, the proposed amendment eliminates the distinction between Cook County and other counties because risk is not based on geography. New language under subsection (e) explicitly allows for the Department to cease enrollment with a MCCN when its enrollment exceeds that which is set forth in its contract with HFS or its monthly capitation payment exceeds \$10,000,000; this is another effort to manage the potential risk to the Department and MCCN enrollees.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.

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- 12) Time, Place, and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue E., 3rd Floor  
Springfield IL 62763-0002

217/782-1233

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded providers enrolled in Managed Care Community Networks
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this Rulemaking was summarized: January 2012

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

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## TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF ~~HEALTHCARE AND FAMILY SERVICES~~PUBLIC AID  
SUBCHAPTER d: MEDICAL PROGRAMS

## PART 143

## MANAGED CARE COMMUNITY NETWORKS

## Section

143.100	Definitions
143.200	Organizational Structure
143.300	General Provisions
143.400	Financial Requirements
143.500	Certification

AUTHORITY: Sections 5-11, 5-12 and 5-13 of the Illinois Public Aid Code [305 ILCS 5/5-11, 5-12 and 5-13].

SOURCE: Emergency Rules adopted at 23 Ill. Reg. 4292, effective March 26, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9865, effective August 3, 1999; amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 143.300 General Provisions**

- a) The Department shall enter into contracts with MCCNs for the provision of medical care to eligible enrollees in accordance with Section 5-11 of the Illinois Public Aid Code [305 ILCS 5/5-11].
- b) The Department may limit the number of MCCNs with which it contracts and shall specify a maximum enrollment capacity per MCCN.
- c) Covered services to be provided or arranged by an MCCN shall be established in each MCCN's contract.
- d) The Department shall include, in every contract with an MCCN, language describing the sanctions that the Department may impose upon the MCCN for failure to comply with this Part or the terms and conditions of that contract.
  - 1) The contract shall provide for sanctions including, but not limited to, one or more of the following:

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- A) Monetary sanctions established and assessed by the Department against the MCCN;
  - B) Freezing enrollment for a period to be determined by the Department;
  - C) Liquidated damages;
  - D) Disenrollment of enrollees;
  - E) Withholding all payments or any portion thereof due the MCCN; and
  - F) Any other sanctions that are deemed appropriate by the Department.
- 2) In addition to any sanctions, the Department shall have the right to terminate the contract with or without cause.
- e) To be certified as an MCCN by the Department, an MCCN must meet each of the following requirements:
- 1) An MCCN must execute a written contract with the Department.
  - 2) An MCCN must meet each of the requirements as set forth in the applicable federal and State statutes, regulations, rules, this Part and as defined in the contract.
  - 3) An MCCN must maintain procedures for enrollee complaints as established in contract with the Department. Such procedures shall, at a minimum, meet the standards set forth in the Health Maintenance Organization Act [215 ILCS 125] and applicable rules, applicable federal law and as described in the contract. Those requirements shall include, but are not limited to, requirements that MCCNs maintain:
    - A) Procedures for registering and responding to complaints and grievances in a specified time;

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- B) Procedures for recording the substance of the complaints;
  - C) A method for monitoring complaints against providers, and coordinating this function with established grievance procedures; and
  - D) A method for tracking minor but regular complaints about specific providers that may be indicative of problems.
- 4) An MCCN must maintain a quality assurance and utilization review program. Such procedures shall, at a minimum, meet the standards set forth in the Health Maintenance Organization Act [215 ILCS 125], applicable federal law and as described in the contract. Requirements shall include, but are not limited to:
- A) The establishment of a quality assurance plan that satisfies any and all applicable State and federal statutory, regulatory, administrative, and policy requirements that address quality of care oversight in managed care;
  - B) Utilization and quality assurance monitoring and reporting;
  - C) The establishment of a peer review committee that is responsible for reviewing medical care provided, including issues involving conflicts of interest, and making recommendations for changes when problems are identified; and
  - D) Other quality assurance requirements that are established by the Department.
- f) The rates to be paid to MCCNs shall be established by the Department.

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- g) If the MCCN's enrollment exceeds the maximum enrollment capacity set forth in the contract or its monthly total capitation amount to be paid exceeds \$10,000,000, the Department may limit further enrollment capacity set forth in the contract so that the monthly total capitation amount does not exceed \$10,000,000. If the MCCN receives a certificate of authority to operate a health maintenance organization (HMO) from the Department of Insurance, then the Department may open enrollment to a level commensurate with the HMO's ability to serve the enrollees.

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 143.400 Financial Requirements**

- a) Minimum Net Worth  
~~Each~~ ~~Except during the first contract year, each~~ MCCN must have and maintain at all times a net worth ~~that meet~~ ~~of at least five percent of the total annual capitated payments as calculated and based upon the MCCN's experience in its immediate prior fiscal year as evidenced by the most recent annual financial statement.~~ However, the net worth of an MCCN need not be greater than \$1,500,000 during any contract year. ~~During the term of the contract,~~ the minimum net worth requirements as follows:
- 1) Prior to entering into the contract ~~and for the first six months of the first contract year,~~ net worth shall be at least \$500,000;:
    - A) ~~\$500,000 for MCCNs contracting in a county with a population of over three million, or~~
    - B) ~~\$125,000 for all other MCCNs.~~
  - 2) For ~~the last six months of~~ the first contract year and all subsequent contract years, net worth shall be the greater of; ~~net worth shall be at least~~:
    - A) \$500,000; ~~or~~ \$750,000 for MCCNs contracting in a county with a population of over three million, or

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- B) ~~two percent of the first \$120,000,000 in annual capitated payments plus one percent of the annual capitated payments in excess of \$120,000,000; or \$187,500 for all other MCCNs.~~
- C) ~~An amount equal to the sum of three months of uncovered health care expenditures as reported on the most recent quarterly report filed pursuant to subsection (d); or~~
- D) ~~The sum of eight percent of the annual health care expenditures paid on a non-capitated basis to non-affiliated providers, and four percent of the annual health care expenditures paid on a capitated basis to non-affiliated providers plus the annual health care expenditures paid on a non-capitated basis to affiliated providers. Annual health care expenditures that are paid on a capitated basis to affiliated providers are not included in this calculation of the net worth requirement (regardless of downstream arrangements from the affiliated provider). "Affiliated provider" as used in this Section has the same meaning as the meaning found at 42 CFR 422.354.~~
- 3) ~~For the second and all subsequent contract years, net worth shall not be less than:~~
- A) ~~\$1,000,000 for MCCNs contracting in a county with a population of over three million, or~~
- B) ~~\$250,000 for all other MCCNs.~~

## b) Determination of Net Worth

Net worth must be determined in accordance with generally accepted accounting principles (GAAP), ~~subject to the limitations applicable to provider-sponsored organizations in the Medicare+Choice program (42 CFR 422.382),~~ and may take into account certain provisions of the statutory accounting practices as defined by the Health Maintenance Organization Act [215 ILCS 125]. ~~Any solvency and financial standards set forth in the contract shall be no more restrictive than the standards applicable to provider-sponsored organizations in the Medicare+Choice program (42 CFR 422).~~ Each MCCN shall make available to the Department, upon the request of the Department at any time prior to entering into a contract or during the term of any such contract, documentation sufficient to enable the

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Department to verify or otherwise calculate the net worth of the MCCN. Such documentation includes, but is not limited to, audited financial statements, tax returns, and books and records establishing such net worth.

## c) Solvency Standards

Solvency must be comprised of the following:

- 1) Prior to entering into the contract at least \$250,000 of the minimum net worth amount must be maintained in cash or cash equivalents, and for the first six months of the first contract year:
  - A) ~~At least \$250,000 of the minimum net worth amount must be maintained in cash or cash equivalents for MCCNs contracting in a county with a population of over three million, or~~
  - B) ~~At least \$62,500 in cash and cash equivalents for all other MCCNs.~~
- 2) For ~~the last six months of~~ the first contract year and all subsequent contract years, the greater of:
  - A) At least ~~\$250,000~~\$375,000 of the minimum net worth amount must be maintained in cash or cash equivalents; ~~for MCCNs contracting in a county with a population of over three million, or~~
  - B) 40 percent of the minimum net worth amount in cash and cash equivalents. ~~At least \$93,750 in cash and cash equivalents for all other MCCNs.~~
- 3) ~~For the second and all subsequent contract years:~~
  - A) ~~The greater of \$750,000 or 40 percent of the minimum net worth amount must be maintained in cash or cash equivalents for MCCNs contracting in a county with a population of over three million, or~~
  - B) ~~The greater of \$187,500 or 40 percent of the minimum net worth amount in cash and cash equivalents for all other MCCNs.~~
- 34) Each MCCN shall make adequate provisions against the risks of

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

insolvency. Solvency of the MCCN must be guaranteed by guarantees or letters of credit from recognized financial institutions or by the establishment of escrow or trust accounts. Each MCCN must meet the deposit requirements established by 42 CFR 422.388. Each MCCN shall assure that enrollees are in no case held liable for debts of the MCCN in the event of an MCCN's insolvency.

## d) Solvency Reporting Requirements

- 1) Each MCCN shall make a written quarterly report to the Department establishing the state of the MCCN's solvency and whether such MCCN fails to meet, meets or exceeds the solvency requirements set forth in this Part. Upon request of the Department, each MCCN shall provide the Department with access to documentation sufficient to enable the Department to verify or otherwise calculate the solvency of the MCCN. Such documentation may include, but is not limited to, audited financial statements, tax returns, and books and records establishing such solvency.
- 2) An MCCN that falls below the requirements set forth in this Section, as determined by the Department, shall be provided with written notice by the Department of such failure. The MCCN shall have 30 days from the date of the notice to meet its net worth and/or solvency requirements. The MCCN must provide the Department, within that 30 day period, adequate documentation of its rehabilitation of the net worth and/or solvency. If the MCCN fails to rehabilitate its net worth and/or solvency within that 30 day period, the Department shall impose one or more sanctions, as described in Section 143.300(d), ~~(+)~~; unless the Department extends the 30 day time period. Such extension is at the discretion of the Department and the Department shall request the MCCN to show good cause why such extension should be granted. Nothing in this Part shall prohibit the Department from imposing any other sanctions available under this Part, the contract or at law after the expiration of the 30 day period.

- e) Incorporation of Federal Requirements by Reference  
Any solvency and financial standards set forth in this Part of the contract shall be no more restrictive than the standards applicable to provider-sponsored organizations in the Medicare+Choice program (42 CFR 422.382 through 422.390). Those federal standards, except those less restrictive standards as set forth in this Part at subsections (a)(1), (a)(2)(A), (a)(2)(B) and (c)(2)(A) are

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

incorporated by reference as of the date specified, and do not include any later amendments or editions.

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Internal Security Standard and Fidelity Bonds
- 2) Code Citation: 50 Ill. Adm. Code 904
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
904.30	Amendment
904.50	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401]
- 5) A Complete Description of the Subjects and Issues Involved: Provisions in the Part pertaining to check signature requirements are being updated to reflect current economic realities, based on feedback from insurers, and for consistency with other states' practices. Also, the Department of Insurance is no longer a Division of the Department of Financial and Professional Regulation, so obsolete references are being revised.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Louis Butler, Staff Attorney  
Department of Insurance  
100 West Randolph Street, Suite 9-301 (or)

Susan Anders, Rules Coordinator  
Department of Insurance  
320 West Washington, 4<sup>th</sup> Floor

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Chicago, Illinois 60601-3251  
312/814- 5398

Springfield, Illinois 62767-0001  
217/785-8220

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: Check signature procedures; please see Section 904.30.
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because the changes were not anticipated at that time.

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

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 50: INSURANCE

CHAPTER I: DEPARTMENT OF ~~INSURANCE~~ ~~FINANCIAL AND PROFESSIONAL~~  
~~REGULATION~~

## SUBCHAPTER I: PROVISIONS APPLICABLE TO ALL COMPANIES

## PART 904

## INTERNAL SECURITY STANDARD AND FIDELITY BONDS

## Section

904.5	Authority and Purpose
904.10	Registration of Securities
904.20	Custody, Care and Disposition of Securities
904.30	Signature of Checks – Facsimile Signatures
904.40	Bank Balance Verification
904.50	Bond Requirements

AUTHORITY: Implementing and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Filed October 15, 1971; amended at 2 Ill. Reg. 29, p. 161, effective July 17, 1978; codified at 6 Ill. Reg. 12461; amended at 16 Ill. Reg. 12561, effective July 27, 1992; amended at 17 Ill. Reg. 15584, effective September 14, 1993; amended at 30 Ill. Reg. 337, effective December 29, 2005; amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 904.30 Signature of Checks – Facsimile Signatures**

- a) A company shall have policies, procedures and controls in place regarding disbursements of checks. As part of the policies, procedures and controls, the company must:
  - 1) Prepare a list of authorized signers by name or job classification, with approved limits of authority for each authorized signer; and
  - 2) Set minimum thresholds for which dual signatures are required.
- b) These policies, procedures and controls must be approved by the Board of Directors of the company and a copy must be kept on file and available for review by the Department examiners. Verification of compliance with subsection (a) and this subsection (b) must be documented by the company's outside independent

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

certified public accountants or the internal audit staff of the company, provided the staff report directly to an audit committee appointed by the Board. This compliance review must be performed annually.

- a) ~~All checks, except as provided in this subsection (a), issued for the disbursement of funds belonging to such company shall require the signature of at least two officers or employees of the company who shall have been so authorized by the Board of Directors of such company. This dual signature requirement shall not apply to drafts.~~
- 1) ~~Checks in amounts less than \$5,000 may, if, and to the extent, authorized by the Board, be issued without dual signatures if the procedure to be followed pursuant to the authorization requires an officer or employee, other than the authorized signer, to approve payment prior to the issuance of the check.~~
- 2) ~~Checks for payment of claims only, in amounts of \$5,000 to \$20,000, may, if, and to the extent, authorized by the Board, be issued without dual signatures provided the requirements of subsection (a)(1) are met, and further provided that:~~
- A) ~~The company has prepared a list of authorized signers by name or job classification, with approved limits of authority for each authorized signer. This list must be approved by the Board and a copy must be kept on file and available for review by the Department of Financial and Professional Regulation Division of Insurance examiners.~~
- B) ~~Verification of compliance with this subsection (a) must be documented by the company's outside independent certified public accountants or the internal audit staff of the company, provided the staff report directly to an audit committee appointed by the Board of Directors. This compliance review must be performed annually.~~
- cb) Facsimile or electronic signatures may be affixed to checks or drafts if that procedure has been authorized by the Board of Directors and adequate controls over the use of thefaesimile signatures have been established. Control procedures shall be reduced to writing and shall provide for written approval of the disbursement of funds by officers or employees other than those affixing

## DEPARTMENT OF INSURANCE

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facsimile ~~or electronic~~ signatures, for supervision and policing of the machines or appliances used for affixing ~~faesimile~~ signatures, and for the recording of checks and drafts to which ~~the faesimile~~ signatures have been affixed. Written control procedures shall be kept on file and available for review by examiners.

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 904.50 Bond Requirements**

- a) All ~~such~~ companies shall procure and maintain in force surety bonds on employees, officers or positions in an amount not less than the amount set forth in the column in subsection (d) headed "Minimum Amount of Bond", based on the amount of admitted assets of the company (as determined from year to year) stated in the annual statement of ~~thesuch~~ company as filed with the ~~Department~~Division of Insurance. All surety bonds shall be written with at least a one year discovery period ~~orand~~, if written with less than a 3 year discovery period, shall contain a provision that no cancellation or termination of the bond, whether by or at the request of the insured or by the underwriter, shall take effect prior to the expiration of 90 days after written notice of cancellation or termination has been filed with the ~~Department~~Division of Insurance unless an earlier date of cancellation or termination is approved by the ~~Department~~Division of Insurance.
- b) Surety bonds required by this Section shall include all employees, officers or positions for the following perils, which may be covered under separate policies:
- 1) Dishonesty of employees and officers;
  - 2) Robbery, burglary, larceny, theft, false pretense, holdup, misplacement, mysterious disappearance, and damage or destruction while property is in any bank or any recognized place of safe deposit, or in transit;
  - 3) Forgery or alteration.
- c) Deductible
- 1) A surety bond may be written under a deductible form, the amount of the deductible to be not more than the ~~greater~~greatest of:

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A1) ~~.5½ of 1%~~ of the capital and surplus, if a stock company, and, if a company other than stock, its surplus over all liabilities (as determined from year to year) stated in the annual statement of ~~thesueh~~ company filed with the ~~Department~~Division of Insurance; or

B2) 10% of the total bond requirement ~~as~~ provided in subsection (a).

2) Provided, however, the deductible amount shall not in any case exceed \$500,000.

d) If the total bond requirement of a company under subsection (a) is in excess of \$100,000, the excess may be written on an excess of loss basis to cover only the peril of dishonesty and may be limited to cover the following officers or employees:

1) All officers and employees authorized by the Board of Directors to act under the terms and provisions of Section 904.20 of this Part;

TOTAL ADMITTED ASSETS		MINIMUM AMOUNT OF BOND		
Under \$100,000		\$2,000 plus 8% of total assets		
MORE THAN	BUT NOT MORE THAN			
\$ 100,000	\$ 600,000	\$ 10,000	plus 4% of assets over	\$ 100,000
600,000	1,200,000	30,000	plus 3⅓% of assets over	600,000
1,200,000	3,200,000	50,000	plus 2½% of assets over	1,200,000
3,200,000	4,450,000	100,000	plus 2% of assets over	3,200,000
4,450,000	6,450,000	125,000	plus 1¼% of assets over	4,450,000
6,450,000	90,450,000	150,000	plus ⅝% of assets over	6,450,000
90,450,000	350,450,000	675,000	plus ⅜% of assets over	90,450,000
350,450,000	1,070,450,000	1,625,000	plus ⅜% of assets over	350,450,000
1,070,450,000	—	3,075,000	plus ⅜% of assets over	1,070,450,000

until total bond equals \$5,000,000.

2) Officers and employees authorized by the Board of Directors to act under the terms of Section 904.30, except that one or more of the employees of

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

this category may be excluded by action of the Board of Directors;

- 3) ~~OtherSuch~~~~other~~ officers or employees as may be included in the resolution of the Board of Directors authorizing the procurement of coverage on the excess of loss basis.
- e) Surety bonds covering affiliated and/or subsidiary companies substantially under the same management and control may be written to cover the affiliated and/or subsidiary companies jointly. The total admitted assets of the affiliated and/or subsidiary company having the largest total admitted assets shall be used in calculating the amount of surety cover required under subsection (a).
- f) Surety bonds for any company shall not be procured by ~~thesueh~~ company from affiliated and/or subsidiary companies substantially under the same management and control as the company being bonded.
- g) Notwithstanding any other provision of this Section, ~~a any-sueh~~ company may elect to self insure the required surety bond if:
  - 1) the company has, and maintains at all times while self insured, net admitted assets, in excess of all reserves and other liabilities, of more than \$25,000,000;
  - 2) ~~thesueh~~ self insurance does not cover any officer or director of the company;
  - 3) the total number of employees covered under ~~thesueh~~ self insurance is not more than 1% of the employees of ~~thesueh~~ company, exclusive of all officers and directors; and
  - 4) ~~thesueh~~ self insurance is evidenced by a "Certificate of Self Insurance" in an appropriate form, specifically setting forth the liabilities and responsibilities of the company in accordance with this Section and including an addendum setting forth, by name or position, each employee covered, at any time, under the self insurance.

(Source: Amended at 36 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of Part: Organizational Chart, Description, Rulemaking Procedure, and Programs
- 2) Code Citation: 2 Ill. Adm. Code 700
- 3) Section Number: 700.APPENDIX B                      Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15]; and Appendix B implementing and authorized by the Corn Marketing Act [505 ILCS 40]
- 5) Effective Date of Amendment: June 6, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: Pursuant to Section 5-15 of the Illinois Administrative Code [5 ILCS 100/5-15], and Section 100.810 of the Secretary of State's regulations addressing rulemaking (1 Ill. Adm. Code 100.810).
- 10) Has JCAR issued a Statement of Objection to this rulemaking? JCAR review at 2<sup>nd</sup> Notice is not required.
- 11) Difference between proposal and final version: No proposal. Pursuant to Section 5-15 of the Illinois Administrative Code [5 ILCS 100/5-15] and Section 100.810 of the Secretary of State's regulations addressing rulemaking (1 Ill. Adm. Code 100.810).
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were required.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No

## DEPARTMENT OF AGRICULTURE

## NOTICE OF ADOPTED AMENDMENT

- 15) Summary and Purpose of Rulemaking: The amendment allows an increase in the Illinois corn checkoff rate by  $\frac{1}{4}$  cent per bushel. The current Illinois Corn Marketing Program rate is  $\frac{3}{8}$  cent per bushel, and the new rate would be  $\frac{5}{8}$  cent per bushel with a right of refund.
- 16) Information and questions regarding this Adopted Amendment shall be directed to:

Linda Rhodes  
Illinois Department of Agriculture  
P. O. Box 19281, State Fairgrounds  
Springfield, Illinois 62794-9281

Telephone: 217/785-5713  
Facsimile: 217/785-4505

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

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NOTICE OF ADOPTED AMENDMENT

TITLE 2: GOVERNMENTAL ORGANIZATION  
SUBTITLE D: CODE DEPARTMENTS  
CHAPTER I: DEPARTMENT OF AGRICULTURE

PART 700  
ORGANIZATIONAL CHART, DESCRIPTION,  
RULEMAKING PROCEDURE, AND PROGRAMS

SUBPART A: DESCRIPTION OF THE DEPARTMENT OF AGRICULTURE

Section	
700.10	Scope of the Department of Agriculture
700.20	Office of the Assistant Director
700.30	Division of Animal Industries
700.35	Division of Consumer Services
700.40	Division of Marketing and Promotion
700.50	Division of Agricultural Industry Regulation
700.60	Division of Fairs and Horse Racing
700.70	Division of Natural Resources
700.80	Statutorily Established Advisory Boards and Committees

SUBPART B: ORGANIZATIONAL CHART

Section	
700.100	Illinois Department of Agriculture Organization Chart

SUBPART C: REQUEST FOR INFORMATION

Section	
700.110	Information About Programs, Activities, Laws and Rules
700.120	Information On Employment

SUBPART D: PROGRAMS (LAWS) ADMINISTERED BY THE  
DEPARTMENT OF AGRICULTURE

Section	
700.130	Code Indicating Administrative Enforcement
700.140	Statutes Administered by the Department of Agriculture

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SUBPART E: RULES AND REGULATIONS  
DEPARTMENT OF AGRICULTURE

Section  
700.150 Rules and Regulations Promulgated by the Department of Agriculture

SUBPART F: PROVISIONS AND PROCEDURES GOVERNING THE  
PROMULGATION OF RULES AND REGULATIONS

Section  
700.160 General, Emergency, and Peremptory Rules; Internal Rules (Agency's  
Organization, Description and Rule-making Procedures)  
700.170 Public Participation and Comments  
700.180 Consideration of Rules by Advisory Boards  
700.190 Public Comment Period; Submission of Written Comments; Extending the Public  
Comment Period  
700.200 Public Hearing Procedure  
700.210 Director's Decision  
700.220 Second Review Period; Final Disposition of Rulemaking Proposal  
700.230 Computing Time  
700.240 Interested Person May Request Rulemaking

## SUBPART G: RULEMAKING FLOW CHARTS

Section  
700.300 General Rulemaking Initiated by Department  
700.310 Rulemaking Requested by Advisory Board or Committee  
700.320 Emergency or Peremptory Rulemaking by Department

700.APPENDIX A Marketing Program for Illinois Apples and Peaches (Repealed)  
700.APPENDIX B Marketing Program for Illinois Corn and Corn Products  
700.APPENDIX C Marketing Program for Illinois Eggs (Repealed)  
700.APPENDIX D Marketing Program for Illinois Soybeans and Soybean Products  
700.APPENDIX E Fertilizer Research and Education Program  
700.APPENDIX F Procedures for Conducting Corn Marketing Program Referendums

AUTHORITY: Implementing and authorized by Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15]; Appendix A implementing and authorized by the Apple and Peach Marketing Act [505 ILCS 20]; Appendix B implementing and authorized by the Illinois Corn Marketing Act [505 ILCS 40]; Appendix C implementing and authorized by the Egg

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Market Development Act [505 ILCS 55]; Appendix D implementing and authorized by the Soybean Marketing Act [505 ILCS 130]; Appendix E implementing and authorized by the Illinois Fertilizer Act of 1961 [505 ILCS 80/6A].

SOURCE: Rules and Regulations Relating to the Administrative Procedure Act, filed December 30, 1977, effective January 15, 1978; amended at 5 Ill. Reg. 10257, effective September 29, 1981; codified at 2 Ill. Adm. Code 450 at 5 Ill. Reg. 10255; amended at 5 Ill. Reg. 13418, effective November 24, 1981; amended at 6 Ill. Reg. 11826, effective September 21, 1982; amended at 7 Ill. Reg. 9147, effective July 26, 1983; amended at 8 Ill. Reg. 13124, effective July 12, 1984; amended at 10 Ill. Reg. 13168, effective July 25, 1986. Rules and Regulations Relating to the Procedures for the Establishment of an Apple and Peach Marketing Program, filed and effective March 10, 1972; amended at 4 Ill. Reg. 19, p.181, effective April 28, 1980; codified as 8 Ill. Adm. Code 300 at 5 Ill. Reg. 10547; Part repealed at 6 Ill. Reg. 10908, effective August 26, 1982; new Part adopted at 7 Ill. Reg. 11154, effective August 31, 1983. Corn Marketing Program adopted at 3 Ill. Reg. 47, p. 72, effective November 9, 1979; codified as 8 Ill. Adm. Code 310 at 5 Ill. Reg. 10549; Part repealed at 6 Ill. Reg. 10909, effective August 26, 1982; new Part adopted at 7 Ill. Reg. 3407, effective March 21, 1983. Rules and Regulations Relating to the Procedures for the Establishment of an Egg Marketing Program, filed January 3, 1973, effective January 13, 1973; codified as 8 Ill. Adm. Code 320 at 5 Ill. Reg. 10551; Part repealed at 6 Ill. Reg. 10915, effective August 26, 1982; new Part adopted at 7 Ill. Reg. 11171, effective August 31, 1983. Rules and Regulations Relating to Procedures for the Establishment of a Soybean Marketing Program, filed March 20, 1974, effective April 1, 1974; amended May 2, 1974, effective May 12, 1974; codified as 8 Ill. Adm. Code 330 at 5 Ill. Reg. 10553; Part repealed at 6 Ill. Reg. 10916, effective August 26, 1982; new Part adopted at 7 Ill. Reg. 11189, effective August 31, 1983. 2 Ill. Adm. Code 450 recodified to 2 Ill. Adm. Code 700, 8 Ill. Adm. Code 300 recodified to 2 Ill. Adm. Code 700. Appendix A, 8 Ill. Adm. Code 310 recodified to 2 Ill. Adm. Code 700. Appendix B, 8 Ill. Adm. Code 320 recodified to 2 Ill. Adm. Code 700. Appendix C, and 8 Ill. Adm. Code 330 recodified to 2 Ill. Adm. Code 700. Appendix D at 11 Ill. Reg. 15602, effective September 10, 1987; amended at 11 Ill. Reg. 18605, effective October 28, 1987; amended at 12 Ill. Reg. 6648, effective March 25, 1988; amended at 12 Ill. Reg. 22135, effective December 8, 1988; amended at 13 Ill. Reg. 5066, effective March 31, 1989; amended at 14 Ill. Reg. 584, effective December 27, 1989; amended at 14 Ill. Reg. 4093, effective March 2, 1990; amended at 14 Ill. Reg. 9009, effective May 29, 1990; amended at 14 Ill. Reg. 20586, effective December 14, 1990; amended at 15 Ill. Reg. 6105, effective April 16, 1991; amended at 16 Ill. Reg. 3893, effective February 28, 1992; amended at 17 Ill. Reg. 19895, effective November 8, 1993; amended at 20 Ill. Reg. 12773, effective September 5, 1996; amended at 24 Ill. Reg. 1564, effective January 12, 2000; amended at 29 Ill. Reg. 18407, effective January 1, 2006; amended at 32 Ill. Reg. 2558, effective February 1, 2008; expedited

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correction at 32 Ill. Reg. 4246, effective March 10, 2008; amended at 33 Ill. Reg. 6044, effective April 7, 2009; amended at 36 Ill. Reg. 9062, effective June 6, 2012.

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**Section 700.APPENDIX B Marketing Program For Illinois Corn and Corn Products**

Agency Note: Section 7 of the "Illinois Corn Marketing Act" [505 ILCS 40/7] requires any corn marketing program that is approved by Illinois corn producers through referendum to be filed by the Department of Agriculture as provided in Section 5-65 of the "Illinois Administrative Procedure Act" [5 ILCS 100/5-65]. The filing of the adopted program is exempt from the rulemaking requirements of Sections 5-35 and 5-40 of the Illinois Administrative Procedure Act and the program is exempt from review under Sections 5-100, 5-105, 5-110, 5-120, 5-125 and 5-130 of the Illinois Administrative Procedure Act. On December 29, 1982, a Marketing Program for Illinois Corn and Corn Products was approved through referendum.

## ARTICLE I

## PURPOSE:

This program is developed not to increase production but to enable Illinois corn producers to coordinate more effectively the maintenance and development of markets for corn and corn products; to provide for the needed utilization research; to develop new uses for corn and corn products; and to provide for more efficient and economical markets.

To accomplish this objective, it is essential to provide procedures for the development of new and larger markets for corn; to provide procedures to engage in research directed toward more efficient utilization of corn; to provide procedures to support worldwide market development programs and cooperate with other states, organizations, agencies and persons in market development, market information, and research programs; and to provide procedures to elect an initial producer board and its successors to operate this program.

## ARTICLE II

## AUTHORITY:

This marketing program for Illinois corn and its procedures is established pursuant to the Illinois Corn Marketing Act [505 ILCS 40].

## ARTICLE III

## PROGRAM EXTENT:

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All producers of corn in Illinois are qualified to participate and all corn sold to a first purchaser is subject to the program.

## ARTICLE IV

## DEFINITIONS:

Terms used in this marketing program shall be defined in the Act and as follows unless context clearly requires otherwise:

- (a) "Act" means the Illinois Corn Marketing Act [505 ILCS 40].
- (b) *"Corn" means and includes all kinds of varieties of corn (excluding popcorn and sweet corn) grown in this State and marketed and sold as corn by the producer."*<sup>1</sup>
- (c) *"Person" means any natural person, partnership, corporation, society, association, representative or other fiduciary."*<sup>1</sup>
- (d) "Producer" means any person engaged in this State in the business of producing and marketing corn and who is effected by this program by virtue of having the first rights of ownership in any corn for which payment is received at the first point of sale.
- (e) *"First Purchaser" means any person who resells corn purchased from a producer or offers for sale any product produced from such corn for any purpose."*<sup>1</sup>
- (f) *"Market Development" means to engage in research and educational programs directed toward better and more efficient utilization of corn; to provide methods and means for the maintenance of present markets; for the development of new and larger domestic and foreign markets."*<sup>1</sup>
- (g) "Corn Marketing Program" means the program established under the authority of the Corn Marketing Act and approved by the corn producers.
- (h) "Corn Marketing Board" means the board established by any corn marketing program to administer a corn marketing program.
- (i) *"Director" means the Director of the Department of Agriculture of the State of Illinois."*<sup>1</sup>

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- (j) *"Department" means the Department of Agriculture of the State of Illinois.*<sup>1</sup>
- (k) *"Bushel" means 56 pounds of corn by weight.*<sup>1</sup>
- (l) "District" means the geographical divisions of the State established pursuant to this marketing program.
- (m) "Sale" or "Sold" means a transaction wherein the property in or to corn is transferred from the producer to a first purchaser for consideration.
- (n) "Eligible Voter" means one who is defined both as a person and as a producer in this program during the previous 365 days prior to the referendum date.
- (o) "Affected Producer" means any person defined as a producer in this program who is subject to the assessment.
- (p) "Corn Checkoff Program" means a program defined as a corn marketing program.

<sup>1</sup>Quoted from Section 3 of the Illinois Corn Marketing Act [505 ILCS 40/3].

## ARTICLE V

## CORN MARKETING BOARD:

## Section 1. Establishment and Membership.

A corn marketing board is hereby established with powers and duties as authorized pursuant to the Act and this program. The Board shall be comprised of 15 members elected from districts as provided in Section 2 of this Article. The 15 members shall be elected, one from each district.

## Section 2. Representative Districts.

For the purpose of nomination and election of members to the Board, the territory of the State of Illinois shall be divided into 15 representative districts as follows:

- District I: Boone, McHenry, Lake, DeKalb, Kane, Cook, DuPage, Kendall and Will Counties.

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- District II: JoDaviess, Stephenson, Winnebago, Carroll and Ogle Counties.
- District III: Knox, Henry, Warren, Henderson, Mercer and Rock Island Counties.
- District IV: Whiteside, Lee, Bureau, Stark, Marshall and Putnam Counties.
- District V: LaSalle, Grundy, Livingston and Kankakee Counties.
- District VI: Ford, Iroquois, Champaign and Vermilion Counties.
- District VII: Woodford, McLean, DeWitt, Macon, Piatt and Moultrie Counties.
- District VIII: Peoria, Tazewell, Fulton, Mason, Cass, Menard and Logan Counties.
- District IX: Hancock, McDonough, Adams, Schuyler, Brown and Pike Counties.
- District X: Scott, Morgan, Sangamon, Greene, Jersey, Calhoun and Macoupin Counties.
- District XI: Christian, Montgomery, Shelby, Fayette and Effingham Counties.
- District XII: Douglas, Edgar, Coles, Clark, Cumberland, Jasper and Crawford Counties.
- District XIII: Marion, Clay, Richland, Lawrence, Jefferson, Wayne, Edwards, Wabash and White Counties.
- District XIV: Madison, Bond, St. Clair, Clinton, Monroe and Washington Counties.
- District XV: Randolph, Perry, Jackson, Franklin, Williamson, Hamilton, Saline, Gallatin, Union, Johnson, Pope, Hardin, Alexander, Pulaski and Massac Counties.

### Section 3. Board Membership Qualifications.

Board members shall be residents of the State of Illinois, of legal voting age, and be subject to the program. Board members shall be affected producers of corn in this State subject to the assessment and residing in the district in and for which they are nominated and elected. The qualification of members as set forth herein must continue during their term of office or their office shall be declared vacant.

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## Section 4. Term of Office.

The term of office of a board member shall be three years or until his successor is elected and qualified except for the initial board which shall be provided in Section 5 of this Article.

A term of office shall terminate on July 31<sup>st</sup> of the year in which the board member's office expires.

A board member can only serve three full consecutive three year terms.

## Section 5. Initial Board.

If this program is adopted by corn producers, the Director shall initiate the procedures to elect the initial 15-member board as outlined in this corn marketing program and the Act. The Director shall specify the day on which the election of the initial board will be held. The day on which this election is held, shall be no more than 210 days from the date of close of the referendum on adoption of this corn marketing program.

Board members shall serve three year terms; provided, however, that the initial term of the board members from Districts I, IV, VII, X, and XIII shall expire July 31, 1984; the initial terms of board members from Districts II, V, VIII, XI, and XIV shall expire July 31, 1985; and the initial terms of board members from Districts III, VI, IX, XII, and XV shall expire July 31, 1986.

When the initial term of office expires in a district, an election shall be held as provided in this program and the Act to fill the vacancy.

## Section 6. Nominations.

- (a) Procedure for nominating candidates for election to the initial board: Any affected producer may become a candidate from his district and have his name placed on the ballot if he files a petition with the Director containing the signatures of 200 or 5 percent, whichever is less, of those eligible voters in his district qualified to vote on the referendum. The petitions to become a candidate for board members must be filed with the Director by a time and date specified by the Director. Petitions for becoming a candidate shall be available at the principal office of the Cooperative Extension Service serving each county and upon request from the Director. Position of candidates' names on the ballot to become a board member shall be determined by lot by drawing by the Director. Candidates shall

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be notified of the time and place where such drawing shall occur. Voting shall be held at geographically located polling places throughout the district.

- (b) Subsequent Years. Procedure for Nominating Candidates to the Board in Subsequent Years: Each district having a vacancy on the board by an expiring term shall hold an election to fill such vacancy. The election shall be held during July of the year in which the vacancy exists. Any affected producer meeting the requirements of Section 3 may become a candidate from his district and have his name placed on the ballot for which a vacancy exists if he files a petition with the Director containing the signatures of 200 or 5 percent, whichever is less, of affected producers from his district.

Petitions to become a candidate for board member must be filed with the Director by May 15th of the year in which the election is to be held in that District. Notification to all affected producers in the district where a vacancy exists shall be published once in the official state newspaper and made available to newspapers of general circulation in that district and to all other news media in that district. Notification shall be given no earlier than March 1 nor later than March 15 in the district where vacancy on the board will occur. Petition for becoming a candidate shall be available at each principal county office of the Cooperative Extension Service in the district where a vacancy exists and upon request from the Director. Position of the candidates' names on the ballot shall be determined by lot by a drawing by the Director. Candidates shall be notified of the time and place where such drawing shall occur. Voting shall be held at geographically located polling places throughout the district.

## Section 7.

- (a) Election of Initial Board.  
Each eligible voter shall be entitled to one vote and shall be entitled to vote for one candidate to be such producer's district representative on the corn marketing board.

The candidate from each district receiving the greatest number of votes in the election shall be the district's representative on the board. In case of a tie, the winner will be determined by drawing. The elected board member will take office immediately after certification of election results. Each eligible voter shall vote at the local Cooperative Extension Service office serving the county in which such eligible voter resides.

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- (b) Election of Board in Subsequent Years.  
The election of board members in districts where a vacancy occurs due to an expiring term shall be conducted by the corn marketing board. Nominations shall be as set forth in Section 6(b) of the program. The elected board member shall take office on August 1 of the year in which such board member is elected.

## Section 8. Election Ballot.

The election ballot used in each district will contain only the name(s) of the candidate(s) for its district, with space provided for a write-in candidate. Write-in votes shall be counted only for persons who have filed notarized declarations of intent to be write-in candidates with the Director not later than 5:00 p.m. on the Tuesday immediately preceding the election.

Forms for the declaration of intent to be a write-in candidate shall be supplied by the Director. Such declaration shall specify the office for which the person seeks election as a write-in candidate.

## Section 9. Absentee Ballot.

Eligible voters who reside outside the State of Illinois or eligible voters within the State who cannot be physically present at the polls on the day of any board members' election held under this Article may request an absentee ballot. The Director shall provide to any eligible voter an absentee ballot upon request beginning thirty (30) days prior to the initial election of directors and subsequent election of directors where a vacancy exists. Any eligible voter requesting an absentee ballot shall be required to file with the Director an affidavit swearing that such eligible voter is eligible to vote in the election of board members. Such affidavit shall be available upon request from the Director. All absentee ballots and affidavits must be received by the Director at least two (2) working days prior to any election of board members.

## Section 10. Elections.

The Director shall appoint election judges for the election of board members.

## Section 11. Powers and Duties of the Board.

The board shall have the following powers and duties:

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- (a) to administer, enforce, direct, and control provisions of this program as its administrative board pursuant to the authority contained in the Act;
- (b) to annually establish priorities and to prepare and approve a budget consistent with estimated resources and scope of the marketing program;
- (c) to formulate and execute assessment procedures, and methods of collection;
- (d) to procure and evaluate data and information necessary for the proper administration and operation of marketing program;
- (e) to employ personnel and contract for services which are necessary for the proper operation of the marketing program;
- (f) to authorize the expenditure of funds and the contracting of expenditures to conduct proper activities of the program;
- (g) to provide for an independent audit to be made and be available to all program participants;
- (h) to publish annually, upon completion of and at the same time of the audit, an Activities and Financial Report and make available to all affected producers;
- (i) to elect a chairman, vice chairman, secretary and treasurer and other such officers as it deems necessary;
- (j) to take steps to insure that adequate bonds are maintained and to insure adequate protection of funds;
- (k) to confer and cooperate with legally constituted authorities of other states and the United States;
- (l) to accept donations, gifts, and other properties to be used for program purposes;
- (m) to receive and investigate or cause to be investigated complaints and violations of this program and the Act and to take such action as is necessary within its authority;

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- (n) to establish accounts in adequately protected financial institutions to receive, hold and disperse program monies;
- (o) to approve and recommend desirable amendments to the program;
- (p) to establish procedure to refund to a producer any assessment paid by such a producer if he requests such a refund; and
- (q) to perform such other duties which may be necessary to proper operation of the board.

## Section 12. Limitation of Liability of Board Members and Employees.

Obligations incurred by the board and any other liabilities or claims against the board shall be enforced only against the assets of the board in the same manner as if it were a corporation and no liabilities for the debts or actions of the board shall exist against either the State of Illinois or any subdivision thereof or against any board established pursuant to the Act or the assets thereof or against any member, officer, employee, or agent of the board in his individual capacity. The members of the board, including employees thereof, shall not be held responsible individually in any way whatsoever to any person for errors in judgment, mistakes, or other acts either of commission or omission, as principal, agent, person, or employee except for their own individual acts which result in a violation of any law. No such person or employee shall be held responsible individually for the act or omission of any member of the board. The liability of the members of the board shall be several and not joint and no members shall be liable for the default of any other member.

## Section 13. Board Vacancies.

Procedures for filing: Vacancies occurring on the board during an unexpired term of office shall be filled by the board with an appointee who is a qualified producer from the district affected by the vacancy. The appointee shall serve as the district's representation on the board for the unexpired term.

## Section 14. Board Compensation.

*"All voting members of the corn marketing board are entitled to actual and necessary travel and incidental expenses while attending meetings of the board or while engaged in the performance of official responsibilities as determined by the board."*<sup>2</sup> Board members are not entitled to any salary or per diem.

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<sup>2</sup>Quoted from Section 11 of the Illinois Corn Marketing Act [505 ILCS 40/11].

## ARTICLE VI

## REFERENDUMS AND ELECTIONS:

## Section 1.

The initial program referendum shall provide for the question of adoption of the program with a place to vote "yes" or "no". The initial program referendum shall be conducted by ballot mailed to producers. A period of 21 days from the date of mailing of the ballot shall be allowed for the return of such ballots. Ballots shall be returned to the Director by mail or by personal delivery by the voting producer at such address as may be designated by the Director. When requested in writing, the Director shall provide a ballot to any producer whose name does not appear on the list of producers maintained by the Agricultural Stabilization and Conservation Service or who for any reason did not receive a ballot. *"Reasonable publicity and notification of the referendum date and voting locations shall be provided in trade publications, the public press and the official state newspaper, at least two weeks prior to such referendum date."*<sup>3</sup>

The Agricultural Stabilization and Conservation Service list of producers shall be the official mailing list used for the program referendum.

A corn marketing program or an amendment to a corn marketing program is approved when a majority of the statewide total of those voting in the referendum vote in favor of such program or amendment to a program.

<sup>3</sup>Quoted from Section 9 of the Illinois Corn Marketing Act [505 ILCS 40/9].

## Section 2. Qualification to Vote.

Any person who is defined as a producer in this program shall be entitled to one vote. Such eligible voter shall be required to sign a statement or affidavit declaring that such person is an eligible voter in the program.

An eligible voter who meets the definition of a "producer" in more than one county or on more than one tract of land may only vote once in their own name. If more than one vote is cast, only one vote, cast in the county of residence, will be counted.

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A person or business organization which meets the "producer" definition may designate some individual to vote on its behalf. In such cases, the following guidelines apply:

In cases of ASSOCIATIONS, BUSINESSES, COOPERATIVES, UNIVERSITIES, COLLEGES, FOUNDATIONS, or any other business entity, only an officer may cast one vote for this business organization.

**PARTNERSHIP, JOINT TENANCY:** If ownership of the commodity is held in the partnership name or in joint ownership, only one partner/owner may cast one vote. It is the responsibility of the partnership/joint ownership to decide who will vote.

**FIDUCIARY:** Only the court-appointed legal representative of a trust, estate, conservatorship, guardianship or other fiduciary relationship may cast one vote for the business held in trust.

**LANDLORD AND TENANT:** Each may cast one vote if each meets the "producer" definition.

**HUSBAND AND WIFE:** If the corn is held in joint ownership by both husband and wife, only one spouse may cast one vote. If each meets the "producer" definition as a separate entity, then each may cast one vote.

### Section 3. Teller Committee.

The Director shall appoint a teller committee composed of members of the agricultural community to count absentee ballots, canvass and certify results of referendums and elections of district candidates.

## ARTICLE VII

### PROGRAM:

#### Section 1. Market Development, Promotion, and Public Relations Programs.

The board, subject to the provisions of this program and the Act, is authorized to contract with or make grants to any qualified organizations, agencies, or persons for any market development and promotion activities, education and public relations programs or market information services which will result in the opening of new markets for corn and corn products, or which will result in the expansion of existing markets. These activities may include, but not be necessarily limited to the following:

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- (a) Preparation and dissemination of marketing information to include supply information, demand information, quality characteristics, and other facts concerning corn and corn products.
- (b) Provide information to foreign feed manufacturers and corn refiners for the purpose of expanding their use of corn and corn products.
- (c) Work with U.S. agricultural attaches or any other agency or organization in removing restrictive foreign and domestic regulations or barriers which hinder the free flow of corn or corn products to their ultimate markets.
- (d) Participate in trade fairs, exhibitions, food shows, and other such activities for the purpose of developing markets.
- (e) The board, subject to the provisions of this program and the Act, is authorized to contract with or make grants to any qualified organizations, agencies, or persons for any needed research or survey studies related to corn and their products which will result in improved efficiency and aid corn producers in maintaining present and any new and larger markets.

## Section 2. Educational Program.

The board is authorized to conduct, contract with, or make grants to any qualified organizations, agencies, or individuals for any educational materials and educational programs pertaining to corn and corn products.

The educational program established pursuant to this authority shall emphasize the results of research, market development, and other programs sponsored, supported, or otherwise implemented by or for the board.

## ARTICLE VIII

## ASSESSMENTS:

## Section 1. Assessment Levied.

- (a) All assessments made and levied pursuant to the provisions of the Act and the program shall be paid by the respective affected producers who shall be liable therefore as provided by Sections 16 and 17 of the Act.

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- (b) Such assessments shall be  $\frac{5}{8}\frac{3}{8}$  cent per bushel on corn produced and sold by such affected producer. After the first five years of operation of the program, the corn marketing board may request the Director to hold a referendum to increase the assessment rate.
- (c) Such assessment shall be collected from the affected producers by the first purchaser of corn and such first purchaser shall deduct the full amount of assessment from total monies due the producer and shall account for, report on, and remit to the board all monies collected, except as otherwise provided in this section. Such monies collected shall be remitted quarterly and shall be made by the 15<sup>th</sup> of the month following the end of each quarter. Such quarters shall end March 31, June 30, September 30, and December 31 of the year in which assessment is due. If remittance of assessment by first purchaser is made by the 15<sup>th</sup> of the month following the end of the quarter, such first purchaser making remittance shall be entitled to retain two percent (2%) of such remittance due.
- (d) Any producer who shall sell, ship, or otherwise dispose of corn to a first purchaser or other person outside the jurisdiction of this marketing program shall forthwith remit to the board the full amount of the assessment due.
- (e) The board shall establish regulations and procedures to insure the collection of such assessments as shall be due and payable under this marketing program.
- (f) The board shall give reasonable notice to all producers, processors and handlers of all changes in regulations and procedures and any amendments thereto for the collection of the assessment.

## ARTICLE IX

## RIGHT OF REFUND:

## Section 1.

- (a) Any affected producer may request that each assessment paid by him be refunded.
- (b) A refund shall be payable upon request. Such request shall be made to the board not more than sixty (60) days after the deduction has been made or not more than sixty (60) days after the remittance has been made by the first purchaser.

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Applications for refund shall be given by the board to each first purchaser when requested and the first purchaser shall make the applications available to any producers.

- (c) The board shall establish procedures to insure the refunds of such assessment as are requested.

## ARTICLE X

## FUNDS:

## Section 1.

The board shall deposit all monies collected pursuant to this program in an account as established in Article V of this program. Expenses and disbursements incurred and made pursuant to the Act and this program shall be made by voucher, draft or check bearing the signature of a person or persons designated by majority vote of the board.

## Section 2.

Monies collected by the board pursuant to the Act and this program as assessments shall be used by the board for the purpose of paying for the costs or expenses arising in connection with carrying out the purpose and provisions of the Act and this program.

## ARTICLE XI

## INFORMATION REPORTS:

All persons subject to this program and the Act shall make and render such reports and furnish such information to the Director and board as may be necessary or required to effectuate the purposes thereof. Information obtained by any person pursuant to this Article shall be confidential and shall not be disclosed to any other person, save a person with the right to obtain the same or any attorney employed by the board to give legal advice thereon or by court order.

## ARTICLE XII

## PROCEDURES:

## Section 1.

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Following approval of the corn marketing program, the Director shall file the program with the Secretary of State as provided in Section 6 of the Illinois Corn Marketing Act.

## Section 2.

All procedures promulgated pursuant to the Act shall be available upon request to those persons affected by this program and the Act.

## ARTICLE XIII

## APPEALS:

## Section 1.

Any person subject to this program may appeal to the board to review any administrative decision. The board shall establish by regulation the contested case procedure in accordance with the Administrative Procedure Act [5 ILCS 100].

## Section 2.

Pending the disposition of any appeal set forth in Section 1 of this Article, the party shall abide by the decision unless the board shall rule otherwise. The board shall, if the facts stated show reasonable grounds, revise any order or decision upon which an appeal is taken.

## ARTICLE XIV

## DEROGATION:

Nothing contained herein is or shall be construed to be in derogation or in modification of the rights of the Director or of the State to exercise any powers granted by the Act or otherwise, and in accordance with such powers to act in the premises whenever such action is deemed advisable.

## ARTICLE XV

## COOPERATION WITH OTHER AGENCIES:

The board, with the assistance of the Director and subject to the provisions of the Act, is authorized to cooperate with agencies of the United States Government, the State of Illinois, and

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other states as deemed by the board and the Director to be desirable and useful in effectuating the purposes of this program and Act.

- (a) Coordination and cooperation in promotion, advertising, educational programs, informational programs, marketing and transportation research, and any of the several areas of authority authorized by the program and the Act.
- (b) Coordination of purposes with other boards, commissions, or any other marketing group in the State or other states, areas, or foreign countries so long as such cooperation is in the best interest of the corn producers in Illinois.

## ARTICLE XVI

## EFFECTIVE TIME:

This marketing program shall become effective upon its adoption. The assessment will not be levied until April 1 or 60 days after the date of the election of the initial board, whichever is later, and shall continue in effect for five (5) years and shall automatically be extended from year to year unless a referendum for continued approval is requested by written petition of no less than ten percent of corn producers affected by the program in each respective district as published in the latest Census of Agriculture as published by the U.S. Department of Commerce, Bureau of Census. Such referendum is to be held in accordance with Section 9 of the Act and shall have as set forth in Section 7 of the Act.

## ARTICLE XVII

## SEVERABILITY:

If any provision of the marketing program or the Act shall be declared invalid, or the applicability thereof to any person, circumstance or thing is held invalid, the validity of the remainder of this marketing program or the Act or the applicability thereof to any person, circumstance or thing shall not be affected.

## ARTICLE XVIII

## ENFORCEMENT:

## Section 1.

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*"Persons who collect corn marketing program assessment funds pursuant to Section 15 of this Act shall remit such funds to the corn marketing board which shall deposit such in an account to be used as authorized by the corn marketing program.*

*Any due and payable assessment required under the provisions of any corn marketing program created under this Act constitutes a personal debt of every person so assessed or who otherwise owes such assessment. Such assessment is due and payable to the corn marketing board not more frequently than quarterly or when stipulated in the corn marketing program and called for by the corn marketing board. In the event any person fails to remit the full amount of such due assessment or such other sum within 30 days after the due date, the person owing such assessment shall be given an opportunity to present his case as provided for in Section 20 of this Act. When established that the assessment is correct, the corn marketing board may add to such unpaid assessment or sum a penalty amount not exceeding 10% of the amount due plus all the cost of enforcing the collection of the assessment or sum due. In the event of failure of such person to remit any properly due assessment or sum, the corn marketing board may bring a civil action against such person in the circuit court of any county for the collection thereof, together with the above additional specified 10% penalty assessment, cost of enforcing the collection of the assessment and court costs. Such action shall be tried and judgment rendered as in any other cause of action for debts due and payable. All assessments are due and payable to the corn marketing board."*<sup>4</sup>

## Section 2.

*"No person shall knowingly fail or refuse to comply with any requirement of this Act where obligated to comply by a duly approved corn marketing program. The corn marketing board may institute any action which is necessary to enforce compliance with any provision of this Act, and rule or regulation thereunder or any corn marketing program adopted pursuant to this Act. In addition to any other remedy provided by law, the corn marketing board may petition for injunctive relief without being required to allege or prove the absence of any adequate remedy at law."*<sup>5</sup> Such action shall be brought in the Circuit Court of any county.

*"Before the corn marketing board may institute any proceedings under this Act, the alleged violator shall first be given an opportunity to present his views to the corn marketing board as to why such proceedings should not be instituted."*<sup>5</sup>

<sup>4</sup>Quoted from Section 17 of the Illinois Corn Marketing Act [505 ILCS 40/17].

<sup>5</sup>Quoted from Section 20 of the Illinois Corn Marketing Act [505 ILCS 40/20].

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NOTICE OF ADOPTED AMENDMENT

(Source: Amended at 36 Ill. Reg. 9062, effective June 6, 2012)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Practice in Administrative Hearings
- 2) Code Citation: 89 Ill. Adm. Code 104
- 3) Section Number: 104.101                      Adopted Action:  
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendment: June 11, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any materials 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: December 9, 2011; 35 Ill. Reg. 19627
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Differences Between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendment: This proposed rulemaking is to ensure consistency with 89 Ill. Adm. Code 104 and 160. Section 104.101 states the non-custodial parent has 30 days to appeal past-due determinations and administrative support orders, but 160 references a 15 day appeal period for certain enforcement actions. By specifying 15 days for enforcement actions, we are eliminating contradiction between Parts 104 and 160.
- 16) Information and questions regarding this adopted amendment shall be directed to:

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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, 3<sup>rd</sup> Floor  
Springfield IL 62763-0002

217/782-1233

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

## TITLE 89: SOCIAL SERVICES

## CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## SUBCHAPTER a: GENERAL PROVISIONS

## PART 104

## PRACTICE IN ADMINISTRATIVE HEARINGS

## SUBPART A: ASSISTANCE APPEALS

## Section

104.1	Assistance Appeals
104.10	Initiation of Appeal Process
104.11	Pre-Appeal Review
104.12	Notice of Hearing
104.20	Conduct of Hearings
104.21	Representation
104.22	Appellant Participation in Hearing
104.23	Evidentiary Requirements
104.30	Subpoenas
104.35	Amendment of Appeal
104.40	Consolidation of Appeals
104.45	Postponement or Continuation of Hearings
104.50	Withdrawal of Appeal
104.55	Closing of Hearing Record
104.60	Dismissal of Appeal
104.70	Final Administrative Decision
104.80	Public Aid Committee

## SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

## Section

104.100	Support Order, Responsible Relative and Joint Payee Petitions
104.101	Petition for Hearing
104.102	Conduct of Administrative Support Hearings
104.103	Conduct of Hearings to Contest the Determination of Past-Due Support or of a Failure of a Licensee to Comply with a Subpoena or Warrant in a Paternity or Child Support Proceeding or of Share of Jointly-Owned Federal or State Income Tax Refunds or Other Joint Federal or State Payments
104.104	Conduct of Other Hearings

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- 104.105 Conduct of Hearings on Petitions for Release from Administrative Paternity Orders
- 104.106 Conduct of Hearings on Petitions for Family Financial Responsibility Driving Permits
- 104.110 Conduct of Hearings on Joint Owner's Contest of Levy of Jointly-Owned Personal Property

## SUBPART C: MEDICAL VENDOR AND ALTERNATE PAYEE HEARINGS

- Section
- 104.200 Applicability
- 104.202 Definitions
- 104.204 Notice of Denial of An Application
- 104.206 Notice of Intent to Recover Money
- 104.207 Notice of Contested Paternity Hearing
- 104.208 Notice of Intent to Terminate, Suspend or Not Renew Provider Agreement or to Revoke Alternate Payee
- 104.209 Notice of Intent to Certify Past-Due Support Owed by a Responsible Relative to, or Failure to Comply with a Subpoena or Warrant from, a State Licensing Agency and to Take Disciplinary Action (Repealed)
- 104.210 Right to Hearing
- 104.211 Notice of Termination or Suspension Pursuant to Exclusion by the Department of Health and Human Services
- 104.212 Prior Factual Determinations
- 104.213 Demand for Judicial Determination of the Existence of the Father and Child Relationship
- 104.215 Notice of Formal Conference
- 104.216 Formal Conference on Recovery of Money
- 104.217 Purpose of Formal Conference
- 104.220 Notice of Hearing
- 104.221 Issues at Hearings
- 104.225 Legal Counsel
- 104.226 Appearance of Attorney or Other Representative
- 104.230 Notice, Service and Proof of Service
- 104.231 Form of Papers
- 104.235 Discovery
- 104.240 Conduct of Hearings
- 104.241 Amendments
- 104.242 Motions

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104.243	Subpoenas
104.244	Burden of Proof
104.245	Witness at Hearings
104.246	Evidence at Hearings
104.247	Cross-Examination
104.248	Disqualification of Hearing Officers
104.249	Genetic Testing in Contested Paternity Hearings
104.250	Official Notice
104.255	Computer Generated Documents
104.260	Recommendation of Peer Review Committee
104.270	Time Limits for Hearings
104.271	Continuances and Extensions
104.272	Withholding of Payments During Pendency of Proceedings
104.273	Continuation of Payments During Pendency of Proceedings
104.274	Denial of Payments for Services During Pendency of Proceedings
104.280	Record of Hearings
104.285	Failure to Appear or Proceed
104.290	Recommended Decision
104.295	Director's Decision

SUBPART D: RULES FOR JOINT DEPARTMENT ACTIONS AGAINST  
SKILLED NURSING FACILITIES AND INTERMEDIATE CARE  
FACILITIES PARTICIPATING IN THE MEDICAID PROGRAM

Section	
104.300	Authority
104.302	Definitions
104.304	Department Actions Against Nursing Homes Facilities
104.310	Certification
104.320	Joint Administrative Hearing
104.330	Facilities Certified Under Both Medicare and Medicaid

## SUBPART E: FOOD STAMP ADMINISTRATIVE DISQUALIFICATION HEARINGS

Section	
104.400	Suspected Intentional Violation of the Program
104.410	Advance Notice of Administrative Disqualification Hearing
104.420	Postponement of Hearing
104.430	Administrative Disqualification Hearing Procedures

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104.440	Failure to Appear
104.450	Participation While Awaiting a Hearing
104.460	Consolidation of Administrative Disqualification Hearing with Fair Hearing
104.470	Administrative Disqualification Hearing Decision and Notice of Decision
104.480	Appeal Procedure

## SUBPART F: INCORPORATION BY REFERENCE

Section	
104.800	Incorporation by Reference

## SUBPART G: UNAUTHORIZED USE OF MEDICAL ASSISTANCE

Section	
104.900	Unauthorized Use of Medical Assistance
104.910	Definitions
104.920	Applicability
104.930	Notice of Intent to Recover Money
104.940	Request for Hearing
104.950	Representation
104.960	Conduct of Hearings
104.970	Recommended Decision
104.980	Final Administrative Decision

AUTHORITY: Implementing Sections 11-8 through 11-8.7, 12-4.9 and 12-4.25 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/11-8 through 11-8.7, 12-4.9, 12-4.25 and 12-13].

SOURCE: Filed and effective December 30, 1977; emergency rule at 2 Ill. Reg. 11, p. 151, effective March 9, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 21, p. 10, effective May 26, 1978; amended at 2 Ill. Reg. 33, p. 57, effective August 17, 1978; preemptory amendment at 3 Ill. Reg. 11, p. 38, effective March 1, 1979; amended at 4 Ill. Reg. 21, p.80, effective May 8, 1980; preemptory amendment at 5 Ill. Reg. 1197, effective January 23, 1981; amended at 5 Ill. Reg. 10753, effective October 1, 1981; amended at 6 Ill. Reg. 894, effective January 7, 1982; codified at 7 Ill. Reg. 5706; amended at 8 Ill. Reg. 5274, effective April 9, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 16979; amended at 8 Ill. Reg. 18114, effective September 21, 1984; amended at 10 Ill. Reg. 10129, effective June 1, 1986; amended at 11 Ill. Reg. 9213, effective April 30, 1987; amended at 12 Ill. Reg. 9142, effective May 16, 1988; amended at 13 Ill. Reg. 3944, effective March 10,

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1989; amended at 13 Ill. Reg. 17013, effective October 16, 1989; amended at 14 Ill. Reg. 18836, effective November 9, 1990; amended at 15 Ill. Reg. 5320, effective April 1, 1991; amended at 15 Ill. Reg. 6557, effective April 30, 1991; amended at 16 Ill. Reg. 12903, effective August 15, 1992; amended at 16 Ill. Reg. 16632, effective October 23, 1992; amended at 16 Ill. Reg. 18834, effective December 1, 1992; emergency amendment at 17 Ill. Reg. 659, effective January 7, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 7025, effective April 30, 1993; amended at 18 Ill. Reg. 11260, effective July 1, 1994; amended at 19 Ill. Reg. 1321, effective January 30, 1995; emergency amendment at 19 Ill. Reg. 10268, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 15521, effective October 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15711, effective November 6, 1995; amended at 20 Ill. Reg. 1229, effective December 29, 1995; amended at 20 Ill. Reg. 5699, effective March 28, 1996; amended at 20 Ill. Reg. 14891, effective November 1, 1996; emergency amendment at 21 Ill. Reg. 8671, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9306, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13648, effective October 1, 1997; amended at 21 Ill. Reg. 14977, effective November 7, 1997; emergency amendment at 22 Ill. Reg. 17113, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2393, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11734, effective September 1, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 2418, effective January 27, 2000; amended at 25 Ill. Reg. 5351, effective April 1, 2001; amended at 26 Ill. Reg. 9836, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11022, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 12306, effective July 26, 2002; amended at 26 Ill. Reg. 17743, effective November 27, 2002; amended at 27 Ill. Reg. 5853, effective March 24, 2003; amended at 27 Ill. Reg. 13771, effective August 1, 2003; amended at 28 Ill. Reg. 2735, effective February 1, 2004; emergency amendment at 29 Ill. Reg. 2735, effective February 7, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10187, effective June 30, 2005; amended at 31 Ill. Reg. 2387, effective January 19, 2007; amended at 32 Ill. Reg. 16797, effective October 6, 2008; amended at 33 Ill. Reg. 6283, effective April 15, 2009; amended at 35 Ill. Reg. 2030, effective January 21, 2011; amended at 35 Ill. Reg. 12900, effective July 25, 2011; amended at 36 Ill. Reg. 7530, effective May 7, 2012; amended at 36 Ill. Reg. 9086, effective June 11, 2012.

## SUBPART B: RESPONSIBLE RELATIVE AND JOINT PAYEE PETITIONS

**Section 104.101 Petition for Hearing**

- a) Any client or responsible relative aggrieved by an administrative support order entered, or any responsible relative aggrieved by a determination or redetermination of past-due support, or any responsible relative or joint holder aggrieved by a determination of the share of jointly-owned funds made by the

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Department may petition for a hearing for release from or modification of the order or to contest the determination or redetermination.

- b) AThe petition for release from or modification of an administrative support order under subsection (a) of this Section~~above~~ shall be filed within 30 days after the date of mailing of ~~the~~such order ~~or determination~~. The day immediately subsequent to the mailing of the order ~~or determination~~ shall be considered as the first day~~s~~; and the day ~~the~~such petition is received by the Department shall be considered as the last day in computing the 30 day appeal period.
- c) A petition to contest a determination or redetermination of past-due support or determination of share of jointly-owned funds under subsection (a) of this Section shall be filed within 15 days after the date of mailing of the determination or redetermination. The day immediately subsequent to the mailing of the determination or redetermination shall be considered the first day, and the day the petition is received by the Department shall be considered the last day in computing the 15 day appeal period.
- d) A petition to contest a determination of share of jointly-owned funds by a joint owner who was not provided with a Notice of Lien or Levy by the Department shall be filed within 45 days after the date of levy of the account or other personal property, as set forth in 89 Ill. Adm. Code 160.70(f)(2)(B)(vi). The day immediately subsequent to the date of levy shall be considered the first day, and the day the petition is received by the Department shall be considered the last day in computing the 45 day appeal period.
- ee) Any responsible relative in a case with an administrative support order may petition the Department for a hearing to contest withholding, or to correct a term contained in an income withholding notice or a National Medical Support Notice, or to modify, suspend or terminate an income withholding notice or a National Medical Support Notice for the reasons provided in 89 Ill. Adm. Code 160.75(d), (e), (j) and (n).
- fd) The petition to modify, suspend, terminate, or correct a term contained in an income withholding notice may be filed at any time and the petition to contest withholding or the National Medical Support Notice~~s~~ shall be filed within 20 days after the date of service of the copy of the income withholding notice or the National Medical Support Notice upon the responsible relative. The day immediately subsequent to the day of service of the copy of the notice shall be

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considered ~~as~~ the first day, and the day ~~the~~ petition is received by the Department shall be considered ~~as~~ the last day in computing the 20 day appeal period.

- ~~ge~~) The Department shall, upon receipt of a petition, provide for a hearing to be held, except as provided in Section 104.103(b).

(Source: Amended at 36 Ill. Reg. 9086, effective June 11, 2012)

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- 1) Heading of the Part: Medical Assistance Programs
- 2) Code Citation: 89 Ill. Adm. Code 120
- 3) Section Number: 120.80                      Adopted Action:  
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendment: June 11, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any materials 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: December 16, 2011; 35 Ill. Reg. 19737
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: In Section 120.80(c), changed "months" to "24 months"
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendment currently in effect? No
- 14) Are there any other amendments pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
120.335	Amendment	35 Ill. Reg. 19337; December 2, 2011
120.310	Amendment	35 Ill. Reg. 19635; December 9, 2011
- 15) Summary and Purpose of Amendments: The rulemaking implements the expansion of the Recipient Restriction Program (RRP) pursuant to 305 ILCS 5/11-26 by allowing the Department to restrict a recipient to "one or more primary provider types" as opposed to a "Primary Care Provider and/or Primary Care Pharmacy". Further, the amendment

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defines the term "primary provider type" as a primary care provider, primary care pharmacy, primary care dentist, primary podiatrist or primary durable medical equipment provider.

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

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, 3rd Floor  
Springfield IL 62763-0002

217/782-1233

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

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 120

MEDICAL ASSISTANCE PROGRAMS

SUBPART A: GENERAL PROVISIONS

Section

120.1 Incorporation by Reference

SUBPART B: ASSISTANCE STANDARDS

Section

- 120.10 Eligibility for Medical Assistance
- 120.11 MANG(P) Eligibility
- 120.12 Healthy Start – Medicaid Presumptive Eligibility Program For Pregnant Women
- 120.14 Presumptive Eligibility for Children
- 120.20 MANG(AABD) Income Standard
- 120.30 MANG(C) Income Standard
- 120.31 MANG(P) Income Standard
- 120.32 FamilyCare Assist
- 120.34 FamilyCare Share and FamilyCare Premium Level 1
- 120.40 Exceptions To Use Of MANG Income Standard (Repealed)
- 120.50 AMI Income Standard (Repealed)

SUBPART C: FINANCIAL ELIGIBILITY DETERMINATION

Section

- 120.60 Community Cases
- 120.61 Long Term Care
- 120.62 Department of Mental Health and Developmental Disabilities (DMHDD)  
Approved Home and Community Based Residential Settings Under 89 Ill. Adm.  
Code 140.643 (Repealed)
- 120.63 Department of Mental Health and Developmental Disabilities (DMHDD)  
Approved Home and Community Based Residential Settings (Repealed)
- 120.64 MANG(P) Cases
- 120.65 Department of Mental Health and Developmental Disabilities (DMHDD)  
Licensed Community – Integrated Living Arrangements (Repealed)

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## SUBPART D: MEDICARE PREMIUMS

Section	
120.70	Supplementary Medical Insurance Benefits (SMIB) Buy-In Program
120.72	Eligibility for Medicare Cost Sharing as a Qualified Medicare Beneficiary (QMB)
120.73	Eligibility for Payment of Medicare Part B Premiums for Specified Low-Income Medicare Beneficiaries (SLIBs) and Qualified Individuals-1 (QI-1)
120.74	Qualified Medicare Beneficiary (QMB) Income Standard
120.75	Specified Low-Income Medicare Beneficiaries (SLIBs) and Qualified Individuals-1 (QI-1) Income Standards
120.76	Hospital Insurance Benefits (HIB)

## SUBPART E: RECIPIENT RESTRICTION PROGRAM

Section	
120.80	Recipient Restriction Program

## SUBPART F: MIGRANT MEDICAL PROGRAM

Section	
120.90	Migrant Medical Program (Repealed)
120.91	Income Standards (Repealed)

## SUBPART G: AID TO THE MEDICALLY INDIGENT

Section	
120.200	Elimination Of Aid To The Medically Indigent
120.208	Client Cooperation (Repealed)
120.210	Citizenship (Repealed)
120.211	Residence (Repealed)
120.212	Age (Repealed)
120.215	Relationship (Repealed)
120.216	Living Arrangement (Repealed)
120.217	Supplemental Payments (Repealed)
120.218	Institutional Status (Repealed)
120.224	Foster Care Program (Repealed)
120.225	Social Security Numbers (Repealed)
120.230	Unearned Income (Repealed)
120.235	Exempt Unearned Income (Repealed)

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120.236	Education Benefits (Repealed)
120.240	Unearned Income In-Kind (Repealed)
120.245	Earmarked Income (Repealed)
120.250	Lump Sum Payments and Income Tax Refunds (Repealed)
120.255	Protected Income (Repealed)
120.260	Earned Income (Repealed)
120.261	Budgeting Earned Income (Repealed)
120.262	Exempt Earned Income (Repealed)
120.270	Recognized Employment Expenses (Repealed)
120.271	Income From Work/Study/Training Program (Repealed)
120.272	Earned Income From Self-Employment (Repealed)
120.273	Earned Income From Roomer and Boarder (Repealed)
120.275	Earned Income In-Kind (Repealed)
120.276	Payments from the Illinois Department of Children and Family Services (Repealed)
120.280	Assets (Repealed)
120.281	Exempt Assets (Repealed)
120.282	Asset Disregards (Repealed)
120.283	Deferral of Consideration of Assets (Repealed)
120.284	Spend-down of Assets (AMI) (Repealed)
120.285	Property Transfers (Repealed)
120.290	Persons Who May Be Included in the Assistance Unit (Repealed)
120.295	Payment Levels for AMI (Repealed)

## SUBPART H: MEDICAL ASSISTANCE – NO GRANT (MANG) ELIGIBILITY FACTORS

Section	
120.308	Client Cooperation
120.309	Caretaker Relative
120.310	Citizenship
120.311	Residence
120.312	Age
120.313	Blind
120.314	Disabled
120.315	Relationship
120.316	Living Arrangements
120.317	Supplemental Payments
120.318	Institutional Status
120.319	Assignment of Rights to Medical Support and Collection of Payment
120.320	Cooperation in Establishing Paternity and Obtaining Medical Support

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- 120.321 Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
- 120.322 Proof of Good Cause for Failure to Cooperate in Establishing Paternity and Obtaining Medical Support
- 120.323 Suspension of Paternity Establishment and Obtaining Medical Support Upon Finding Good Cause
- 120.324 Health Insurance Premium Payment (HIPP) Program
- 120.325 Health Insurance Premium Payment (HIPP) Pilot Program
- 120.326 Foster Care Program
- 120.327 Social Security Numbers
- 120.328 Compliance with Employment and Work Activity Requirements (Suspended; Repealed)
- 120.329 Compliance with Non-Economic Eligibility Requirements of Article IV (Suspended; Repealed)
- 120.330 Unearned Income
- 120.332 Budgeting Unearned Income
- 120.335 Exempt Unearned Income
- 120.336 Education Benefits
- 120.338 Incentive Allowance
- 120.340 Unearned Income In-Kind
- 120.342 Child Support and Spousal Maintenance Payments
- 120.345 Earmarked Income
- 120.346 Medicaid Qualifying Trusts
- 120.347 Treatment of Trusts and Annuities
- 120.350 Lump Sum Payments and Income Tax Refunds
- 120.355 Protected Income
- 120.360 Earned Income
- 120.361 Budgeting Earned Income
- 120.362 Exempt Earned Income
- 120.363 Earned Income Disregard – MANG(C)
- 120.364 Earned Income Exemption
- 120.366 Exclusion From Earned Income Exemption
- 120.370 Recognized Employment Expenses
- 120.371 Income From Work/Study/Training Programs
- 120.372 Earned Income From Self-Employment
- 120.373 Earned Income From Roomer and Boarder
- 120.375 Earned Income In-Kind
- 120.376 Payments from the Illinois Department of Children and Family Services
- 120.379 Provisions for the Prevention of Spousal Impoverishment
- 120.380 Resources

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- 120.381 Exempt Resources
- 120.382 Resource Disregard
- 120.383 Deferral of Consideration of Assets
- 120.384 Spenddown of Resources
- 120.385 Factors Affecting Eligibility for Long Term Care Services
- 120.386 Property Transfers Occurring On or Before August 10, 1993
- 120.387 Property Transfers Occurring On or After August 11, 1993 and Before January 1, 2007
- 120.388 Property Transfers Occurring On or After January 1, 2007
- 120.390 Persons Who May Be Included In the Assistance Unit
- 120.391 Individuals Under Age 18 Who Do Not Qualify For AFDC/AFDC-MANG And Children Born October 1, 1983, or Later
- 120.392 Pregnant Women Who Would Not Be Eligible For AFDC/AFDC-MANG If The Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 120.393 Pregnant Women And Children Under Age Eight Years Who Do Not Qualify As Mandatory Categorically Needy Demonstration Project
- 120.395 Payment Levels for MANG (Repealed)
- 120.399 Redetermination of Eligibility
- 120.400 Twelve Month Eligibility for Persons under Age 19

## SUBPART I: SPECIAL PROGRAMS

## Section

- 120.500 Health Benefits for Persons with Breast or Cervical Cancer
  - 120.510 Health Benefits for Workers with Disabilities
  - 120.520 SeniorCare (Repealed)
  - 120.530 Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21
  - 120.540 Illinois Healthy Women Program
  - 120.550 Asylum Applicants and Torture Victims
- 
- 120.TABLE A Value of a Life Estate and Remainder Interest
  - 120.TABLE B Life Expectancy (Repealed)

AUTHORITY: Implementing Articles III, IV, V and VI and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13] and implementing the federal Deficit Reduction Act of 2005.

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SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amended at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; peremptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; peremptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; peremptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; peremptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; peremptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; peremptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; peremptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; peremptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; peremptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective

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October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; amended at 7 Ill. Reg. 394, effective January 1, 1983; codified at 7 Ill. Reg. 6082; amended at 7 Ill. Reg. 8256, effective July 1, 1983; amended at 7 Ill. Reg. 8264, effective July 5, 1983; amended (by adding Section being codified with no substantive change) at 7 Ill. Reg. 14747; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16108; amended at 8 Ill. Reg. 5253, effective April 9, 1984; amended at 8 Ill. Reg. 6770, effective April 27, 1984; amended at 8 Ill. Reg. 13328, effective July 16, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17897; amended at 8 Ill. Reg. 18903, effective September 26, 1984; peremptory amendment at 8 Ill. Reg. 20706, effective October 3, 1984; amended at 8 Ill. Reg. 25053, effective December 12, 1984; emergency amendment at 9 Ill. Reg. 830, effective January 3, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 4515, effective March 25, 1985; amended at 9 Ill. Reg. 5346, effective April 11, 1985; amended at 9 Ill. Reg. 7153, effective May 6, 1985; amended at 9 Ill. Reg. 11346, effective July 8, 1985; amended at 9 Ill. Reg. 12298, effective July 25, 1985; amended at 9 Ill. Reg. 12823, effective August 9, 1985; amended at 9 Ill. Reg. 15903, effective October 4, 1985; amended at 9 Ill. Reg. 16300, effective October 10, 1985; amended at 9 Ill. Reg. 16906, effective October 18, 1985; amended at 10 Ill. Reg. 1192, effective January 10, 1986; amended at 10 Ill. Reg. 3033, effective January 23, 1986; amended at 10 Ill. Reg. 4907, effective March 7, 1986; amended at 10 Ill. Reg. 6966, effective April 16, 1986; amended at 10 Ill. Reg. 10688, effective June 3, 1986; amended at 10 Ill. Reg. 12672, effective July 14, 1986; amended at 10 Ill. Reg. 15649, effective September 19, 1986; amended at 11 Ill. Reg. 3992, effective February 23, 1987; amended at 11 Ill. Reg. 7652, effective April 15, 1987; amended at 11 Ill. Reg. 8735, effective April 20, 1987; emergency amendment at 11 Ill. Reg. 12458, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 14034, effective August 14, 1987; amended at 11 Ill. Reg. 14763, effective August 26, 1987; amended at 11 Ill. Reg. 20142, effective January 1, 1988; amended at 11 Ill. Reg. 20898, effective December 14, 1987; amended at 12 Ill. Reg. 904, effective January 1, 1988; amended at 12 Ill. Reg. 3516, effective January 22, 1988; amended at 12 Ill. Reg. 6234, effective March 22, 1988; amended at 12 Ill. Reg. 8672, effective May 13, 1988; amended at 12 Ill. Reg. 9132, effective May 20, 1988; amended at 12 Ill. Reg. 11483, effective June 30, 1988; emergency amendment at 12 Ill. Reg. 11632, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 11839, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12835, effective July 22, 1988; emergency amendment at 12 Ill. Reg. 13243, effective July 29, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17867, effective October 30, 1988; amended at 12 Ill. Reg. 19704, effective November 15, 1988; amended at 12 Ill. Reg. 20188, effective November 23, 1988; amended at 13 Ill. Reg. 116, effective January 1, 1989; amended at 13 Ill. Reg. 2081, effective February 3, 1989; amended at 13 Ill. Reg. 3908, effective March 10, 1989; emergency amendment at 13 Ill. Reg. 11929, effective June 27, 1989, for a maximum of 150 days; emergency expired November 25, 1989; emergency amendment at 13 Ill. Reg. 12137, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 15404, effective October 6, 1989; emergency amendment at 13 Ill. Reg.

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16586, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 13 Ill. Reg. 17483, effective October 31, 1989; amended at 13 Ill. Reg. 17838, effective November 8, 1989; amended at 13 Ill. Reg. 18872, effective November 17, 1989; amended at 14 Ill. Reg. 760, effective January 1, 1990; emergency amendment at 14 Ill. Reg. 1494, effective January 2, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 4233, effective March 5, 1990; emergency amendment at 14 Ill. Reg. 5839, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 6372, effective April 16, 1990; amended at 14 Ill. Reg. 7637, effective May 10, 1990; amended at 14 Ill. Reg. 10396, effective June 20, 1990; amended at 14 Ill. Reg. 13227, effective August 6, 1990; amended at 14 Ill. Reg. 14814, effective September 3, 1990; amended at 14 Ill. Reg. 17004, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 348, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 5302, effective April 1, 1991; amended at 15 Ill. Reg. 10101, effective June 24, 1991; amended at 15 Ill. Reg. 11973, effective August 12, 1991; amended at 15 Ill. Reg. 12747, effective August 16, 1991; amended at 15 Ill. Reg. 14105, effective September 11, 1991; amended at 15 Ill. Reg. 14240, effective September 23, 1991; amended at 16 Ill. Reg. 139, effective December 24, 1991; amended at 16 Ill. Reg. 1862, effective January 20, 1992; amended at 16 Ill. Reg. 10034, effective June 15, 1992; amended at 16 Ill. Reg. 11582, effective July 15, 1992; amended at 16 Ill. Reg. 17290, effective November 3, 1992; amended at 17 Ill. Reg. 1102, effective January 15, 1993; amended at 17 Ill. Reg. 6827, effective April 21, 1993; amended at 17 Ill. Reg. 10402, effective June 28, 1993; amended at 18 Ill. Reg. 2051, effective January 21, 1994; amended at 18 Ill. Reg. 5934, effective April 1, 1994; amended at 18 Ill. Reg. 8718, effective June 1, 1994; amended at 18 Ill. Reg. 11231, effective July 1, 1994; amended at 19 Ill. Reg. 2905, effective February 27, 1995; emergency amendment at 19 Ill. Reg. 9280, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 11931, effective August 11, 1995; amended at 19 Ill. Reg. 15079, effective October 17, 1995; amended at 20 Ill. Reg. 5068, effective March 20, 1996; amended at 20 Ill. Reg. 15993, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 692, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 7423, effective May 31, 1997; amended at 21 Ill. Reg. 7748, effective June 9, 1997; amended at 21 Ill. Reg. 11555, effective August 1, 1997; amended at 21 Ill. Reg. 13638, effective October 1, 1997; emergency amendment at 22 Ill. Reg. 1576, effective January 5, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 7003, effective April 1, 1998; amended at 22 Ill. Reg. 8503, effective May 1, 1998; amended at 22 Ill. Reg. 16291, effective August 28, 1998; emergency amendment at 22 Ill. Reg. 16640, effective September 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19875, effective October 30, 1998; amended at 23 Ill. Reg. 2381, effective January 22, 1999; amended at 23 Ill. Reg. 11301, effective August 27, 1999; amended at 24 Ill. Reg. 7361, effective May 1, 2000; emergency amendment at 24 Ill. Reg. 10425, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15075, effective October 1, 2000; amended at 24 Ill. Reg. 18309, effective December 1, 2000; amended at 25 Ill. Reg. 8783, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 10533, effective August 1, 2001, for a maximum of 150 days;

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amended at 25 Ill. Reg. 16098, effective December 1, 2001; amended at 26 Ill. Reg. 409, effective December 28, 2001; emergency amendment at 26 Ill. Reg. 8583, effective June 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9843, effective June 26, 2002; emergency amendment at 26 Ill. Reg. 11029, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 15051, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16288, effective October 25, 2002; amended at 27 Ill. Reg. 4708, effective February 25, 2003; emergency amendment at 27 Ill. Reg. 10793, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18609, effective November 26, 2003; amended at 28 Ill. Reg. 4701, effective March 3, 2004; amended at 28 Ill. Reg. 6139, effective April 1, 2004; emergency amendment at 28 Ill. Reg. 6610, effective April 19, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 7152, effective May 3, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11149, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12921, effective September 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13621, effective September 28, 2004; amended at 28 Ill. Reg. 13760, effective October 1, 2004; amended at 28 Ill. Reg. 14541, effective November 1, 2004; amended at 29 Ill. Reg. 820, effective January 1, 2005; amended at 29 Ill. Reg. 10195, effective June 30, 2005; amended at 29 Ill. Reg. 14939, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 521, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 10314, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 15029, effective September 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 2629, effective January 28, 2007; emergency amendment at 31 Ill. Reg. 7323, effective May 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 11667, effective August 1, 2007; amended at 31 Ill. Reg. 12756, effective August 27, 2007; emergency amendment at 31 Ill. Reg. 15854, effective November 7, 2007, for a maximum of 150 days; emergency rule suspended at 31 Ill. Reg. 16060, effective November 13, 2007; emergency rule repealed, effective May 10, 2008; peremptory amendment at 32 Ill. Reg. 7212, effective April 21, 2008; peremptory amendment suspended at 32 Ill. Reg. 8450, effective May 20, 2008; peremptory amendment repealed under Section 5-125 of the Illinois Administrative Procedure Act, effective November 16, 2008; amended at 32 Ill. Reg. 17428, effective November 1, 2008; peremptory amendment at 32 Ill. Reg. 18889, effective November 18, 2008; peremptory amendment suspended at 32 Ill. Reg. 18906, effective November 19, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 33 Ill. Reg. 6551, effective April 28, 2009; peremptory amendment repealed by emergency rulemaking at 33 Ill. Reg. 6712, effective April 28, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 1681, effective February 1, 2009; amended at 33 Ill. Reg. 2289, effective March 1, 2009; emergency amendment at 33 Ill. Reg. 5802, effective April 2, 2009, for a maximum of 150 days; emergency expired August 29, 2009; emergency amendment at 33 Ill. Reg. 10785, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 12703, effective September 7, 2009; amended at 33 Ill. Reg. 15707, effective November 2, 2009; amended at 33 Ill. Reg. 17070, effective December 2, 2009; amended at 34 Ill. Reg. 889, effective December 30, 2009; emergency rulemaking at 34 Ill. Reg. 13538, effective September 1, 2010, for a

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maximum of 150 days; amended at 35 Ill. Reg. 379, effective December 27, 2010; amended at 35 Ill. Reg. 979, effective January 1, 2011; amended at 35 Ill. Reg. 18645, effective January 1, 2012; amended at 36 Ill. Reg. 4133, effective March 1, 2012; amended at 36 Ill. Reg. 9095, effective June 11, 2012.

## SUBPART E: RECIPIENT RESTRICTION PROGRAM

**Section 120.80 Recipient Restriction Program**

- a) The Recipient Restriction Program (RRP) shall identify recipients who unnecessarily utilize medical services. When the Department determines, on the basis of statistical norms and the medical judgment of individual practitionersphysicians and/or pharmacistspharmacologists, that a Medicaid recipient has received medical services that are not medically necessary based on the recipient's diagnoses and/or medical condition or conditions or in such a manner as to constitute an abuse of medical privileges, the decision to restrict a recipient to one or more primary provider typesa Primary Care Provider and/or Primary Care Pharmacy will be made. For purposes of this Section, "primary provider type" means a primary care provider, primary care pharmacy, primary care dentist, primary care podiatrist, or primary durable medical equipment provider. RRP applies to all medical assistance programs administered by the Department, with the exception of full risk Managed Care Organizations (MCO).
- b) Primary and Secondary Sources of Recipient Identification
  - 1) The primary source of recipient identification shall be the Surveillance and Utilization Review Subsystem (SURS) of the Medicaid Management Information System (MMIS). On an ongoinga quarterly basis, SURS analyzes the entire Medicaid population, determines medical usage per recipient and will identify recipients with usages in excess of the quarterly established norm of recipients in the same category of assistance and like demographic areas.
  - 2) Secondary sources of identification shall be incoming referrals, such as referrals from medical providers, law enforcement officials or members of the general public. All referrals shall be reviewed and analyzed. Recipients found to have loaned or altered their medical cards for the purpose of obtaining medical benefits for which they or other persons are not legitimately entitled; falsely represented medical coverage; found in possession of blank or forged prescription pads; or who knowingly

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assisted providers in rendering excessive services or defrauding the Medical Assistance Program shall be restricted.

- c) Once a recipient is identified, medical usage based on diagnoses and/or medical condition for the ~~nine months~~ preceding 24 months identification shall be reviewed. Medical Assistance Consultants ~~and;~~ licensed individual practitionersphysicians and/or pharmacistspharmacologists will determine if the recipient should be restricted due to the medical services received being not medically necessary. The Department shall initially designate, without regard to choice, a primary provider type or types (type)Primary Care Provider and/or Primary Care Pharmacy. The Department's designation shall remain in effect for the entire period of the restriction unless the recipient changes this designation pursuant to subsection (f) of this Section. Each recipient to be restricted will be notified in writing. This notice will also contain a statement relating to the medical necessity of services consistent with the findings of the professional consultants; a statement advising the recipient of his or her right to appeal; and a toll-free number to call for information.
- d) Department Designated Primary Provider TypeCare Provider and/or Primary Care Pharmacy
- 1) The Department will select the applicable primary provider typeone provider and/or one pharmacy in reasonable geographical proximity to the recipient's home to serve as the recipient's primary provider typePrimary Care Provider and/or Primary Care Pharmacy.
  - 2) The primary provider type must be a properly enrolled Medicaid provider in good standing with the Department, properly licensed and credentialed and willing to serve as a primary provider type.The primary care physician shall be a medical doctor or doctor of osteopathy, licensed to practice medicine in all its branches, or a clinic enrolled to provide primary care; a properly registered Medicaid provider in good standing with the Department per the physician registration; enrolled to provide physician services with the Department; and willing to serve as the primary care provider.
  - 3) If a primary care provider is selected as the primary provider type, he or she shall be a medical doctor or doctor of osteopathy licensed to practice medicine in all of its branches or a clinic enrolled to provide primary care.

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- e) Types of Services Provided or Authorized
- 1) Once restricted, the Recipient Eligibility Verification (REV) system shall display information regarding the primary provider type. ~~Primary Care Provider and/or Primary Care Pharmacy~~. REV will also display information that emergency services will not be restricted.
  - 2) If restricted to a primary care provider, the primary care provider ~~Primary Care Provider, the Primary Care Provider~~ must provide or authorize the following non-emergency ambulatory care services for the restricted recipient before the Department will render payment for the services:
    - A) Clinic
    - B) Laboratory
    - C) Outpatient Hospital
    - D) Pharmacy
    - E) Physician
  - 3) If restricted to a primary care pharmacy, the primary care pharmacy ~~The Primary Care Pharmacy~~ must supply all prescriptions for the restricted recipient. Authorization to obtain non-emergency prescriptions from any other source will only be approved ~~in such instances~~ when a specific item is not part of the primary care pharmacy's ~~Primary Care Pharmacy's~~ inventory and cannot be acquired through the primary care pharmacy ~~Primary Care Pharmacy~~.
  - 4) If restricted to a primary care dentist, the primary care dentist must provide or authorize all dental services for the restricted recipient before the Department will render payment for the dental services.
  - 5) If restricted to a primary care podiatrist, the primary care podiatrist must provide or authorize all podiatric services for the restricted recipient before the Department will render payment for the podiatric services.
  - 6) If restricted to a primary durable medical equipment provider, the primary durable medical equipment provider must supply all medical supplies for

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the restricted recipient. Authorization to obtain medical supplies from any other source will only be approved when a specific item is not part of the primary durable medical equipment provider's inventory and cannot be acquired through the primary durable medical equipment provider.

73) Other covered services may be provided by a qualified provider in the Department's Medical Program.

f) Changing the Designated Primary Provider Type~~Primary Care Provider and/or Primary Care Pharmacy~~

1) The recipient may change the Department's initial designation of a primary provider type~~Primary Care Provider or Primary Care Pharmacy~~ once without cause. The request for change must be submitted to the Department in writing. The Department, by notice, shall inform the recipient how to request a change in primary provider type~~Primary Care Provider or Primary Care Pharmacy~~.

2) The recipient may change his or her designated provider for cause if one of the following circumstances is verified:

A) Change of recipient's residence from the geographical~~geographic~~ area of the primary provider type~~Primary Care Provider or Primary Care Pharmacy~~;

B) Change in the recipient's medical condition that~~which~~ the primary provider type~~Primary Care Provider~~ is unable to treat or refer to another provider;

C) Death of the primary provider type~~Primary Care Provider~~;

D) Disenrollment of the primary provider type~~Primary Care Provider and/or Primary Care Pharmacy~~ from the Medical Assistance Program; and

E) Notice from the primary provider type~~Primary Care Provider and/or Primary Care Pharmacy~~ that he, she or it~~they~~ will no longer serve as the primary provider type~~Primary Care Provider~~.

3) The Department will notify the recipient in writing if the primary provider

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~~typePrimary Care Provider and/or Primary Care Pharmacy~~ has disenrolled as a provider of Medicaid services or if the provider notifies the Department of ~~his, her or its~~their unwillingness to continue to serve as the recipient's ~~primary provider typePrimary Care Provider~~.

- 4) Changes in designated ~~primary provider typePrimary Care Provider and/or Primary Care Pharmacy~~ shall be processed effective with the earliest possible date reflected on the eligibility file.
- 5) For the ~~designated primary provider typeprovider or pharmacy~~, the Department will determine if the requested change meets the criteria in subsection (d) of this Section.

## g) Length of Restriction

- 1) Once recipients are restricted they remain in restriction for a minimum of four full quarters. If restricted recipients transfer to a different assistance unit, the restriction will be processed to follow the recipient. If a restricted recipient becomes inactive and is subsequently reactivated, the restriction will be reactivated until such time as four full quarters have elapsed.
- 2) Reevaluation of the Recipient's Medical Usage
  - A) When a recipient has had his or her medical card restricted for four full quarters, the Department shall reevaluate the recipient's medical usage to determine whether the recipient continues to receive medical services that are not medically necessary. The Department shall evaluate each case not later than eighteen months after the effective date of restriction. If the recipient is still receiving medical services that are not medically necessary, the restriction shall be continued for an additional period of eight full quarters. This additional period of eight full quarters shall begin with the first month immediately following the end of the first four full quarter restriction period. If the recipient no longer is receiving medical services that are not medically necessary, the restriction shall be discontinued. A "quarter", for purposes of this Section, shall be defined as one of the following three-month periods of time: January-March, April-June, July-September or October-December.

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- B) If necessary to determine if medical services that are not medically necessary are still being received, the Department shall obtain a complete copy of the recipient's medical record from the primary provider type~~Primary Care Provider~~. The medical record will be reviewed by the Medical Assistant Consultant with a final determination by a licensed individual practitioner~~physician and/or pharmacist~~ to determine if the medical services received were medically necessary.
- C) If the decision is to release the recipient from restriction, such release will be processed effective with the earliest possible date reflected on the eligibility file.
- D) If the services are determined to be medically unnecessary, the recipient will be notified in writing of the continued restriction. The Department may designate a different individual provider type~~Primary Care Physician and/or Primary Care Pharmacy~~. The criteria in subsection (d) of this Section shall apply. This notice will also contain a statement relating to the medical necessity of services consistent with the findings of the professional consultants; a statement advising the recipient of his or her right to appeal; and a toll-free number to call for information.
- 3) If the restriction is continued, a review will be conducted in accordance with subsection (g)(2) of this Section, subsequent to the additional eight quarter period.
- 4) A recipient who has been restricted under this Section, is released and then is restricted under this Section a subsequent time, shall be restricted for a period of eight full quarters. Subsequent to this eight quarter period, a review will be conducted in accordance with subsection (g)(2) of this Section.
- h) Recipients have the right to appeal inclusion in the program. (See 89 Ill. Adm. Code 102.80 through 102.84.)
- i) Any recipient in the RRP who subsequently enrolls in a full risk MCO will be released from the RRP. is not permitted to enroll in a Managed Care Organization (MCO).

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- j) ~~Any recipient designated by the Department for restriction in the RRP who is, at that time, enrolled in an MCO will be disenrolled from the MCO upon the RRP designation.~~

(Source: Amended at 36 Ill. Reg. 9095, effective June 11, 2012)

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.462                      Adopted Action:  
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendment: June 11, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any materials 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: July 15, 2011; 35 Ill. Reg. 11126
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? Yes

<u>Sections Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
140.445	Amendment	36 Ill. Reg. 7757; May 25, 2012
140.523	Amendment	36 Ill. Reg. 7757; May 25, 2012
140.539	Amendment	36 Ill. Reg. 7757; May 25, 2012
140.570	Amendment	36 Ill. Reg. 7757; May 25, 2012
140.1001	Amendment	36 Ill. Reg. 8081; June 1, 2012

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- 15) Summary and Purpose of Amendment: The proposed amendment requires clinics to adhere to the group psychotherapy limitations that were implemented for physicians in 2009. Since the implementation of the group psychotherapy restriction placed on physicians in 2009, HFS has seen an increase in group psychotherapy in the clinic setting, as well as transportation requests to these services.
- 16) Information and questions regarding this adopted amendment shall be directed to:

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, 3<sup>rd</sup> Floor  
Springfield IL 62763-0002

217/782-1233

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

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## TITLE 89: SOCIAL SERVICES

## CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## SUBCHAPTER d: MEDICAL PROGRAMS

## PART 140

## MEDICAL PAYMENT

## SUBPART A: GENERAL PROVISIONS

## Section

- 140.1 Incorporation By Reference
- 140.2 Medical Assistance Programs
- 140.3 Covered Services Under Medical Assistance Programs
- 140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
- 140.5 Covered Medical Services Under General Assistance
- 140.6 Medical Services Not Covered
- 140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
- 140.8 Medical Assistance For Qualified Severely Impaired Individuals
- 140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
- 140.10 Medical Assistance Provided to Persons Confined or Detained by the Criminal Justice System

## SUBPART B: MEDICAL PROVIDER PARTICIPATION

## Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination or Revocation on Persons Associated with Vendor

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- 140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
- 140.20 Submittal of Claims
- 140.21 Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
- 140.22 Magnetic Tape Billings (Repealed)
- 140.23 Payment of Claims
- 140.24 Payment Procedures
- 140.25 Overpayment or Underpayment of Claims
- 140.26 Payment to Factors Prohibited
- 140.27 Assignment of Vendor Payments
- 140.28 Record Requirements for Medical Providers
- 140.30 Audits
- 140.31 Emergency Services Audits
- 140.32 Prohibition on Participation, and Special Permission for Participation
- 140.33 Publication of List of Sanctioned Entities
- 140.35 False Reporting and Other Fraudulent Activities
- 140.40 Prior Approval for Medical Services or Items
- 140.41 Prior Approval in Cases of Emergency
- 140.42 Limitation on Prior Approval
- 140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained
- 140.44 Withholding of Payments Due to Fraud or Misrepresentation
- 140.55 Recipient Eligibility Verification (REV) System
- 140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
- 140.72 Drug Manual (Recodified)
- 140.73 Drug Manual Updates (Recodified)

## SUBPART C: PROVIDER ASSESSMENTS

- Section
- 140.80 Hospital Provider Fund
- 140.82 Developmentally Disabled Care Provider Fund
- 140.84 Long Term Care Provider Fund
- 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
- 140.95 Hospital Services Trust Fund
- 140.96 General Requirements (Recodified)

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140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)
140.101	Transplants (Recodified)
140.102	Heart Transplants (Recodified)
140.103	Liver Transplants (Recodified)
140.104	Bone Marrow Transplants (Recodified)
140.110	Disproportionate Share Hospital Adjustments (Recodified)
140.116	Payment for Inpatient Services for GA (Recodified)
140.117	Hospital Outpatient and Clinic Services (Recodified)
140.200	Payment for Hospital Services During Fiscal Year 1982 (Recodified)
140.201	Payment for Hospital Services After June 30, 1982 (Repealed)
140.202	Payment for Hospital Services During Fiscal Year 1983 (Recodified)
140.203	Limits on Length of Stay by Diagnosis (Recodified)
140.300	Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
140.350	Copayments (Recodified)
140.360	Payment Methodology (Recodified)
140.361	Non-Participating Hospitals (Recodified)
140.362	Pre July 1, 1989 Services (Recodified)
140.363	Post June 30, 1989 Services (Recodified)
140.364	Prepayment Review (Recodified)
140.365	Base Year Costs (Recodified)
140.366	Restructuring Adjustment (Recodified)
140.367	Inflation Adjustment (Recodified)
140.368	Volume Adjustment (Repealed)
140.369	Groupings (Recodified)
140.370	Rate Calculation (Recodified)
140.371	Payment (Recodified)
140.372	Review Procedure (Recodified)
140.373	Utilization (Repealed)
140.374	Alternatives (Recodified)
140.375	Exemptions (Recodified)
140.376	Utilization, Case-Mix and Discretionary Funds (Repealed)
140.390	Subacute Alcoholism and Substance Abuse Services (Recodified)
140.391	Definitions (Recodified)
140.392	Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
140.394	Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)

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- 140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services  
(Recodified)
- 140.398 Hearings (Recodified)

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

## Section

- 140.400 Payment to Practitioners
- 140.402 Copayments for Noninstitutional Medical Services
- 140.403 Telehealth Services
- 140.405 SeniorCare Pharmaceutical Benefit (Repealed)
- 140.410 Physicians' Services
- 140.411 Covered Services By Physicians
- 140.412 Services Not Covered By Physicians
- 140.413 Limitation on Physician Services
- 140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items – Prescribers
- 140.416 Optometric Services and Materials
- 140.417 Limitations on Optometric Services
- 140.418 Department of Corrections Laboratory
- 140.420 Dental Services
- 140.421 Limitations on Dental Services
- 140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items –  
Dentists (Repealed)
- 140.425 Podiatry Services
- 140.426 Limitations on Podiatry Services
- 140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry  
(Repealed)
- 140.428 Chiropractic Services
- 140.429 Limitations on Chiropractic Services (Repealed)
- 140.430 Independent Clinical Laboratory Services
- 140.431 Services Not Covered by Independent Clinical Laboratories
- 140.432 Limitations on Independent Clinical Laboratory Services
- 140.433 Payment for Clinical Laboratory Services
- 140.434 Record Requirements for Independent Clinical Laboratories
- 140.435 Advanced Practice Nurse Services
- 140.436 Limitations on Advanced Practice Nurse Services
- 140.438 Diagnostic Imaging Services
- 140.440 Pharmacy Services
- 140.441 Pharmacy Services Not Covered

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- 140.442 Prior Approval of Prescriptions
- 140.443 Filling of Prescriptions
- 140.444 Compounded Prescriptions
- 140.445 Legend Prescription Items (Not Compounded)
- 140.446 Over-the-Counter Items
- 140.447 Reimbursement
- 140.448 Returned Pharmacy Items
- 140.449 Payment of Pharmacy Items
- 140.450 Record Requirements for Pharmacies
- 140.451 Prospective Drug Review and Patient Counseling
- 140.452 Mental Health Services
- 140.453 Definitions
- 140.454 Types of Mental Health Services
- 140.455 Payment for Mental Health Services
- 140.456 Hearings
- 140.457 Therapy Services
- 140.458 Prior Approval for Therapy Services
- 140.459 Payment for Therapy Services
- 140.460 Clinic Services
- 140.461 Clinic Participation, Data and Certification Requirements
- 140.462 Covered Services in Clinics
- 140.463 Clinic Service Payment
- 140.464 Hospital-Based and Encounter Rate Clinic Payments
- 140.465 Speech and Hearing Clinics (Repealed)
- 140.466 Rural Health Clinics (Repealed)
- 140.467 Independent Clinics
- 140.469 Hospice
- 140.470 Eligible Home Health Providers
- 140.471 Description of Home Health Services
- 140.472 Types of Home Health Services
- 140.473 Prior Approval for Home Health Services
- 140.474 Payment for Home Health Services
- 140.475 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.476 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
- 140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
- 140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
- 140.479 Limitations, Medical Supplies

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140.480	Equipment Rental Limitations
140.481	Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
140.482	Family Planning Services
140.483	Limitations on Family Planning Services
140.484	Payment for Family Planning Services
140.485	Healthy Kids Program
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AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; preemptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; preemptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; preemptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; preemptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June

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26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140. Table H and 140. Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147. Table A and 147. Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill.

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Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted

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Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October

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1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999;

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amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004;

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emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; peremptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; peremptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency

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expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010; amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012; amended at 36 Ill. Reg. 7010, effective April 27, 2012; amended at 36 Ill. Reg. 7545, effective May 7, 2012; amended at 36 Ill. Reg. 9113, effective June 11, 2012.

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

**Section 140.462 Covered Services in Clinics**

Payment shall be made to clinics for the following types of services when provided by, or under the direction of, a physician:

- a) Hospital-Based Organized Clinics
  - 1) With respect to those hospital-based organized clinics that qualify as Maternal and Child Health clinics, as described in Section 140.461(f)(1), covered services are those described in subsection (e), as appropriate.
  - 2) With respect to all other hospital-based organized clinics, covered services are those described in 89 Ill. Adm. Code 148.
  - 3) Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).
- b) Encounter Rate Clinics
  - 1) With respect to those encounter rate clinics that qualify as Maternal and

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Child Health providers, as described in Section 140.924(a)(2)(B), covered services are those described in Section 140.922.

- 2) With respect to all other encounter rate clinics, covered services are medical services that provide for the continuous health care needs of persons who elect to use this type of service, including dental services that will be billed as separate encounters for dates of service on or after January 1, 2011.

- 3) Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).

c) Rural Health Clinics

Those core services for which the clinic or center may bill an encounter as described in 42 CFR 440.90 (2000) are as follows:

- 1) Physician's Services, including covered services of nurse practitioners, nurse midwives and physician-supervised physician assistants. Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).
- 2) Other services for which a separate encounter may be billed include dentist and behavioral health services as defined in Section 140.463(a).
- 3) Medically-necessary services and supplies furnished by or under the direction of a physician or dentist within the scope of licensed practice that have been included in the cost report but neither fee-for-service nor encounter billings may be billed. Some examples of these services include:
  - A) medical case management;
  - B) laboratory services;
  - C) occupational therapy;
  - D) patient transportation;
  - E) pharmacy services;

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- F) physical therapy;
  - G) podiatric services;
  - H) speech and hearing services;
  - I) x-ray services;
  - J) health education;
  - K) nutrition services;
  - L) optometric services.
- 4) A rural health clinic (RHC) that adds behavioral health services or dental services on or after October 1, 2001, must notify the Department in writing. These services are to be billed as an encounter with a procedure code that appropriately identifies the service provided.
- 5) Any service that is no longer provided on or after October 1, 2001, or any new service added on or after October 1, 2001, must be communicated to the Department in writing prior to billing for the services.
- 6) Effective January 1, 2001, the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA) precludes fee-for-service billings for any RHC services.
- d) Federally Qualified Health Centers  
Those core services for which the clinic or center may bill an encounter as described in 42 CFR 440.90 (2000) are as follows:
- 1) Physician's services, including covered services of nurse midwives, nurse practitioners and physician-supervised physician assistants. Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).
  - 2) Other services for which separate encounters may be billed include dentists and behavioral health services as defined in Section 140.463(a).

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- 3) Medically-necessary services and supplies furnished by or under the direction of a physician or dentist within the scope of licensed practice have been included in the cost report but neither fee-for-service nor encounter billings may be billed. Some examples of these services include:
  - A) medical case management;
  - B) laboratory services;
  - C) occupational therapy;
  - D) patient transportation;
  - E) pharmacy services;
  - F) physical therapy;
  - G) podiatric services;
  - H) optometric services;
  - I) speech and hearing services;
  - J) x-ray services;
  - K) health education;
  - L) nutrition services.
- 4) A federally qualified health center (FQHC) that adds behavioral health services or dental services on or after October 1, 2001, must notify the Department in writing. These services are to be billed as an encounter with a procedure code that appropriately identifies the service.
- 5) Any service that is no longer provided on or after October 1, 2001, or any new service added on or after October 1, 2001, must be communicated to the Department in writing.

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- 6) Effective January 1, 2001, the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA) precludes fee-for-service billings for any FQHC services provided.
- e) **Maternal and Child Health Clinics**  
Payment shall be made to the Maternal and Child Health clinics identified in Section 140.461(f)(1) for the following services when provided by, or under the direction of, a physician:
    - 1) In the case of clinics described in Section 140.461(f)(1)(A) and (f)(1)(B), primary care services delivered by the clinic, which must include, but are not necessarily limited to:
      - A) Early, periodic, screening, diagnostic, and treatment (EPSDT) services as defined in Section 140.485;
      - B) Childhood risk assessments to determine potential need for mental health and substance abuse assessment and/or treatment;
      - C) Regular immunizations for the prevention of childhood diseases;
      - D) Follow-up ambulatory medical care deemed necessary, recommended, or prescribed by a physician as a result of an EPSDT screening;
      - E) Routine prenatal care, including risk assessment, for pregnant women; and
      - F) Specialty care as medically needed.
    - 2) In the case of clinics described in Section 140.461(f)(1)(C), primary care and specialty services delivered by the clinic, which must include, but are not necessarily limited to:
      - A) Prenatal care, including risk assessment (one risk assessment per pregnancy);
      - B) All ambulatory treatment services deemed medically necessary,

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recommended, or prescribed by a physician as the result of the assessment; and

- C) Services to pregnant women with diagnosed substance abuse or addiction problems.
- 3) In the case of clinics described in Section 140.461(f)(1)(D):
- A) Comprehensive medical and referral services.
  - B) Primary care services, which must include, but are not necessarily limited to:
    - i) early, periodic, screening, diagnostic, and treatment (EPSDT) services as defined in Section 140.485;
    - ii) regular immunizations for the prevention of childhood diseases; and
    - iii) follow-up ambulatory medical care deemed necessary, recommended, or prescribed by a physician as the result of an EPSDT screening.
  - C) Pediatric specialty services, which must include, at a minimum, necessary treatment for:
    - i) asthma,
    - ii) congenital heart disease,
    - iii) diabetes, and
    - iv) sickle cell anemia.
  - D) Ambulatory treatment for other medical conditions as specified in the center's certificate application and as approved by the Department.
- f) School Based/Linked Health Clinics (Centers)

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Covered services are the following services, when delivered in a school based/linked health center setting as described in Section 140.461(g):

- 1) Basic medical services: well child or adolescent exams, consisting of a comprehensive health history, complete physical assessment, screening procedures and age appropriate anticipatory guidance; immunizations; EPSDT services; diagnosis and treatment of acute illness and injury; basic laboratory tests; prescriptions and dispensing of commonly used medications for identified health conditions, in accordance with Medical Practice and Pharmacy Practice Acts; and acute management and on-going monitoring of chronic conditions, such as asthma, diabetes and seizure disorders.
- 2) Reproductive health services: gynecological exams; diagnosis and treatment of sexually transmitted diseases; family planning; prescribing and dispensing of birth control or referral for birth control services; pregnancy testing; treatment or referral for prenatal and postpartum care; and cancer screening.

(Source: Amended at 36 Ill. Reg. 9113, effective June 11, 2012)

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- 1) Heading of the Part: Child Support Services
- 2) Code Citation: 89 Ill. Adm. Code 160
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
160.65	Amendment
160.70	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendments: June 11, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any materials 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: December 2, 2011; 35 Ill. Reg. 19403
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: In Section 160.65(g)(6), changed "have demonstrated the occurrence" to "have not demonstrated the occurrence".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The proposed amendments ensure that the Department's administrative cases are handled adequately and similarly to the judicial process and adhere to federal regulatory changes involving personal property liens/levies issued by the Department as a result of the non-payment of past due child support. Further, to ensure consistency with 89 Ill. Adm. Code 104 and 160 appeal requests on a lien/levy, from joint-owned bank account holders still have an appeal period of 45 days.

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This change now consistently shows that support orders have a 30 day appeal period, enforcement actions have 15 days and joint owners of bank accounts have 45 days.

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

Jeanette Badrov  
General Counsel  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, 3<sup>rd</sup> Floor  
Springfield IL 62763-0002

217/782-1233

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER f: COLLECTIONS

PART 160

CHILD SUPPORT SERVICES

SUBPART A: GENERAL PROVISIONS

Section

- 160.1 Incorporation by Reference
- 160.5 Definitions
- 160.10 Child Support Enforcement Program
- 160.12 Administrative Accountability Process
- 160.15 Fees for IV-D Non-TANF Cases
- 160.20 Assignment of Rights to Support
- 160.25 Recoupment

SUBPART B: COOPERATION WITH CHILD SUPPORT ENFORCEMENT

Section

- 160.30 Cooperation With Support Enforcement Program
- 160.35 Good Cause for Failure to Cooperate with Support Enforcement
- 160.40 Proof of Good Cause For Failure to Cooperate With Support Enforcement
- 160.45 Suspension of Child Support Enforcement Upon a Claim of Good Cause

SUBPART C: ESTABLISHMENT AND MODIFICATION OF  
CHILD SUPPORT ORDERS

Section

- 160.60 Establishment of Support Obligations
- 160.61 Uncontested and Contested Administrative Paternity and Support Establishment
- 160.62 Cooperation with Paternity Establishment and Continued Eligibility  
Demonstration Program (Repealed)
- 160.64 Compromise of Assigned Obligations
- 160.65 Modification of Support Obligations

SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

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Section	
160.70	Enforcement of Support Orders
160.71	Credit for Payments Made Directly to the Title IV-D Client
160.75	Withholding of Income to Secure Payment of Support
160.77	Certifying Past-Due Support Information or Failure to Comply with a Subpoena or Warrant to State Licensing Agencies (Repealed)
160.80	Amnesty – 20% Charge (Repealed)
160.85	Diligent Efforts to Serve Process
160.88	State Case Registry
160.89	Interest

## SUBPART E: EARMARKING CHILD SUPPORT PAYMENTS

Section	
160.90	Earmarking Child Support Payments

## SUBPART F: DISTRIBUTION OF SUPPORT COLLECTIONS

Section	
160.95	State Disbursement Unit
160.100	Distribution of Child Support for TANF Recipients
160.110	Distribution of Child Support for Former AFDC or TANF Recipients Who Continue to Receive Child Support Services
160.120	Distribution of Child Support Collected While the Client Was an AFDC or TANF Recipient, But Not Yet Distributed at the Time the AFDC or TANF Case Is Cancelled
160.130	Distribution of Intercepted Federal Income Tax Refunds
160.132	Distribution of Child Support for Non-TANF Clients
160.134	Distribution of Child Support for Intergovernmental Cases
160.136	Distribution of Support Collected in IV-E Foster Care Maintenance Cases
160.138	Distribution of Child Support for Medical Assistance No Grant Cases

## SUBPART G: STATEMENT OF CHILD SUPPORT ACCOUNT ACTIVITY

Section	
160.140	Quarterly Notice of Child Support Account Activity

## SUBPART H: DEPARTMENT REVIEW OF DISTRIBUTION OF CHILD SUPPORT

Section

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- 160.150 Department Review of Distribution of Child Support for TANF Recipients  
160.160 Department Review of Distribution of Child Support for Former AFDC or TANF Recipients

## SUBPART I: INTERGOVERNMENTAL IV-D CASES

## Section

- 160.200 Provision of Services in Intergovernmental IV-D Cases

AUTHORITY: Implementing and authorized by Sections 4-1.7, Art. X, 12-4.3, and 12-13 of the Illinois Public Aid Code [305 ILCS 5/4-1.7, Art. X, 12-4.3 and 12-13].

SOURCE: Recodified from 89 Ill. Adm. Code 112.78 through 112.86 and 112.88 at 10 Ill. Reg. 11928; amended at 10 Ill. Reg. 19990, effective November 14, 1986; emergency amendment at 11 Ill. Reg. 4800, effective March 5, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9129, effective April 30, 1987; amended at 11 Ill. Reg. 15208, effective August 31, 1987; emergency amendment at 11 Ill. Reg. 1563, effective December 31, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 9065, effective May 16, 1988; amended at 12 Ill. Reg. 18185, effective November 4, 1988; emergency amendment at 12 Ill. Reg. 20835, effective December 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 22278, effective January 1, 1989; amended at 13 Ill. Reg. 4268, effective March 21, 1989; amended at 13 Ill. Reg. 7761, effective May 22, 1989; amended at 13 Ill. Reg. 14385, effective September 1, 1989; amended at 13 Ill. Reg. 16768, effective October 12, 1989; amended at 14 Ill. Reg. 18759, effective November 9, 1990; amended at 15 Ill. Reg. 1034, effective January 21, 1991; amended at 16 Ill. Reg. 1852, effective January 20, 1992; amended at 16 Ill. Reg. 9997, effective June 15, 1992; amended at 17 Ill. Reg. 2272, effective February 11, 1993; amended at 17 Ill. Reg. 18844, effective October 18, 1993; amended at 18 Ill. Reg. 697, effective January 10, 1994; amended at 18 Ill. Reg. 12052, effective July 25, 1994; amended at 18 Ill. Reg. 15083, effective September 23, 1994; amended at 18 Ill. Reg. 17886, effective November 30, 1994; amended at 19 Ill. Reg. 1314, effective January 30, 1995; amended at 19 Ill. Reg. 8298, effective June 15, 1995; amended at 19 Ill. Reg. 12675, effective August 31, 1995; emergency amendment at 19 Ill. Reg. 15492, effective October 30, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 1195, effective January 5, 1996; amended at 20 Ill. Reg. 5659, effective March 28, 1996; emergency amendment at 20 Ill. Reg. 14002, effective October 15, 1996, for a maximum of 150 days; amended at 21 Ill. Reg. 1189, effective January 10, 1997; amended at 21 Ill. Reg. 3922, effective March 13, 1997; emergency amendment at 21 Ill. Reg. 8594, effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9220, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 12197, effective August 22, 1997; amended at 21 Ill. Reg. 16050, effective November 26, 1997; amended at 22 Ill. Reg. 14895, effective August 1, 1998;

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emergency amendment at 22 Ill. Reg. 17046, effective September 10, 1998, for a maximum of 150 days; amended at 23 Ill. Reg. 2313, effective January 22, 1999; emergency amendment at 23 Ill. Reg. 11715, effective September 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12737, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 14560, effective December 1, 1999; amended at 24 Ill. Reg. 2380, effective January 27, 2000; amended at 24 Ill. Reg. 3808, effective February 25, 2000; emergency amendment at 26 Ill. Reg. 11092, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17822, effective November 27, 2002; amended at 27 Ill. Reg. 4732, effective February 25, 2003; amended at 27 Ill. Reg. 7842, effective May 1, 2003; emergency amendment at 27 Ill. Reg. 12139, effective July 11, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18891, effective November 26, 2003; amended at 28 Ill. Reg. 4712, effective March 1, 2004; emergency amendment at 28 Ill. Reg. 10225, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15591, effective November 24, 2004; emergency amendment at 29 Ill. Reg. 2743, effective February 7, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 10211, effective June 30, 2005; amended at 29 Ill. Reg. 14995, effective September 30, 2005; emergency amendment at 30 Ill. Reg. 5426, effective March 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 8897, effective May 1, 2006; amended at 30 Ill. Reg. 13393, effective July 28, 2006; amended at 31 Ill. Reg. 12771, effective August 27, 2007; emergency amendment at 32 Ill. Reg. 543, effective January 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 6511, effective March 31, 2008; amended at 32 Ill. Reg. 16805, effective October 6, 2008; amended at 33 Ill. Reg. 591, effective January 5, 2009; amended at 33 Ill. Reg. 9077, effective June 15, 2009; amended at 33 Ill. Reg. 12732, effective September 7, 2009; amended at 34 Ill. Reg. 6809, effective May 1, 2010; amended at 34 Ill. Reg. 15406, effective September 27, 2010; amended at 35 Ill. Reg. 2043, effective January 21, 2011; amended at 35 Ill. Reg. 4513, effective March 1, 2011; amended at 36 Ill. Reg. 1531, effective January 23, 2012; amended at 36 Ill. Reg. 9140, effective June 11, 2012.

SUBPART C: ESTABLISHMENT AND MODIFICATION OF  
CHILD SUPPORT ORDERS**Section 160.65 Modification of Support Obligations**

- a) Definitions
  - 1) "Order for support" means any court or administrative order establishing the level of child support due to a child from the responsible relative.
  - 2) "Income Withholding Notice" means the notice served on a payor, pursuant to entry of a court or administrative order for support, that directs

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the payor to withhold a part of a responsible relative's income for payment of child support.

- 3) "Assignment of support" has the meaning set forth in Section 160.5.
- 4) "Assignment of medical support" has the meaning set forth in Section 160.5.
- 5) "Health insurance" means health insurance or health plan coverage for the dependent child for whom support is sought.
- 6) "Review" means the CSS comparison of the responsible relative's current financial ability to the existing order for support, as described in subsection (f) of this Section.
- 7) "Quantitative Standard for Review" means the current financial ability of the responsible relative, as determined through modification review, is at least 20 percent above or below the existing order for support and the change is an amount equal to at least \$10 a month.

b) Review and Modification of Support Orders

- 1) The Department, beginning October 13, 1993, shall review child support orders in Title IV-D cases at 36 month intervals after establishment, modification or the last review, whichever was the last to occur, unless:
  - A) In a case in which there is an assignment of support or an assignment of medical support, the Department determines, in accordance with subsection (b)(3) of this Section, that a review would not be in the best interests of the child and neither parent has requested a review; or
  - B) In a case in which there is no assignment of support or assignment of medical support, neither parent has requested a review; or
  - C) In a case in which there is an assignment of medical support but no assignment of support, the order for support requires health insurance for the child covered by the order and neither parent has requested a review.

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- 2) Prior to the expiration of the 36 month period:
- A) The Department, in a case in which there is an assignment of support or an assignment of medical support, shall review the order if:
- i) an order for withholding has been served on the responsible relative's payor, and payments have been received by the Department within the 90 days prior to selection for review; and
  - ii) the order for support does not require the responsible relative to provide health insurance for the child covered by the order; and
  - iii) the Department has not determined that a review would not be in the best interests of the child.
- B) In any case in which an administrative order for support has been entered, the Department shall review the order if either the custodial parent or the non-custodial parent files a sworn petition with the Department requesting review and modification of the administrative order for support alleging:
- i) that the Quantitative Standard of Review has been met; or
  - ii) that there has been a substantial change in circumstances since the entry of the last administrative order for support meriting modification of the existing order; or
  - iii) both, unless the Department has determined that a review would not be in the best interests of the child. The Department, in a case in which there is no assignment of support or assignment of medical support, shall review orders as set forth in subsection (b)(2)(A) of this Section, but only with the consent of the client.
- C) The Department may review any order for support, unless it has

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determined that a review would not be in the best interests of the child, whenever a change in financial circumstances of the responsible relative becomes known through representations of the relative or of the client or from independent sources, and such change would materially affect ability to support.

- 3) The Department shall determine that a review of an order for support would not be in the best interests of the child if there has been a finding of good cause, and it has been determined that support enforcement may not proceed without risk of harm to the child or caretaker relative.
- c) Notice of the Right to Request a Review or File a Petition
- 1) In each Title IV-D case the Department shall provide notice not less than once every three years to each parent subject to an order for support in the case. The notice may be included in the order and shall inform the parent of the right to request a review of the order; or, as appropriate, to file a petition to modify an administrative order, where to request a review or file a petition, and the information that must accompany a request or petition.
  - 2) The Department shall use the broadcast or print media at least twice a calendar year to publicize the right to request a review as part of the child support enforcement program, and include notice of this right as part of the information on IV-D services contained in its brochures, pamphlets and other printed materials describing the program.
- d) Notice of Review
- 1) The Department shall notify the client and responsible relative that a review will be conducted at least 30 days before commencement of the review.
  - 2) The notice of review shall:
    - A) Require completion of a form financial affidavit and return of the affidavit to the Department within 15 calendar days after the date the client or relative received the notice; and

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- B) State that if, as a result of the review, action is taken to modify the order for support, the Department will order or request the court to order the responsible relative to provide health insurance. However, in cases where the client is not receiving medical assistance, the notice shall state that health insurance may be ordered or requested only with the client's consent, as provided in Section 160.60(c)(7).
- e) Information Gathering and Employer Contact
- 1) The Department shall capture all available responsible relative financial information from existing federal and State sources (for example, Illinois Department of Employment Security) through electronic data searches on all IV-D cases.
  - 2) The Department may send a notice to the responsible relative's employer, in accordance with Section 10-3.1 of the Illinois Public Aid Code [305 ILCS 5/10-3.1]. The notice shall:
    - A) require the disclosure of responsible relative employment information, including but not limited to:
      - i) the period of employment;
      - ii) the frequency of wage payments;
      - iii) gross wages, net pay and all deductions taken in reaching net pay;
      - iv) the number of dependent exemptions claimed by the responsible relative; and
      - v) health insurance coverage available to the responsible relative through the employer.
    - B) require employer compliance within 15 calendar days after the employer's receipt of the notice.
  - 3) If the responsible relative fails to return a completed financial affidavit

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within 15 calendar days after receipt of the notice of review, and the relative's employer is unknown, the Department may use available means for obtaining the relative's financial information, e.g., service of a subpoena upon the responsible relative.

- f) Review of the Order for Support
- 1) The CSS shall review any financial information concerning the responsible relative. Where the responsible relative's information is not verified through an employer, wage stubs or income tax returns, the CSS shall seek other verification, e.g., subpoena of the responsible relative's income tax return.
  - 2) The CSS shall determine the responsible relative's current financial ability in accordance with the guidelines contained in Section 160.60(c).
  - 3) The CSS shall compare the responsible relative's current financial ability to the amount of the existing order for support and determine if the Quantitative Standard for Review has been met.
  - 4) The CSS shall determine if health insurance is being provided for the child under the order for support or whether the child's health care needs are being met through other means. In no event shall the CSS consider a child's eligibility for, or receipt of, medical assistance to meet the need to provide for the child's health care needs.
- g) Notice of Review Results
- The Department shall inform the client and responsible relative of the results of the review and provide a copy of the CSS calculation comparing the responsible relative's current financial ability to the amount of the existing order within 14 days after the review results are determined. The client and responsible relative will be advised whether or not the Department will take action to modify the existing order for support and of the right to contest the determination.
- 1) When the review indicates the Quantitative Standard for Review has not been met, the client and responsible relative, in both judicial and administrative cases, are advised as follows:
    - A) The Department will not take action to modify the order for

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support.

- B) The Department will only take action to modify the order to require health insurance for the child covered by the order.
- C) Either parent may request a redetermination within 30 calendar days after the date of the notice by:
- i) signing and returning the request for a redetermination to the Department; ~~and~~
  - ii) providing financial documentation or information concerning the child's health care needs not furnished previously, which will substantiate the request; ~~and-~~
  - iii) in a case in which the Department has previously entered an administrative order for support, alleging on the request for redetermination that a substantial change in circumstances has occurred since the entry of the last support order meriting a modification of the support order.
- 2) When the review indicates the Quantitative Standard for Review has been met, the client and responsible relative will be advised that:
- A) The Department will take action to modify the existing order for support in accordance with the review results.
- B) In cases involving the judicial process, each parent will be informed 30 calendar days in advance of the hearing date and will have the opportunity to contest the review results at that time.
- 3) In cases in which an administrative order for support is entered in accordance with subsection (h) and in cases in which, after redetermination in accordance with subsection (h), the Department advises that it will take no action to modify an existing administrative order of support:
- A) The client and responsible relative will be advised that he or she has until 30 calendar days after the date of mailing of the

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administrative order for support or the notice of modification review redetermination results in which to request a de novo modification hearing in accordance with 89 Ill. Adm. Code 104.102. The client will be further advised that he or she may provide financial documentation or information concerning the child's health care needs not furnished previously that will substantiate the requested relief.

- B) When both the client and the responsible relative request a hearing, the two requests shall be merged and shall be disposed of simultaneously by the hearing proceeding. The parties shall be advised of the right to present evidence at the hearing, including the client's right to provide financial documentation or information concerning the child's health care needs not furnished previously that will substantiate the requested relief.
- C) When the responsible relative requests a hearing and the client does not, the client shall again be advised of the right to present evidence at the hearing.
- D) When the client requests a hearing and the responsible relative does not, the responsible relative shall again be advised of the right to present evidence at the hearing.
- E) In cases where an administrative order for support is entered in accordance with subsection (h) of this Section:
- i) The client and responsible relative will be advised that he or she has until 30 calendar days after the date of mailing of the administrative order for support in which to petition the Department for a release from or modification of the order and receive a hearing in accordance with 89 Ill. Adm. Code 104.102. The client will be further advised that he or she may provide financial documentation or information concerning the child's health care needs not furnished previously that will substantiate the requested relief.
  - ii) Where both the client and the responsible relative request a hearing, the two requests shall be merged and shall be

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~~disposed of simultaneously by the hearing proceeding. The parties shall be advised of the right to present evidence at the hearing, including the client's right to provide financial documentation or information concerning the child's health care needs not furnished previously that will substantiate the requested relief.~~

- ~~iii) Where the responsible relative requests a hearing and the client does not, the client shall again be advised of the right to present evidence at the hearing.~~
- ~~iv) Where the client requests a hearing and the responsible relative does not, the responsible relative shall again be advised of the right to present evidence at the hearing.~~

~~43)~~ For purposes of calculating the 30 calendar day period in which to petition the Department for release from or modification of the administrative order for support or to request redetermination of the review results, the day immediately subsequent to the mailing of the order or determination shall be considered the first day and the day such request is received by the Department shall be considered as the last day.

~~5) In de novo hearings provided for in subsection (g)(3) and 89 Ill. Adm. Code 104.102, the Department's hearing officer shall determine whether the Quantitative Standard for Review has been met. If the hearing officer determines that the Quantitative Standard has not been met, determine, in accordance with Section 510 of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/510] and the opinions of the Illinois Supreme Court or the Illinois Appellate Court construing Section 510, whether the party or parties requesting a de novo hearing have demonstrated the occurrence of a substantial change in circumstances since entry of the last administrative order for support warranting modification of that order.~~

~~6) If the Department's hearing officer determines that the Quantitative Standard for Review has not been met and that the party or parties requesting the hearing have not demonstrated the occurrence of a substantial change in circumstances since entry of the last administrative order for support warranting modification of that order, the hearing officer will recommend entry of a final administrative decision finding that~~

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modification of the existing support order is not warranted and denying the request for entry of a new order.

7) If the Department's hearing officer determines that the Quantitative Standard for Review has been met or that the party or parties requesting the hearing have demonstrated the occurrence of a substantial change in circumstances since entry of the last administrative order for support warranting modification of that order, the hearing officer will recommend entry of a final administrative decision resulting in entry of a new administrative order for support. In recommending terms of the new administrative order, either for current support or, in the event a current support obligation is no longer owed and only past due support remains, periodic payments toward the past due support, the hearing officer shall calculate the new support terms in accordance with the provisions of 89 Ill. Adm. Code 160.60(c)(2).

8) After receipt of the hearing officer's recommendation as specified in subsections (g)(6) and (g)(7), the Department shall enter a final administrative decision that is reviewable in the Circuit Court only in accordance with the provisions of the Administrative Review law [735 ILCS 5/Art. III].

h) Further Actions Taken by the Department

1) The Department shall take the following action when the CSS has determined in accordance with subsection (f) of this Section that the Quantitative Standard for Review has been met or when the Quantitative Standard for Review has not been met, but there is a determination that the order for support needs to be modified to require provision of health insurance:

A) In a case involving an order for support entered by the court, the CSS shall:

- i) prepare a petition to modify, and obtain or affix appropriate signature thereto;
- ii) refer the case for legal action to modify the order for support pursuant to Section 510 of the Illinois Marriage and

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Dissolution of Marriage Act [750 ILCS 5/510]; and

- iii) provide the client and responsible relative with the notice described in subsection (g)(2)(B) of this Section.
- B) In a case involving an administrative order for support established under Section 160.60(d), or modified under this Section, the CSS shall enter an administrative order for support incorporating the results of the review and containing the information specified in Section 160.60(d)(5). Any order for health insurance shall be entered in accordance with Section 160.60(c)(7).
- i) The CSS shall effect income withholding in accordance with Section 160.60(d)(6).
  - ii) The CSS shall provide to the client and responsible relative copies of the administrative order for support together with the notice described in subsection (g)(2)(C) of this Section.
- 2) If the Department receives a written request for a de novo modification hearing~~Upon receipt of a petition for a release from or modification of an administrative order for support~~ as described in subsection ~~(g)(3)(g)(2)(C)~~ of this Section within 30 calendar days after the date of mailing of a modified administrative order for support or notice described in subsection (g)(3)(A), such order, the Department will provide a hearing in accordance with 89 Ill. Adm. Code 104.102. The 30 calendar day period shall be calculated in accordance with subsection ~~(g)(4)(3)~~ of this Section.
- 3) Upon receipt of a request for a redetermination as set forth in subsection (g)(1) of this Section within 30 calendar days after the date of mailing of the notice, the Department shall conduct such redetermination. The 30 calendar day period shall be calculated in accordance with subsection (g)(3) of this Section.
- i) Timeframes for Review and Modification
    - 1) In any case in which there is an assignment of support or an assignment of medical support, the Department shall determine within 15 calendar days after October 13, 1993, or the date the order is 36 months old, whichever

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is later, whether a review should be conducted as provided in subsection (b)(1) of this Section.

- 2) Subsequent determinations about whether to review an order for support in a case in which there is an assignment of support or an assignment of medical support shall be made by the Department in accordance with subsection (b)(1) of this Section, at 36 month intervals based upon:
    - A) the date the order for support was modified; or
    - B) the date an order was entered determining that the order for support would not be modified; or
    - C) the date the period expired for requesting redetermination of the Department's review decision not to seek modification of the order for support.
  - 3) Within 15 calendar days after receipt of a request for a review or sworn petition requesting review and modification of an administrative order for support, the Department shall determine whether a review should be conducted in accordance with subsection (b)(~~2~~) of this Section.
  - 4) Within 180 calendar days after determining that a review should be conducted or locating the non-requesting parent, whichever occurs later, the Department shall:
    - A) send the notice of review in accordance with subsection (d) of this Section;
    - B) conduct a review of the order in accordance with subsection (f) of this Section;
    - C) send the notice of review results in accordance with subsection (g) of this Section; and
    - D) conclude any action to modify the order for support.
- j) Interstate Review and Modification

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- 1) Initiating Cases
  - A) In any case in which there is an assignment of support or an assignment of medical support, the Department shall determine, within 15 calendar days after October 13, 1993, or the date the order for support is 36 months old, whichever date occurs later, whether a review should be conducted, as required under subsection (b)(1) of this Section, and whether the review should be conducted by the Department or another state.
  - B) Subsequent determinations about whether to conduct a review shall be made in accordance with subsection (b)(1) of this Section, at 36 month intervals based upon:
    - i) the date the order for support was modified; or
    - ii) the date an order was entered determining that the order for support would not be modified; or
    - iii) the date the period expired for requesting redetermination of a review decision not to seek modification of the order for support.
  - C) Within 15 calendar days after receipt of a sworn petition requesting review and modification of an administrative order for support or an intergovernmental request for a review, the Department shall determine whether a review should be conducted, as required under subsection (b)(1) of this Section, and whether the review should be conducted by the Department or another state.
  - D) Prior to the expiration of the 36 month period, the Department:
    - i) shall review or request another state to review an order for support under the circumstances set forth in subsections (b)(2)(A) and (B) of this Section; and
    - ii) may review or request another state to review an order for support as provided in subsection (b)(2)(C) of this Section.

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- E) The Department shall determine in which state a review should be conducted after considering all relevant factors, including but not limited to:
    - i) the location of existing orders;
    - ii) the present residence of each party; and
    - iii) whether a particular state has jurisdiction over the parties.
  - F) In any case coming under the provisions of subsections (j)(1)(A), (B) and (C) of this Section, in which the Department has determined to request a review of an order for support in another state, the Department shall:
    - i) send a request for review to that state within 20 calendar days after receipt of sufficient information to conduct the review and provide that state with sufficient information on the requestor of review to act on the request; and
    - ii) send to the parent in Illinois a copy of any notice issued by the responding state in connection with the review and modification of the order, within five working days after receipt of such notice by the Department.
- 2) Responding Cases
- A) Within 15 calendar days after receipt of a request for a review of an order for support in Illinois as the responding state, the Department shall determine whether a review should be conducted in accordance with subsection (b)(1) of this Section.
  - B) Within 180 calendar days after determining that a review should be conducted or locating the non-requesting parent, whichever occurs later, the Department shall take the actions specified in subsection (i)(4) of this Section.

| k) Consolidation of Administrative Orders

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Notwithstanding any other provision of this Section, at any time the Department determines that a non-custodial parent subject to an administrative order for support is responsible for any child or children residing with the same custodian, other than the child for whom the administrative order for support imposes a support obligation, the Department may enter a new support order for the children subject to notice requirements and determination of financial ability to pay support set forth in Section 160.60. Any order so entered shall be considered a prospective modification of any administrative order or orders for support previously entered by the Department with regard to the children covered by the new order subject to the same right of review as any other modified administrative order for support.

(Source: Amended at 36 Ill. Reg. 9140, effective June 11, 2012)

## SUBPART D: ENFORCEMENT OF CHILD SUPPORT ORDERS

**Section 160.70 Enforcement of Support Orders**

- a) **Income Withholding**  
Whether using the administrative process (see Section 160.60(d)) or the judicial process (see Section 160.60(e)), the Department shall follow the procedures for withholding of income contained in Section 160.75 to enforce and collect past-due support owed by responsible relatives in IV-D cases, and it shall as promptly as possible distribute all amounts collected. In addition to income as defined in Section 160.75, the Department shall proceed to collect support from the principal and income of trusts as provided by Section 2-1403 of the Code of Civil Procedure [735 ILCS 5/2-1403].
- b) **Federal and State Income Tax Refunds and Other Payments**
  - 1) The Department shall collect past-due support owed by responsible relatives in IV-D cases through intercept of federal and State income tax refunds and other federal and State payments (see Section 10.05a of the State Comptroller Act [15 ILCS 405/10.05a], Section 2505-650 of the Department of Revenue Law [20 ILCS 2505/2505-650] and the Debt Collection Improvement Act of 1996 (31 USC 3701 et seq.)) due such relatives.
  - 2) The Department shall submit past-due support amounts to:

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- A) the Department of Health and Human Services to intercept federal income tax refunds and other federal payments in accordance with federal instructions as follows:
- i) in IV-D TANF and IV-D foster care cases, past-due support owed for a child or for a child and the parent with whom the child is living in an amount not less than \$150. The Department may combine assigned support amounts from the same obligor in multiple cases to reach the minimum amount of \$150 for TANF, AFDC and Foster Care cases; however, amounts under this subsection (b)(2)(A)(i) may not be combined with amounts under subsection (b)(2)(A)(ii) to reach the minimum amounts required for submittal; and
  - ii) in IV-D non-TANF cases, past-due support owed to or on behalf of a child, or a child and the parent with whom the child is living if the same support order includes support for the child and the parent, and the amount of past-due support is not less than \$500. The Department may combine non-assistance support amounts from the same obligor in multiple cases to reach the minimum amount of \$500; however, amounts under this subsection (b)(2)(A)(ii) may not be combined with amounts under subsection (b)(2)(A)(i) to reach the minimum amounts required for submittal.
- B) the Illinois Department of Revenue to intercept State income tax refunds and the Comptroller to intercept other State payments as follows:
- i) in active IV-D cases, past-due support owed in an amount not less than one month's support obligation or \$25, whichever is less;
  - ii) in inactive IV-D TANF or AFDC and IV-D foster care cases, past-due support owed in any amount; and

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- iii) in cases in which the responsible relative who owes past-due support is receiving periodic payments from this State because of employment, disability, retirement or any other reason, the Department shall, upon obtaining knowledge of those circumstances, refund any amounts inadvertently intercepted to the responsible relative and proceed to collect past-due support pursuant to the income withholding provisions of the support statutes.
- 3) The Department shall provide the responsible relative with a notice prior to submitting a past-due support amount for intercept, which advance notice shall inform the responsible relative of the following:
- A) the IV-D case name and identification number;
  - B) the past-due support amount that will be submitted for intercept, and that any additional past due support that accumulates will be subject to collection by the Department without further notice;
  - C) the right to contest the determination that past-due support is owed or the amount of past-due support by requesting:
    - i) a redetermination by the Department or, after such redetermination,
    - ii) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, at the request of the responsible relative; and
  - D) that the Internal Revenue Service or Financial Management Service will notify the responsible relative's spouse at the time of intercept regarding the steps to take to protect the share of the refund that may be payable to that spouse, in the case of a joint federal income tax return.
- 4) A request for a redetermination made within 15 days from the date of mailing of the advance notice shall stay the Department from submitting the past-due amount.

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- 5) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest those results by requesting:
  - A) a hearing by the Department within ~~1530~~ days after the date of mailing of the notice; or
  - B) an administrative review by any other state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based.
- 6) If a responsible relative requests administrative review by the state in which the support order was issued upon which the referral for federal income tax refund intercept or other federal payment offset is based, the Department shall notify the state with the order of the request and shall provide that state with all necessary information within ten days after the responsible relative's request. The Department shall be bound by the decision of the state with the order.
- 7) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
- 8) The Department shall notify:
  - A) any other state enforcing the support order when the request for intercept is submitted and when the intercept amount is received;
  - B) the Department of Health and Human Services of any deletion of an amount submitted for federal income tax refund intercept or other federal payment offset, in accordance with federal instructions;
  - C) the Illinois Department of Revenue of any deletion of an amount submitted for State income tax refund and the Comptroller for other payment intercept or any significant decrease in the amount; and

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- D) the Clerk of Circuit Court of the county in which the child support order was entered of any amount intercepted for posting to the court payment record.
- 9) The Department shall:
- A) as promptly as possible refund to the responsible relative any amount intercepted found to exceed the amount of past-due support owed; and
- B) equitably apportion joint State income tax refunds and other State payments based upon copies of federal and State income tax returns, including all schedules and attachments, or other evidence of ownership, such equitable apportionment to be based on the documented proportionate net income of the parties, and pay to the joint payee that portion of the amount intercepted found to be his or hers; except that the Comptroller shall apportion refunds and payments in matters where the intercepted funds have not yet been transferred to the Department.
- 10) The Department shall, as promptly as possible, apply collections it receives as a result of intercept under this subsection (b) as follows:
- A) federal income tax refunds first to satisfy any IV-D TANF or AFDC or IV-D foster care assigned past-due support and then to satisfy any IV-D non-TANF past-due support; and
- B) other federal and State payments in accord with distribution provisions in Subpart F of this Part.
- 11) The Department shall inform individuals who receive IV-D non-TANF support enforcement services, in advance, of the following:
- A) amounts intercepted under this subsection (b) will be applied in accordance with Section 160.130;
- B) any payment received by the IV-D non-TANF individual as a result of federal income tax refund intercept may have to be returned to the Department within six years following the end of

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the tax year if there is an adjustment necessitated by the responsible relative's spouse filing an amended tax return in order to receive his share of a joint tax refund.

- c) Unemployment Insurance Benefits
- 1) The Department shall collect support owed by responsible relatives in IV-D cases through intercept of unemployment insurance benefits in matters wherein the relative has accumulated a past-due support amount equal to a one-month support obligation.
  - 2) The Department shall take the following action:
    - A) ascertain that the responsible relative qualifies for receipt of unemployment insurance benefits through access to the Department of Employment Security's (DES) computer file.
    - B) collect child support owed through the intercept of unemployment insurance benefits by initiating procedures for income withholding in accordance with Section 160.75.
    - C) establish the amount to be deducted by data entry to the DES computer file, which amount shall be the lesser of:
      - i) the amount of the income withholding order; or
      - ii) fifty percent of the Unemployment Insurance Benefit.
    - D) receive amounts deducted direct from DES.
    - E) notify the Clerk of the Circuit Court of the county in which the child support order is registered of each collection for posting to the court payment record.
    - F) post each collection to the Department's payment record.
    - G) apply each collection to the current support obligation, then to past-due obligations.

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- H) provide a redetermination within 180 days after the date of request for redetermination to each relative who disputes the deduction and, where indicated, make adjustments and refund improperly deducted amounts.
- 3) The Department of Employment Security shall take the following action:
    - A) provide notice to the responsible relative and an opportunity to be heard, when the Department cannot resolve the dispute.
    - B) pay all amounts deducted direct to the Department.
- d) Contempt of Court and Other Legal Proceedings
    - 1) The Department shall refer IV-D cases to its legal representatives to initiate contempt of court and other legal proceedings, pursuant to the applicable provisions of the support statutes, for enforcement of orders for support in matters wherein the responsible relative has accumulated a past-due support amount equal to not less than a one-month support obligation, except as set forth in subsection (d)(2) of this Section.
    - 2) Contempt proceedings shall not be used in the following instances:
      - A) the responsible relative has no known available income or assets from which to satisfy the support obligation and is:
        - i) receiving public assistance;
        - ii) mentally or physically disabled;
        - iii) incarcerated;
        - iv) out-of-the-country;
        - v) deceased; or
        - vi) otherwise situated making such action unproductive.
      - B) other legal or administrative remedies are more appropriate under

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the circumstances.

- 3) Contempt and other legal proceedings shall be used to:
  - A) establish the amount of past-due support;
  - B) obtain a judgment for purposes of:
    - i) imposition of a lien against real estate,
    - ii) levy upon real estate and personal property, or
    - iii) registration in another state;
  - C) secure an order for lump sum or periodic payment of the past-due support or judgment;
  - D) require the responsible relative to post security, bond or give some other guarantee of a character and amount sufficient to assure payment of any amount due under the support order;
  - E) obtain full or partial payment of past due support through incarceration;
  - F) ascertain the responsible relative's source and amount of income or location and value of assets;
  - G) void a transfer of property fraudulently made to avoid payment of child support in accordance with the Uniform Fraudulent Transfer Act [740 ILCS 160] or obtain a settlement in the best interest of the child support creditor;
  - H) secure other enforcement relief; and
  - I) obtain any combination of the above.
- 4) During the course of contempt or other legal proceedings to enforce support, if it shall appear that there is no net income because of the unemployment of a responsible relative, who resides in Illinois and is not

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receiving General Assistance in the City of Chicago and has children receiving TANF in Illinois, the Department shall request the court to order the relative to report for participation in job search, training or work programs established for such relatives under Section 9-6 of the Illinois Public Aid Code [305 ILCS 5/9-6].

- 5) In TANF cases, the Department shall request the court to order payment of past-due support pursuant to a plan and, if the responsible relative is unemployed, subject to a payment plan and not incapacitated, that the relative participate in job search, training and work programs established under Section 9-6 and Article IXA of the Illinois Public Aid Code [305 ILCS 5/9-6 and Art. IXA].
- e) Liens Against Real Estate and Personal Property – Judicial Enforcement of Order for Support
- 1) The Department shall seek judgment liens against real estate and enforce judgments upon the real estate and personal property of responsible relatives, in IV-D cases in which a referral has been made to initiate court enforcement of an order for support, in accordance with Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII].
  - 2) A petition for a rule to show cause or other petition filed by a Department legal representative to enforce an order for support shall contain a prayer that judgment be entered against the responsible relative in the amount of the past-due support alleged in the petition, when both of the following circumstances exist:
    - A) the past-due amount is at least \$3,500; and
    - B) the responsible relative has an interest in real estate or personal property against which the judgment may be enforced.
  - 3) Upon obtaining a judgment, Department legal representatives shall secure liens against the real estate of responsible relatives by filing a transcript, certified copy or memorandum of judgment in the county where the real estate is located, in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII]).

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- 4) A judgment shall be enforced by levy upon the real estate and personal property of the responsible relative in accordance with law (see Article XII of the Code of Civil Procedure [735 ILCS 5/Art. XII]) when the relative has a known equity that is not less than \$3,500 in excess of any statutory exemption.
- f) Liens Against Real Estate and Personal Property – Administrative Enforcement of Order for Support
- 1) Liens against real estate
    - A) The Department shall impose liens against real estate of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when both of the following circumstances exist:
      - i) the amount of past-due support is at least \$3,500; and
      - ii) the responsible relative has an interest in real estate against which a lien may be claimed.
    - B) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative and recorded or filed with the Recorder or Registrar of Titles of the county in which the real estate of the responsible relative is located. The notice shall inform the responsible relative and the Recorder or Registrar of Titles of the following:
      - i) the name and address of the responsible relative;
      - ii) a legal description of the real estate to be levied;
      - iii) the amount of past-due support to be satisfied by the levy;
      - iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative; and
      - v) the right to prevent action against the real property by payment of the past-due support amount in full or to contest

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the determination that past-due support is owed or the amount of past-due support by requesting a hearing by the Department.

- C) A written request for hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from taking action against the real property, although the lien shall remain in effect during the pendency of any protest or appeal taken pursuant to this subsection (f).
  - D) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
  - E) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
  - F) The lien shall be enforced against the real estate in accordance with Article X of the Illinois Public Aid Code and Article XII of the Code of Civil Procedure when the responsible relative has a known equity in the real estate that is not less than \$3,500 in excess of any statutory exemption.
- 2) Liens against personal property
- A) The Department shall impose liens against personal property of responsible relatives in IV-D cases in accordance with Article X of the Illinois Public Aid Code when the following circumstances exist:
    - i) the amount of past-due support is at least \$1,000;
    - ii) the responsible relative has an interest in personal property against which a lien may be claimed; and
    - iii) if the personal property to be levied is an account as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24], the account is valued in the amount of

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at least \$300.

- B) The Department shall prepare a Notice of Lien or Levy that shall be provided to the responsible relative, any joint owner of whom the Department has knowledge and location information, the financial institution in which an account of the responsible relative is located, the sheriff of the county in which goods or chattels of the responsible relative are located, or any person or entity indebted to or holding personal property of the responsible relative or who may be liable for payment of money in connection with a claim or cause of action of the responsible relative. The notice shall contain the following:
- i) the name and address of the responsible relative;
  - ii) a description of the account or personal property to be levied;
  - iii) the amount of past-due support to be satisfied by the levy;
  - iv) the fact that a lien is being claimed for past-due child support owed by the responsible relative;
  - v) the right of the responsible relative to prevent levy upon the personal property, including accounts, by payment of the past-due support amount in full or by contesting the determination that past-due support is owed or the amount of past-due support by requesting a hearing within 15 days after the date of mailing of the Notice of Lien or Levy; and
  - vi) the right of a joint owner to prevent levy upon his or her share of the account or other personal property or to seek a refund of his or her share of the account or other personal property already levied, by requesting, within 15 days after the date of mailing of the Notice of Lien or Levy to the joint owner, a hearing by the Department to determine his or her share of the account or other personal property. A joint owner who is not provided with a Notice of Lien or Levy by the Department may request a hearing by the

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Department within 45 days after the date of levy of the account or other personal property.

- C) In addition to the information to be included in the Notice of Lien or Levy under subsection (f)(2)(B), the Notice of Lien or Levy provided to a financial institution shall:
- i) state that the lien is subordinate to any prior lien or prior right of set-off that the financial institution may have against the assets, or in the case of an insurance company or benefit association only in the accounts as defined in Section 10-24 of the Illinois Public Aid Code [305 ILCS 5/10-24];
  - ii) state that upon being served with the Notice of Lien or Levy that the financial institution shall encumber the assets in the account, and surrender and remit those assets within five days after being served with a Notice to Surrender Assets by the Department;
  - iii) state that the financial institution may charge the responsible relative's account a fee of up to \$50, and that the amount of any fee be deducted from the account before remitting any assets from the account to the Department;  
~~and~~
  - iv) include a form, Response to Notice of Lien or Levy, to be completed by the financial institution and returned to the Department within 30 days after receipt of the Notice of Lien or Levy; ~~and~~.
  - v) include the federal Notice of Right to Garnish Federal Benefits stating that procedures established under 31 CFR 212 for identifying and protecting federal benefits deposited to accounts at financial institutions do not apply to the Notice of Lien or Levy issued by the Department.
- D) The form for the response to Notice of Lien or Levy provided for under subsection (f)(2)(C)(iv) of this Section shall include

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provisions for the financial institution to complete stating:

- i) the amount of assets in the responsible relative's account;
  - ii) the amount of the fee to be deducted from the account;
  - iii) the amount of assets in the account subject to a prior lien or prior right of set-off of the financial institution;
  - iv) the name and address of any joint owners of the account;  
and
  - v) the amount of assets surrendered and remitted to the Department.
- E) A written request for a hearing made within 15 days after the date of mailing the Notice of Lien or Levy shall stay the Department from levying upon the personal property, although the lien shall remain in effect during the pendency of any appeal taken pursuant to this subsection (f).
- F) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of the responsible relative's written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
- G) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.110 upon receipt of a joint owner's written request for a hearing.
- H) The Department, upon determining a joint owner's share of the personal property or account, shall release the lien against the personal property or account to the extent of the joint owner's share. If the Department's determination of the joint owner's share occurs after the personal property or account has been levied, the Department shall refund the joint owner's share of the personal property or account.
- I) The Department shall notify the Clerk of the Court of the county in

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which the child support order was entered of any amount collected for posting to the court payment record.

- J) Information obtained from financial institutions as to the location of personal property, including accounts, of responsible relatives shall be subject to all State and federal confidentiality laws and regulations. Following data exchange with financial institutions to locate personal property of responsible relatives, the Department shall return to financial institutions data that does not relate to a responsible relative whose personal property may be subject to lien or levy under this subsection (f).

g) Security, Bond or Other Guarantee of Payment

- 1) Except as provided in subsections (g)(2) and (3) of this Section, the Department shall require, or through its legal representative shall request the court to require, a responsible relative to post security, bond, or give some other guarantee of a character and amount sufficient to assure payment of any amount due under a support order in IV-D cases, pursuant to Section 10-17.4 of the Illinois Public Aid Code [305 ILCS 5/10-17.4].
- 2) In cases in which the support obligation is established through the administrative process contained in Section 160.60, the notice of support obligation provided to the responsible relative shall indicate that the Department may require the relative to post security, bond or give some other guarantee of payment. Except where the responsible relative is subject to income withholding, the administrative support order shall contain this requirement in an amount equal to a one year support obligation.
- 3) In acting upon a referral to establish a support obligation or to enforce an existing order for support, Department legal representatives shall include in the complaint or petition a prayer for an order requiring the responsible relative to post security, bond, or give some other guarantee of payment equal to a one year support obligation, unless the relative is subject to the income withholding provisions of the support statutes.

h) Past-Due Support Information to Consumer Reporting Agencies

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- 1) The Department shall report the following information concerning responsible relatives in IV-D cases to consumer reporting agencies when the amount of past-due support is or exceeds that required for intercepting federal income tax refunds as provided in subsection (b)(2)(A) of this Section:
  - A) the name, last known address and Social Security Number of the responsible relative; and
  - B) the terms and amount of past-due support that has accumulated under the order for support.
- 2) The Department shall provide the responsible relative with a notice at least 15 days prior to furnishing past-due support information to consumer reporting agencies, which advance notice shall inform the relative of the following:
  - A) the IV-D case name and identification number;
  - B) the past-due support amount that will be reported;
  - C) the date past-due support will be reported; and
  - D) the right to prevent reporting by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.
- 3) The Department shall provide the responsible relative with notice of the results of the redetermination and the right to prevent reporting by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days after the date of mailing of the notice.
- 4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
- 5) The Department shall be stayed from providing information to consumer reporting agencies by either of the following:

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- A) a request for:
    - i) a redetermination, or
    - ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or
  - B) payment in full of the amount of the past-due support stated in the:
    - i) advance notice, or
    - ii) notice of redetermination or hearing results.
- 6) The Department shall advise consumer reporting agencies of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.
- i) High-Volume Automated Administrative Enforcement in Interstate Cases
- 1) The Department shall use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request of another state to enforce support orders, and shall promptly report the results of such enforcement activity to the requesting state.
  - 2) High-volume automated administrative enforcement means that, upon a request of another state, the Department shall identify, through automated data matches with financial institutions and other entities, where assets may be found of persons who owe child support in other states, and seize those assets through levy or other appropriate processes.
  - 3) The Department may, by electronic or other means, transmit to another state a request for assistance in a case involving the enforcement of a support order. The request shall:
    - A) Include information that will enable the state to which the request is transmitted to compare the information about the case to the information in the databases of that state.

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- B) Constitute a certification by the Department of the amount of support owed and that the Department has complied with all procedural due process requirements applicable to each case.
- 4) If the Department provides assistance to another state pursuant to this Section with respect to a case, neither state shall consider the case to be transferred to the caseload of the other state.
- 5) The Department shall maintain records of:
  - A) The number of requests for assistance received by the Department.
  - B) The number of cases for which the Department collected support in response to a request and the actual amount of support collected.
- j) Past-Due Support Certified to the Illinois Department of Revenue, to municipalities or to the IV-D Agency of Another State for Administrative Enforcement in the Other State
  - 1) The Department may collect past-due support owed by responsible relatives in IV-D cases through certification of the account balance to the Illinois Department of Revenue for collection (see Section 10-17.9 of the Illinois Public Aid Code [305 ILCS 5/10-17.9]), to municipalities with ordinances to immobilize and impound vehicles for non-payment of child support (see Section 10-17.3 of the Illinois Public Aid Code [305 ILCS 5/10-17.3]) or to another state's IV-D agency for administrative enforcement where the responsible relative has property in the other state.
  - 2) The Department may certify past-due support amounts to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state when the following conditions exist:
    - A) past-due support is owed for a child or for a child and the parent with whom the child is living;
    - B) the responsible relative has made no payment directly or through income withholding within 30 days prior to the date of the advance notice under subsection (j)(3) of this Section;

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- C) as of the date of certification, the responsible relative does not have a bankruptcy case pending; and
  - D) the responsible relative is not deceased.
- 3) The Department shall provide the responsible relative with a notice prior to certifying the balance to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state, which advance notice shall inform the responsible relative of the following:
- A) the IV-D case name and identification number;
  - B) the past-due support amount that will be submitted for collection;
  - C) the right to contest the determination that past-due support is owed or the amount of past-due support by making a written request for a redetermination by the Department; and
  - D) that the responsible relative may avoid certification by establishing a satisfactory repayment plan as determined by the Department.
- 4) Factors for a satisfactory repayment plan will include, but are not limited to:
- A) the amount of past-due support owed;
  - B) the amount to be paid toward the past-due amount;
  - C) the amount of current child support obligations; and
  - D) the individual's ability to pay.
- 5) The Department shall provide the Illinois Department of Revenue, municipalities or the IV-D agency of another state for administrative enforcement in the other state, the following descriptive information on the responsible relative:

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- A) name;
  - B) Social Security Number;
  - C) IV-D identification number; and
  - D) the past-due support amount.
- 6) A written request for redetermination made within 15 days after the date of mailing the advance notice shall stay the Department from certifying the balance to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state.
- 7) No later than 120 days after the date the redetermination was requested, the Department shall provide the responsible relative with a notice of the results of the redetermination and of the right to contest those results by making a written request for a hearing by the Department within ~~1530~~ days after the date of mailing of the notice.
- 8) A written request for hearing made within ~~1530~~ days after the date of mailing the notice of results of redetermination shall stay the Department from certifying the balance to the Illinois Department of Revenue, to municipalities or to the IV-D agency of another state for administrative enforcement in the other state, if certifying the balance had been stayed pursuant to subsection (j)(6) of this Section.
- 9) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that Section 104.103(b) and (c) shall not apply.
- 10) The Department shall notify the Clerk of the Court of the county in which the child support order was entered of any amount collected for posting to the court payment record.
- 11) The Department shall:
- A) apply any overpayment by the responsible relative pursuant to the certification for collection as a credit against future support

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obligation; or

- B) if the current support obligation of the responsible relative has terminated by operation of law or court order, as promptly as possible refund to the responsible relative any overpayment, pursuant to certification for collection, which is still in the possession of the Department.
- k) Past-Due Support Information to the Secretary of Health and Human Services for Denial of Passports
- 1) The Department shall report the following information concerning responsible relatives in IV-D cases to the Secretary of Health and Human Services for denial of passports when the amount of past-due support exceeds \$2,500:
    - A) the name, last known address and Social Security Number of the responsible relative; and
    - B) the terms and amount of past-due support that has accumulated under the order for support.
  - 2) The Department shall provide the responsible relative with a notice at least 15 days prior to certifying past-due support to the Secretary of Health and Human Services, which advance notice shall inform the relative of the following:
    - A) the IV-D case name and identification number;
    - B) the past-due support amount that will be certified;
    - C) the date past-due support will be certified; and
    - D) the right to prevent certification by payment of the past-due support amount in full or to contest the determination that past-due support is owed or the amount of past-due support by requesting a redetermination by the Department.
  - 3) The Department shall provide the responsible relative with notice of the

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results of the redetermination and the right to prevent certification by payment in full of the past-due support found to be owed or to contest the results of the redetermination by requesting a hearing within 15 days after the date of mailing of the notice.

- 4) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a request for a hearing.
  - 5) The Department shall be stayed from providing information to the Secretary of Health and Human Services by either of the following:
    - A) a request for:
      - i) a redetermination, or
      - ii) a hearing contesting the determination that past-due support is owed or the amount of past-due support; or
    - B) payment in full of the amount of the past-due support stated in the:
      - i) advance notice, or
      - ii) notice of redetermination or hearing results.
  - 6) The Department shall advise the Secretary of Health and Human Services of changes in the amount of past-due support found to be owed as a result of a redetermination or hearing conducted after report to such agencies.
- l) List of Responsible Relatives
    - 1) Any list of responsible relatives owing past-due support to be disclosed pursuant to Section 12-12.1 of the Illinois Public Aid Code [305 ILCS 5/12-12.1] shall be developed as required by this subsection (l).
    - 2) The list shall include no more than 200 responsible relatives at any given time, shall include only responsible relatives owing \$5,000 or more in past-due support accumulated under Illinois court or administrative support orders, and shall include, but is not limited to, the following information about each responsible relative:

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- A) the name of the responsible relative;
  - B) the responsible relative's last known address; and
  - C) the amount of past-due support as of a given date, expressed within a range (for example, \$50,000-\$100,000), that has accumulated under the support order.
- 3) The Department shall make the list available for public inspection at its offices or by other means of publication, including the Internet.
- 4) The Department shall send an advance notice by certified mail to the responsible relative at his or her last known address at least 90 days prior to publishing past-due support information. The advance notice shall inform the responsible relative of the following:
- A) the IV-D case name and identification number;
  - B) the past-due support amount as of a given date;
  - C) the earliest date by which past due support information will be published;
  - D) the right to contest the determination that past-due support is owed or the amount of past-due support by submitting a written request to the Department for a hearing within 15~~no later than 10~~ days after~~before~~ the date of mailing of~~publication stated in~~ the advance notice; and
  - E) that within 60 days from the date of delivery or refusal of the advance notice, the responsible relative may avoid publication of the past-due support information by paying the past-due support in full, or by establishing and complying with a satisfactory payment plan as determined by the Department.
- 5) Factors for a satisfactory payment plan will include, but are not limited to:
- A) the amount of past-due support owed;

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- B) the amount to be paid toward the past-due support;
  - C) the amount of the current support obligations; and
  - D) the responsible relative's ability to pay.
- 6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.101 and 104.103 upon receipt of a request for a hearing.
- 7) The Department shall be stayed from publishing past-due support information regarding the responsible relative by any of the following:
- A) a timely written request for hearing from the responsible relative regarding the existence or amount of past-due support stated in the advance notice; or
  - B) as of the date of publishing, a pending judicial review of a final administrative decision of the Department issued pursuant to this subsection (1)(7).
- m) Certification to the Illinois Secretary of State for Driver's License Suspension
- 1) The Department shall issue a Notice of Intent to Request Suspension of an Illinois Driver's License to a responsible relative in accordance with Section 10-17.6 of the Illinois Public Aid Code [305 ILCS 5/10-17.6] and Section 7-702 of the Illinois Vehicle Code [625 ILCS 5/7-702], when the following circumstances exist:
- A) the amount of past-due support is at least \$2500, and the responsible relative has not made a voluntary payment of support in the last 90 days; or
  - B) the responsible relative has failed to comply with a subpoena or warrant in a paternity or child support proceeding.
- 2) The Notice of Intent to Request Suspension of an Illinois Driver's License shall contain the following:

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- A) the IV-D case name and identification number;
  - B) the past due support amount and the amount of interest that will be certified;
  - C) the date of issuance of any subpoena or warrant in a paternity or child support proceeding with which the responsible relative has failed to comply;
  - D) the right of the responsible relative to prevent certification to the Secretary of State for driver's license suspension by payment of the past-due support amount and interest in full or by entering into a payment plan satisfactory to the Department or to contest the amount of past-due support and interest that is owed by requesting a hearing by the Department within 15 days after the date of mailing by the Department; and
  - E) the right of the responsible relative to prevent certification to the Secretary of State for failure to comply with a subpoena or warrant in a paternity or child support proceeding by complying with the subpoena or warrant or to contest the determination of the failure to comply with the subpoena or warrant by requesting a hearing by the Department within 15 days after the date of mailing by the Department.
- 3) Factors for an acceptable payment plan will include, but are not limited to:
    - A) the amount of past due support and interest owed;
    - B) the amount of current child support ordered to be paid; and
    - C) the responsible relative's ability to pay.
  - 4) The responsible relative's commencement of periodic payments on the past due support amount owed in compliance with a court or administrative order entered prior to the date of the Notice of Intent to Request Suspension of an Illinois driver's license shall be deemed by the Department to be a satisfactory payment plan.

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- 5) A written request for hearing made within 15 days after the date of mailing of the Notice of Intent to Request Suspension of an Illinois Driver's License shall stay the Department from certifying past-due support and interest, or failure to comply with a subpoena or warrant, to the Secretary of State.
- 6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
- 7) Following certification to the Secretary of State for driver's license suspension and upon request of the responsible relative, the Department shall direct the Secretary of State to issue a family financial responsibility driving permit in accordance with Section 10-17.6(b) of the Illinois Public Aid Code [305 ILCS 5/10-17.6(b)] and Section 7-702.1(b) of the Illinois Vehicle Code [625 ILCS 5/7-702.1(b)], when the following circumstances exist requiring the responsible relative to operate a motor vehicle:
  - A) between the responsible relative's residence and place of employment, or within the scope of employment related duties, as verified by the employer in writing; or
  - B) for the purpose of providing transportation for the responsible relative or a household member to receive alcohol treatment, other drug treatment, or medical care as verified in writing by the treatment center or physician that includes the duration of treatment; or
  - C) for the purpose of the unemployed responsible relative seeking employment.
- 8) When directing the issuance of a family financial responsibility driving permit for the purpose of seeking employment under subsection (m)(7)(C) of this Section, the Department shall require that:
  - A) the permit be limited to Monday through Friday between the hours of 8:00 a.m. and 12:00 p.m. (noon) unless the responsible relative provides written documentation showing that to so limit the hours

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of the permit would have an adverse effect on the responsible relative's ability to seek employment; and

- B) the responsible relative provides to the Department a job search diary every 30 days showing contact with no fewer than 10 potential employers during a 30 day period.
- 9) The maximum duration of a family financial responsibility driving permit shall be one year from the date of issuance by the Secretary of State, with the ability of the responsible relative to request issuance of a new permit after the initial permit has expired.
- 10) The Department may direct the issuance of a family financial responsibility driving permit to the responsible relative only if no alternative means of transportation is reasonably available for the purposes stated in this subsection (m).
- 11) The Department shall direct the Secretary of State to cancel the family financial responsibility driving permit in the event the responsible relative violates the conditions of its issuance.
- 12) Any responsible relative aggrieved by the Department's determination on a request for issuance of a family financial responsibility driving permit may file a written request for hearing within 15 days after the date of mailing of the results of the determination to the responsible relative. The Department shall proceed in accordance with 89 Ill. Adm. Code 104.106 upon receipt of a request for hearing.
- n) Certifying Past Due Support or Failure to Comply with a Subpoena or Warrant to State Professional, Occupational or Recreational Licensing Agencies
  - 1) The Department shall issue a Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License to a responsible relative when the following circumstances exist:
    - A) the amount of past due support is at least \$1,000, and the responsible relative has not made a voluntary payment of support in the last 90 days; or

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- B) the responsible relative has failed to comply with a subpoena or warrant in a paternity or child support proceeding.
- 2) The Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License shall inform the responsible relative of the following:
- A) the IV-D case name and identification number;
  - B) the past due support amount and the amount of interest that will be certified;
  - C) the date of issuance of any subpoena or warrant in a paternity or child support proceeding with which the responsible relative has failed to comply;
  - D) the right of the responsible relative to prevent certification to the licensing agency by payment of the past due support amount and interest in full or by entering into a payment plan satisfactory to the Department, or to contest the amount of past due support and interest owed by requesting a hearing by the Department within 15 days after the date of mailing by the Department; and
  - E) the right of the responsible relative to prevent certification to the licensing agency for failure to comply with a subpoena or warrant in a paternity or child support proceeding by complying with the subpoena or warrant, or to contest the determination of the failure to comply with the subpoena or warrant by requesting a hearing by the Department within 15 days after the date of mailing by the Department.
- 3) Factors for an acceptable payment plan will include, but are not limited to:
- A) the amount of past due support and interest owed;
  - B) the amount of current child support ordered to be paid; and
  - C) the responsible relative's ability to pay.

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- 4) The responsible relative's commencement of periodic payments on the past due support amount owed in compliance with a court or administrative order entered prior to the date of mailing of the Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License shall be deemed by the Department to be a satisfactory payment plan.
  - 5) A written request for hearing made within 15 days after the date of mailing of the Notice of Intent to Request Revocation, Suspension or Denial of a Professional, Occupational or Recreational License shall stay the Department from certifying past due support and interest or failure to comply with a subpoena or warrant to the licensing agency.
  - 6) The Department shall proceed in accordance with 89 Ill. Adm. Code 104.103 upon receipt of a timely written request for hearing, except that 89 Ill. Adm. Code 104.103(b) and (c) shall not apply.
- o) Debit Authorization for Obligor's Who Are Not Subject to Income Withholding
- 1) The Department shall adopt a child support enforcement debit authorization form that, upon being signed by an obligor, authorizes the State Disbursement Unit to debit the obligor's financial institution account periodically in an amount equal to the amount of the child support obligation.
  - 2) The Department shall, upon adoption, inform each financial institution conducting business in this State that the child support enforcement debit authorization form has been adopted and is ready for use.
  - 3) The child support enforcement debit authorization form shall include instructions concerning the debiting of accounts held on behalf of obligors and the transfer of the debited amount to the State Disbursement Unit.
  - 4) When an obligor does not have a payor, as defined in Section 15 of the Income Withholding for Support Act [750 ILCS 28/15], he or she must sign a child support enforcement debit authorization form. The obligor must sign a separate child support enforcement debit authorization form for each financial institution holding an account on his or her behalf in

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which a child support payment is to be debited and transferred to the State Disbursement Unit.

- 5) The signing and issuance of a child support enforcement debit authorization form does not relieve the obligor from responsibility for compliance with any requirement under the order for support.
  - 6) It is the responsibility of the obligor to notify the State Disbursement Unit in accordance with the instructions provided on the child support enforcement debit authorization form.
- p) Other Remedies  
Except for those administrative orders providing solely for payment of past due support, theThe Department shall pursue any other remedies provided for by law to enforce and collect past-due support owed by responsible relatives in IV-D cases.
- q) For all other hearings provided for under this Section, if the Department's hearing officer determines that the Quantitative Standard for Review has been met or that the party or parties requesting the hearing has or have demonstrated the occurrence of a substantial change in circumstances since entry of the last administrative order of support warranting modification of that order, the hearing officer will recommend entry of a final administrative decision resulting in entry of a new administrative order for support. In recommending terms of the new administrative order for support, either for current support or, in the event that a current support obligation is no longer owed and only past due support remains, and therefore, periodic payments toward the past due support must be ordered, the hearing officer shall calculate the new support terms in accordance with the provisions of Section 160.60(c)(2).

(Source: Amended at 36 Ill. Reg. 9140, effective June 11, 2012)

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- 1) Heading of the Part: Homeownership Mortgage Loan Program
- 2) Code Citation: 47 Ill. Adm. Code 300
- 3) 

<u>Section Number:</u>	<u>Adopted Action:</u>
300.101	New Section
300.102	New Section
300.103	New Section
300.104	New Section
300.105	New Section
300.106	New Section
300.107	New Section
300.108	New Section
300.109	New Section
300.110	New Section
300.111	New Section
300.112	New Section
300.113	New Section
300.201	New Section
300.202	New Section
300.203	New Section
300.301	New Section
300.302	New Section
300.303	New Section
300.304	New Section
300.305	New Section
300.401	New Section
300.402	New Section
300.403	New Section
300.404	New Section
300.501	New Section
300.502	New Section
300.503	New Section
300.504	New Section
300.505	New Section
- 4) Statutory Authority: Authorized by Section 7.19 of the Illinois Housing Development Act [20 ILCS 3805/7.19] and Section 7.23 of the Illinois Housing Development Act [20 ILCS 3805/7.23]

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- 5) Effective Date of Rule: June 7, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking is on file at the Illinois Housing Development Authority, located at 401 N. Michigan Ave., Ste. 700, Chicago, IL 606011 and is available for public inspection.
- 9) Notice of Proposed Published in the Illinois Register: February 3, 2012; 36 Ill. Reg. 1097
- 10) Has JCAR issued a Statement of Objection to this rulemaking: No
- 11) Difference between proposal and final version:

Section 300.103 – In the definition of "Low and Moderate Income Persons", after "Families and persons" added "whose income does not exceed the Maximum Income and".

Section 300.103 – In the definition of "Maximum Income", change "That percentage" to "Unless otherwise permitted or required by the Code, 120%" and change "Members from time to time by resolution to be equal to or less than the maximum income consistent with status as Low and Moderate Income Persons" to "Internal Revenue Service".

Also, various grammatical and technical changes were made at JCAR's request.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The rules are established to accomplish the general purpose of the Illinois Housing Development Act and in particular the origination, making and purchasing of residential mortgage loans in accordance with the Program to achieve the following objectives: the provision of funds to finance, at

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affordable interest rates and/or other terms more favorable than those otherwise available, residential mortgage loans for Low and Moderate Income Persons and families; the provision of housing to alleviate the shortage of adequate housing in the State of Illinois for persons and families that are residents of the State of Illinois; and the effective participation by mortgage lenders in the Program.

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

Kristi S. Poskus  
Deputy General Counsel  
Legal Department  
Illinois Housing Development Authority  
401 North Michigan Avenue, Suite 700  
Chicago, Illinois 60611

312/836-7416

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

## ILLINOIS HOUSING DEVELOPMENT AUTHORITY

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TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT  
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITYPART 300  
HOMEOWNERSHIP MORTGAGE LOAN PROGRAM

## SUBPART A: GENERAL RULES

Section	
300.101	Authority
300.102	Purposes and Objectives
300.103	Definitions.
300.104	Borrowing by the Authority
300.105	Compliance with Federal Law
300.106	Standards
300.107	Forms for the Program
300.108	Fees and Charges of the Authority
300.109	Amendment
300.110	Severability
300.111	Gender and Number
300.112	Titles and Captions
300.113	Calendar Days

## SUBPART B: LENDER APPLICATION PROCESS

Section	
300.201	Invitations to Participate in the Programs
300.202	Notice of Acceptance
300.203	Commitments for Mortgage Loans

## SUBPART C: PURCHASE OF MORTGAGE LOANS

Section	
300.301	Mortgage Loans
300.302	Yield on Certain Mortgage Loans
300.303	Terms and Conditions of the Purchase of Mortgage Loans
300.304	Prepayments
300.305	Targeted Area Residences

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## SUBPART D: PURCHASE AND SALE OF MORTGAGE-BACKED SECURITIES

## Section

- 300.401 Purchase of Mortgage-Backed Securities
- 300.402 Sale of Mortgage-Backed Securities
- 300.403 Yield on Certain Mortgage-Backed Securities
- 300.404 Prepayments

## SUBPART E: ADMINISTRATIVE RULES

## Section

- 300.501 Restrictions on Compensation of Lenders
- 300.502 Servicing of Mortgage Loans
- 300.503 Equal Opportunity Lending
- 300.504 Inspection of Books and Records
- 300.505 Termination

**AUTHORITY:** Authorized by Sections 7.19 and 7.23 of the Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.23].

**SOURCE:** Adopted by emergency rulemaking at 36 Ill. Reg. 1783, effective January 23, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 9189, effective June 7, 2012.

## SUBPART A: GENERAL RULES

**Section 300.101 Authority**

This Part is authorized by and made pursuant to Sections 7.19 and 7.23 of the Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.23] and shall govern the Illinois Housing Development Authority's homeownership mortgage loan program (the "Program") funded by its Bonds and from other sources of funds available to the Authority.

**Section 300.102 Purposes and Objectives**

This Part is established to accomplish the general purpose of the Illinois Housing Development Act and in particular the origination, making and purchasing of residential mortgage loans in accordance with the Program to achieve the following objectives: the provision of funds to finance, at affordable interest rates and/or other terms more favorable than those otherwise available, residential mortgage loans for Low and Moderate Income Persons and families; the

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provision of housing to alleviate the shortage of adequate housing in the State of Illinois for persons and families that are residents of the State of Illinois; and the effective participation by mortgage lenders in the Program.

**Section 300.103 Definitions**

As used in this Part, the following words or terms mean:

"Act": The Illinois Housing Development Act [20 ILCS 3805].

"Assistant Director": The Assistant Executive Director of the Authority.

"Authority": The Illinois Housing Development Authority.

"Bonds": The Bonds issued by the Authority pursuant to the Act from time to time under any resolution of the Authority or indenture pursuant to which Authority Bonds may be issued to finance or refinance Mortgage Loans under the Program, as amended or supplemented.

"Code": The Internal Revenue Code of 1986 (26 USC), as amended and supplemented, and the regulations promulgated by the Treasury Department from time to time under that statute (26 CFR). References to a section of the Code include all regulations promulgated by the Treasury Department under that section.

"Deputy Director": The Deputy Executive Director of the Authority.

"Director": The Executive Director of the Authority.

"Eligible Borrower": A person:

who is or will be a resident of the State within the later of 60 days after the closing of the purchase of a Qualified Dwelling and, in the case of a Qualified Dwelling upon which residential structures are to be substantially renovated or constructed by the Eligible Borrower following its purchase, within 60 days after the substantial completion of renovation or construction, but in any event within 270 days after the closing of the purchase of the Qualified Dwelling;

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whose Household Income does not exceed the Maximum Income;

who intends to use the Qualified Dwelling being financed or refinanced by a Mortgage Loan as his or her permanent residence within 60 days after the later of the closing of the Mortgage Loan and, in the case of a Qualified Dwelling upon which residential structures are to be substantially renovated or constructed by the Eligible Borrower following its purchase, within 60 days after the substantial completion of renovation or construction, but in any event within 270 days after the closing of the Mortgage Loan; and

who occupies or intends to occupy as a single household the Qualified Dwelling purchased or being purchased as a permanent residence.

The foregoing time periods may be extended in particular instances if the Authority determines that undue hardship to the Eligible Borrower or an unreasonable result will otherwise occur.

A residence that is used as an investment property or a recreational home, or that is primarily intended to be used in a trade or business (including, without limitation, any residence of which more than 15% of the total area is reasonably expected to be used primarily in a trade or business), does not satisfy the requirements of this definition.

"FHA": The Federal Housing Administration.

"FHLMC": The Federal Home Loan Mortgage Corporation.

"FNMA": The Federal National Mortgage Association.

"GNMA": The Government National Mortgage Association.

"Household Income": The total annualized gross income of the Eligible Borrowers and any other person who is expected to live in the Qualified Dwelling and be secondarily liable on the Note, all persons residing or intending to reside as a single household in a Qualified Dwelling, from whatever source derived and before taxes or withholdings, provided that if a married person takes title to the Qualified Dwelling individually, the income of the spouse shall also be included.

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"Insured": A Mortgage Loan that is insured by Private Mortgage Insurance, by insurance provided by FHA, VA or USDA, or by insurance under a comparable government insurance program approved by the Members by resolution and acceptable to GNMA, FNMA or FHLMC, as applicable.

"Lender": A bank, trust company, savings bank, savings and loan association, credit union, national banking association, mortgage banking association, federal savings and loan association or federal credit unit maintaining an office in the State, any insurance company, or any other entity or organization that makes or acquires loans secured by real property:

that is located and qualified to do business in the State;

that meets the conditions and requirements of the applicable Mortgage Purchase Agreement and that meets the requirements of the applicable insurer, if any, and FNMA, FHLMC or GNMA, as and to the extent applicable, as issuer and/or guarantor of Mortgage-Backed Securities; and

that is approved by the Director, Deputy Director or Managing Director in writing, with notice of approval to be provided to the Members within a reasonable period of time. Approval of any Lender may be withdrawn at any time by the Director, Deputy Director or Managing Director in writing, with notice of the withdrawal to be provided to the Members within a reasonable period of time.

"Lender Application": A prospective Lender's application to sell Mortgage Loans to the Authority or participate in the Program pursuant to the terms of a Mortgage Purchase Agreement and other Program documents.

"Low and Moderate Income Persons": Families and persons whose income does not exceed the Maximum Income and who cannot afford to pay, or qualify for a mortgage loan to finance or refinance, the amounts at which private enterprise, without assisted mortgage financing, is providing a substantial supply of decent, safe and sanitary housing.

"Managing Director" means the Managing Director or Director, as the case may be, of the Authority's Homeownership Programs Department.

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"Maximum Income": Unless otherwise permitted or required by the Code, 120% of the median family income of either the metropolitan statistical area or primary metropolitan statistical area in which the Qualified Dwelling is located or the State, whichever is greater, as determined by the Internal Revenue Service.

"Members": The Members of the Authority.

"Mortgage": The Mortgage, or other instrument in the nature of a Mortgage, creating a first Mortgage lien on a fee interest in real estate, together with all supplements, modifications or amendments to it.

"Mortgage Loan": A loan made by a Lender to an Eligible Borrower for the purchase of a Qualified Dwelling and secured by a Mortgage on the Qualified Dwelling.

"Mortgage Purchase Agreement": The agreement, including any amendments or supplements to the agreement, between the Authority and a Lender pursuant to which the Authority or its designee agrees to purchase Mortgage Loans from the Lender on the terms and conditions set forth in the agreement and that establishes the requirements for Mortgage Loans to be purchased by the Authority or its designee, or otherwise allows participation in the Program.

"Mortgage-Backed Security": A single pool, guaranteed mortgage pass-through security issued and guaranteed by FNMA, a single pool, guaranteed mortgage pass-through certificate issued and guaranteed by FHLMC, or a mortgage pass-through certificate guaranteed by GNMA pursuant to its mortgage-backed securities program under section 306(g) and related provisions of the National Housing Act of 1934 (12 USC 1701), as amended, or any similar successor statutory authority.

"Note": The promissory note evidencing a Mortgage Loan and secured by a Mortgage on a Qualified Dwelling with respect to which assisted Mortgage financing is provided by the Authority under the Program.

"Notice of Acceptance": The Authority's notice to a Lender accepting its Lender Application.

"Prepayments": Any moneys, however derived, that are received or recovered by the Authority from any payment of, or with respect to, principal on any Mortgage

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Loan or Mortgage-Backed Security prior to scheduled payments of principal required under that Mortgage Loan or Mortgage-Backed Security.

"Private Mortgage Insurance": Insurance coverage paid for by the Eligible Borrower that insures against losses with respect to defaults on a Mortgage Loan according to the terms of the insurance policy. The insurer and the terms of the insurance policy must be approved by FNMA or FHMLC or by the Director, Deputy Director or Managing Director in writing.

"Program": The Authority's Homeownership Mortgage Loan Program under which the Authority provides assisted Mortgage financing to Low and Moderate Income Persons to finance or refinance their purchase of Qualified Dwellings, funded with proceeds of Bonds or any other source of funds available to the Authority.

"Program Funds": All moneys made available by the Authority for the purchase of Mortgage Loans under the Program, from whatever source derived.

"Property Value": The lesser of the purchase price or the appraised value of the Qualified Dwelling at the time of the origination of the Mortgage Loan secured by that Qualified Dwelling.

"Qualified Dwelling": A fee simple interest in real property:

that is located in the State;

upon which there is located a structure or structures designed for residential use or, if the real property is unimproved, upon which construction of that structure or structures for residential use has begun or will commence within 60 days after the closing of the Eligible Borrower's purchase of the property and can reasonably be expected to be completed within 270 days after the closing of the Eligible Borrower's purchase of the property;

that is a single family residence; a condominium; a one-, two-, three- or four-unit residential structure one unit of which is occupied by the owner of the structure; or factory-made housing that is permanently fixed to real property;

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of which not more than 15% of the total area is reasonably expected to be used primarily in a trade or business; and

that is, at the time financing or refinancing is provided, the principal residence of the Eligible Borrower or can reasonably be expected to become the principal residence of the Eligible Borrower within a reasonable time after financing or refinancing is provided. For purposes of this definition, a "reasonable time after financing or refinancing is provided" shall be deemed to be a period within 60 days after the later of the closing of the Mortgage Loan and, in the case of a Qualified Dwelling upon which residential structures are to be substantially renovated or constructed by the Eligible Borrower following its purchase, within 60 days after the substantial completion of renovation or construction but in any event within 270 days after the closing of the Mortgage Loan. The foregoing time periods may be extended by the Authority if the Authority determines that undue hardship to the Eligible Borrower or an unreasonable result will otherwise occur.

"Rules": The rules of the Authority, as amended and supplemented from time to time (generally 47 Ill. Adm. Code Chapter II).

"Servicer": A Lender, acting in the capacity of a Mortgage loan servicer, a financial institution, a Mortgage banking organization, a Mortgage servicing company, or a state agency or local government unit organized under the laws of any state or territory of the United States of America or the District of Columbia, that is qualified to service Insured Mortgage Loans, is acceptable to GNMA, FNMA or FHLMC, as applicable, has been approved by the Director, Deputy Director or Assistant Director as a Servicer, and has executed a Servicing Agreement with the Authority. The Authority may also be a Servicer.

"Servicing Agreement": The agreement between a Servicer and the Authority (except when the Authority is the Servicer) that sets forth the terms and conditions for the servicing of Mortgage Loans purchased by the Authority or its designee. The term "Servicing Agreement" includes a master agreement pursuant to which the Servicer services Mortgage Loans originated by more than one Lender.

"Staff": The Director, Deputy Director, Assistant Director, and employees of the Authority.

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"State": The State of Illinois.

"Tax-exempt": With respect to Bonds the interest on which the Authority intends to be tax-exempt, the status of interest paid and received on such Bonds as not includible in the gross income of their owners under the Code for federal income tax purposes, with such general exceptions as may be provided from time to time in the Code (for example and without limitation, the alternate minimum tax applicable to individuals or corporations or the "branch profits tax" imposed on certain corporations).

"This Part": 47 Ill. Adm. Code 300.

"USDA": The United States Department of Agriculture, Rural Housing Service, or any successor agency under the Section 502 Guaranteed Rural Housing Loan Program or any similar replacement program.

"VA": The United States Department of Veterans Affairs.

**Section 300.104 Borrowing by the Authority**

To the extent allowed by State or federal law and the Act, the Authority may borrow funds with which to purchase Mortgage Loans, Mortgage-Backed Securities or other securities, or to facilitate the origination of Mortgage Loans under the Programs.

**Section 300.105 Compliance with Federal Law**

Notwithstanding anything in this Part to the contrary, this Part shall be construed in conformity and compliance with applicable federal law, including, without limit, section 143 of the Code to the extent applicable.

**Section 300.106 Standards**

In administering the Program, the Authority and the Staff, in those instances permitting the exercise of discretion, shall consider, in addition to the criteria specifically set forth in this Part, the following factors:

- a) the purpose of the Program;

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- b) the financial condition and previous lending experience of potential and participating Lenders and Servicers;
- c) to the extent the Program is financed through the issuance of Bonds, the Authority's ability to purchase or redeem the Bonds or to retire Bonds at their maturity and to comply with the requirements of any applicable resolution or indenture of the Authority and applicable State and federal law;
- d) the financial integrity of the Program;
- e) the desirability of achieving a reasonable geographic distribution of Program Funds throughout the State; and
- f) the standards of the prudent lender or investor.

**Section 300.107 Forms for the Program**

The Staff may prepare, use, supplement and amend forms, agreements and other documentation as may be necessary to implement the Program, as may be prescribed by the Director, Deputy Director or Assistant Director.

**Section 300.108 Fees and Charges of the Authority**

The Authority may establish charges, premiums and penalties as it may deem necessary to administer the Program after consideration of such factors as, but not limited to, financing requirements of the Program, preferences of bond rating agencies, earnings and arbitrage limitations established by federal or State law, to the extent applicable, and other financial factors relevant to the Program.

**Section 300.109 Amendment**

This Part may be amended or repealed by the Members from time to time in accordance with the Illinois Administrative Procedure Act and in a manner as they may determine consistent with the Act, the purposes of the Program and other applicable provisions of State and federal law. This Part shall not constitute or create any contractual rights.

**Section 300.110 Severability**

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If any clause, sentence, subsection, Section or Subpart of this Part shall be adjudged by any court of competent jurisdiction to be invalid, that judgment shall not affect, impair or invalidate the remainder of this Part, but shall be confined in its operation to the clause, sentence, subsection, Section, and Subpart of this Part to which the judgment is rendered.

**Section 300.111 Gender and Number**

All terms expressed in any one gender or number shall be construed to include any other gender or number as the context may require.

**Section 300.112 Titles and Captions**

Titles and captions of Subparts, Sections, and subsections are used for convenience of reference and are not a part of the text.

**Section 300.113 Calendar Days**

Days shall mean calendar days. Due dates falling on a Saturday, Sunday or legal State or federal holiday shall be deemed to fall on the next calendar day that is not Saturday, Sunday, or a legal State or federal holiday.

## SUBPART B: LENDER APPLICATION PROCESS

**Section 300.201 Invitations to Participate in the Programs**

From time to time the Authority may send application materials to potential Lenders inviting them to submit to the Authority Lender Applications to participate in the Program. Lenders wishing to participate in the Program shall execute and return to the Authority: the Lender Application and the Mortgage Purchase Agreement (if not already executed). The Lender Application shall contain, but not be limited to, the following:

- a) The unconditional agreement of the prospective Lender, effective upon acceptance of the Lender Application by the Authority, to sell to the Authority or its designee Mortgage Loans that comply with the terms of the Lender Application, the Mortgage Purchase Agreement, the Notice of Acceptance and the requirements of the Program;
- b) Provision for the prospective Lender to furnish financial and other information as the Authority may reasonably require; and

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- c) A pro forma copy of any letter of credit or pledge of deposits or assets the Authority may require as security for the Lender's performance of its obligations under the Program.

**Section 300.202 Notice of Acceptance**

By Notice of Acceptance, the Authority or its designee may commit itself, subject to the conditions set forth in the Lender Application and the Mortgage Purchase Agreement, to purchase Mortgage Loans, as offered by a potential Lender, or to allow the Lender's participation in the Authority's Program. Immediately after the Authority has issued its Notice of Acceptance to the Lender, the Authority shall execute a Mortgage Purchase Agreement (if not previously executed) with the Lender. Upon receipt of the Notice of Acceptance, the Lender shall be obligated to originate Mortgage Loans in accordance with the terms of the Lender Application, the Notice of Acceptance and the Mortgage Purchase Agreement.

**Section 300.203 Commitments for Mortgage Loans**

Upon receipt of the Notice of Acceptance, the Lender shall issue commitments to Eligible Borrowers to make Mortgage Loans. The Lender may continue to issue firm commitments for the period set forth in the Notice of Acceptance. Any Mortgage Loans to be purchased by the Authority or its designee shall be purchased by the Authority or its designee by the date indicated in the Notice of Acceptance.

## SUBPART C: PURCHASE OF MORTGAGE LOANS

**Section 300.301 Mortgage Loans**

Each Mortgage Loan to be purchased under the Program shall comply with the terms of the Lender Application, the Notice of Acceptance and the Mortgage Purchase Agreement, and shall specifically comply with the following requirements, among others:

- a) The original principal amount of each Mortgage Loan shall not exceed the maximum loan amount set by the Authority from time to time. The loan-to-Property Value ratio for each Mortgage Loan shall not exceed the maximum loan-to-Property Value ratio set by the Authority from time to time.
- b) Each Mortgage Loan shall be Insured, unless, and only to the extent that, FNMA, FHLMC or GNMA, as issuer and/or guarantor of Mortgage-Backed Securities, do

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not require that particular Mortgage Loans be insured to be included in pools of Mortgage Loans underlying Mortgage-Backed Securities issued and/or guaranteed by FNMA, FHLMC or GNMA.

- c) Each Mortgage Loan to be purchased by the Authority or its designee shall be secured by a Mortgage on a Qualified Dwelling and shall also meet the applicable terms and conditions set forth in this Part, the Lender Application, the Notice of Acceptance and the Mortgage Purchase Agreement. Lenders shall sell to the Authority or its designee, and the Authority or its designee shall purchase, only Mortgage Loans made to Eligible Borrowers.
- d) Each Mortgage securing a Mortgage Loan to be purchased by the Authority or its designee shall:
  - 1) be executed on a form approved by the Authority or its designee;
  - 2) be a valid first Mortgage lien on a Qualified Dwelling;
  - 3) have a term not exceeding 40 years;
  - 4) be consistent with Illinois law; and
  - 5) conform with the requirements prescribed by the Authority and any applicable insurer.
- e) Each Mortgage Loan to be purchased by the Authority or its designee shall be assumable and assignable, unless otherwise required by Section 103 of the Code, any other applicable sections of the Code or any other applicable State or federal law as may be enacted from time to time, and shall contain a provision giving the Authority or its designee the right to accelerate the maturity of the Mortgage Loan upon sale or lease of the Qualified Dwelling, unless otherwise allowed or required by applicable State or federal law.
- f) The Authority or its designee shall not be required to purchase any Mortgage Loan if, on the date of purchase, the obligor of the Mortgage Loan is delinquent in the payment of any installment of principal, interest or other amounts due under the terms of the Mortgage Loan.

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- g) The Authority or its designee may foreclose Mortgages held as security for Mortgage Loans purchased under this Part that are in default according to their terms, or reassign the Mortgages to the Lender in accordance with the terms of the Mortgage Purchase Agreement. The Authority or its designee may take title to the property in its name upon foreclosure and to subsequently convey title to the property to any purchaser of the property.

**Section 300.302 Yield on Certain Mortgage Loans**

In no event shall the yield on Mortgage Loans financed or refinanced from the proceeds of Bonds that are Tax-Exempt and sold to the Authority or its designee exceed the maximum permitted by application of the provisions of section 143 of the Code.

**Section 300.303 Terms and Conditions of the Purchase of Mortgage Loans**

- a) The Authority or its designee shall purchase Mortgage Loans on the terms and conditions and in the manner prescribed in the Mortgage Purchase Agreement. The Mortgage Purchase Agreement shall contain such warranties of the Lender in connection with the Mortgage Loans to be sold under the Mortgage Purchase Agreement as the Authority or its designee shall require. These warranties shall include, but are not limited to, the following:
- 1) The mortgagor is an Eligible Borrower;
  - 2) The original principal amount of the Mortgage Loan does not exceed any maximum loan amount established by the Authority;
  - 3) The Mortgage Loan is evidenced by a properly executed Note made payable or assigned to the order of the Lender, endorsed by the Lender to the Authority or its designee and secured by a Mortgage on the Qualified Dwelling; both the Note and the Mortgage are the legal, valid and binding obligations of the makers and mortgagors and are enforceable in accordance with their terms, unless enforcement is limited by laws affecting the enforcement of creditors' rights generally, if all parties to each Mortgage Loan had full legal capacity to execute all Mortgage Loan documents at the time of execution;
  - 4) The Mortgage, the Uniform Commercial Code Form 1 and Form 2 financing statements, if any, and any other document required to be filed

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in a public office to perfect the mortgage lien against third parties have been duly and timely filed, registered or recorded by the Lender in the proper public office in order to give constructive notice of them to all subsequent purchasers or encumbrancers;

- 5) The Lender is the sole owner and holder of the Mortgage Loan, has full right to sell and assign the Mortgage Loan to the Authority or its designee, and that assignment conveys a good and marketable mortgagee's title to the Authority or its designee free and clear of all liens and encumbrances and subject only to real property taxes and assessments not yet due and encumbrances customarily accepted in accordance with applicable title standards and disclosed to the Authority or its designee prior to purchase of the Mortgage Loan;
- 6) The Mortgage creates a valid and existing first Mortgage lien on the Qualified Dwelling to secure the Mortgage Loan, unless otherwise authorized by the Authority or its designee; the term "first Mortgage lien" means classes of first liens commonly given to secure loans on real estate under the laws of the State;
- 7) The Lender has not modified in any respect and has not satisfied, canceled, subordinated or compromised in whole or in part the Mortgage Loan indebtedness, and has not released the mortgaged property in whole or in part from the lien of the indebtedness evidenced by the Note and secured by the Mortgage; and the terms, covenants and conditions of the Note evidencing the Mortgage Loan and the Mortgage securing the Mortgage Loan shall not have been waived, altered or modified in any respect that would materially affect the validity or enforceability of the Note or the Mortgage Loan or the security of the lien of the Mortgage;
- 8) The real property securing the Mortgage Loan is a Qualified Dwelling;
- 9) The Qualified Dwelling is covered by a valid and existing policy of homeowner's property and casualty insurance meeting the requirements of the Authority or its designee;
- 10) The Lender has complied with the rules and requirements of the applicable insurance program, so that the Mortgage Loans to be purchased are

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Insured and the insurance is in full force and effect and inures to the benefit of the Authority or its designee;

- 11) The Mortgage Loan is covered by a fully paid mortgagee's title insurance policy in such form as the Authority or its designee may require and under which the Authority or its designee is a loss payee; and
  - 12) To the best of Lender's information, knowledge and belief, no condition exists that would prohibit the purchase of the Mortgage Loan by the Authority or its designee under all applicable rules, regulations and contractual provisions.
- b) The Mortgage Purchase Agreement shall provide that the Authority shall have the right to require the Lender to repurchase Mortgage Loans sold to the Authority or its designee by the Lender if the Director, Deputy Director or Assistant Director determines that the Lender has failed to comply with the requirements of either this Part or its contracts and agreements with the Authority under the Program.
  - c) The Authority may provide assistance with closing costs or a down payment to the Eligible Borrower under any such Mortgage Loan. Assistance with closing costs and assistance with a down payment shall be in such maximum amounts and under such terms as have been approved by the Members from time to time by resolution.

**Section 300.304 Prepayments**

The Authority shall apply any Prepayments it receives with respect to Mortgage Loans as follows:

- a) to the purchase of additional Mortgage Loans in accordance with the requirements of the Program;
- b) in the case of Prepayments with respect to any Mortgage Loan financed in whole or in part from the proceeds of Bonds, to the extent the Prepayments are allocable to proceeds of Bonds, to the purchase or redemption of Bonds, subject in each case to the requirements of the applicable resolution or indenture of the Authority pursuant to which the funds were provided to purchase the Mortgage Loan with respect to which the Prepayment was received; or

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- c) for other corporate purposes of the Authority, to the extent permitted by the applicable resolution or indenture of the Authority pursuant to which the funds were provided to purchase the Mortgage Loan with respect to which the Prepayment was received.

**Section 300.305 Targeted Area Residences**

To the extent that Mortgages or Mortgage-Backed Securities are purchased from proceeds of Bonds that are Tax-Exempt, the Authority or its designee shall comply with the requirements of section 143 of the Code in connection with the purchase of Mortgage Loans on targeted area residences or the financing of such Mortgage Loans through the purchase of Mortgage-Backed Securities.

## SUBPART D: PURCHASE AND SALE OF MORTGAGE-BACKED SECURITIES

**Section 300.401 Purchase of Mortgage-Backed Securities**

The Authority may purchase Mortgage-Backed Securities from time to time from proceeds of Bonds, as an investment of funds in the Authority's Administrative Fund or other Authority Funds and accounts, as a temporary investment of funds held by a trustee under any resolution or indenture of the Authority pursuant to which Bonds have been issued, or from other funds of the Authority legally available for the purpose, in all cases to the extent permitted by applicable State and federal law and, if applicable, the terms of any applicable resolution or indenture of the Authority, for the purpose of providing assisted mortgage financing or refinancing for Low and Moderate Income Persons under the Program. Mortgage Loans pooled in connection with the issuance and purchase by the Authority of any Mortgage-Backed Security shall meet the criteria for Mortgage Loans in Sections 300.301 and 300.303. The Authority may provide assistance with closing costs or a down payment to the Eligible Borrower under any such Mortgage Loan as provided in Section 300.303(c).

**Section 300.402 Sale of Mortgage-Backed Securities**

In order to provide assisted mortgage financing or refinancing or Mortgage Loans for Low and Moderate Income Persons under the Program, the Authority may sell Mortgage-Backed Securities held by the Authority or may direct a trustee under a resolution or indenture of the Authority pursuant to which Bonds have been issued that is holding Mortgage-Backed Securities as a temporary investment of funds held by the trustee under the resolution or ordinance, subject to applicable limitations under State or federal law or the applicable resolution or indenture of the Authority. Proceeds of sale of Mortgage-Backed Securities originally purchased from

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Authority funds shall be used for lawful Authority purposes, including, without limitation, providing further assisted mortgage financing or refinancing of Mortgage Loans for Low and Moderate Income Persons under the Program and originally purchased as a temporary investment of funds held by a trustee under a resolution or indenture of the Authority pursuant to which Bonds have been issued shall be applied as provided in the resolution or indenture. In connection with the sale, the Authority may enter into documentation necessary to effect the sale.

**Section 300.403 Yield on Certain Mortgage-Backed Securities**

In no event shall the yield on Mortgage-Backed Securities purchased from the proceeds of Bonds that are Tax-Exempt exceed the maximum permitted by application of section 143 of the Code.

**Section 300.404 Prepayments**

The Authority shall apply any Prepayments it receives with respect to a Mortgage-Backed Security as follows:

- a) to the extent the Mortgage-Backed Security was originally purchased from Authority funds for any lawful Authority purposes, including, without limitation, providing further assisted mortgage financing or refinancing of Mortgage Loans for Low and Moderate Income Persons under the Program; and
- b) to the extent the Mortgage-Backed Security was originally purchased as a temporary investment of funds held by a trustee under a resolution or indenture of the Authority pursuant to which Bonds have been issued, as provided in the resolution or indenture.

## SUBPART E: ADMINISTRATIVE RULES

**Section 300.501 Restrictions on Compensation of Lenders**

The Authority shall, by resolution of the Members adopted from time to time, establish the maximum compensation that may be realized by any Lender and by any agent of any Lender from Mortgage Loans, including any fees, premiums, bonuses and points charged by the Lender or the Lender's agent in connection with the making of Mortgage Loans. The maximum compensation shall be set at such amounts as the Authority finds reasonably necessary to induce participation in the Programs by Lenders in order to accomplish the purposes of the Act or, to the extent applicable, to ensure compliance with arbitrage and income limitations of section 143 of the Code.

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**Section 300.502 Servicing of Mortgage Loans**

The Authority shall cause all Mortgage Loans purchased by the Authority or its designee to be serviced by a Servicer pursuant to the Servicing Agreement.

**Section 300.503 Equal Opportunity Lending**

In making Mortgage Loans, the Lender shall not deny a Mortgage Loan to any person or persons or discriminate against the person or persons in fixing the amount, interest rate, duration, or other terms and conditions of the loans on account of race, color, religion, age, sex, marital status, family status, handicap, ancestry, national origin or unfavorable military discharge. The Lender shall be subject to all State and federal requirements with respect to non-discrimination in lending including, without limitation, Title VI of the U.S. Civil Rights Act of 1964 (42 USC 2000 et seq.), Title VIII of the U.S. Civil Rights Act of 1968 (42 USC 3604 et seq.), as amended by the Housing and Community Development Act of 1974 (42 USC 5301 et seq.), the Equal Credit Opportunity Act (15 USC 1691-1691F), the Fair Credit Reporting Act (15 USC 1681-1681t), the Fair Housing Act (42 USC 3601-20), the Illinois Human Rights Act [775 ILCS 5] and Section 13 of the Act.

**Section 300.504 Inspection of Books and Records**

Upon prior written notice, the Authority may inspect, examine and copy the books and records of each Lender for the purpose of determining compliance with the Act and all contracts and agreements between the Authority and the Lender relating to the Program.

**Section 300.505 Termination**

The Authority or designee shall retain the right to terminate its obligation to purchase Mortgage Loans under the Program, subject to applicable State law and to its existing contractual obligations, including contractual obligations arising under a Lender Application, a Notice of Reservation of Funds, a Notice of Acceptance, a Mortgage Purchase Agreement, or a Servicing Agreement.

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## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: General Rules
- 2) Code Citation: 35 Ill. Adm. Code 101
- 3) Section Number: 101.202                      Adopted Action:  
Amend
- 4) Statutory Authority: Implementing Sections 3.330, 26, 27, and 28 of the Environmental Protection Act (Act) [415 ILCS 5/3.330, 26, 27, and 28] and authorized by Sections 26, 27, and 28 of the Act [415 ILCS 5/26, 27, and 28]
- 5) Effective Date of Amendment: June 7, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.
- 9) Notice of Proposal Published in Illinois Register: February 17, 2012; 36 Ill. Reg. 2444
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? No changes were necessary.
- 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 Amendment: The Board proposed amendments to the definition of "pollution control facility" in Section 101.202 of its procedural rules only to the extent necessary to make it consistent with recent Public Acts amending the statutory definition.

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

Timothy Fox  
Illinois Pollution Control Board  
100 W. Randolph 11-500  
Chicago, IL 60601  
312/814-6085

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R12-22 in your request. The Board order is also available from the Board's Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)).

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

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

PART 101  
GENERAL RULES

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: DEFINITIONS

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

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

Section	
101.300	Computation of Time
101.302	Filing of Documents
101.304	Service of Documents
101.306	Incorporation of Documents by Reference
101.308	Statutory Decision Deadlines and Waiver of Deadlines

SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION

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

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## Proceedings

- 101.402 Intervention of Parties
- 101.403 Joinder of Parties
- 101.404 Agency as a Party in Interest
- 101.406 Consolidation of Claims
- 101.408 Severance of Claims

## SUBPART E: MOTIONS

## Section

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

## SUBPART F: HEARINGS, EVIDENCE, AND DISCOVERY

## Section

- 101.600 Hearings
- 101.602 Notice of Board Hearings
- 101.604 Formal Board Transcript
- 101.606 Informal Recordings of the Proceedings
- 101.608 Default
- 101.610 Duties and Authority of the Hearing Officer
- 101.612 Schedule to Complete the Record
- 101.614 Production of Information
- 101.616 Discovery
- 101.618 Admissions
- 101.620 Interrogatories
- 101.622 Subpoenas and Depositions
- 101.624 Examination of Adverse, Hostile or Unwilling Witnesses

## POLLUTION CONTROL BOARD

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- 101.626 Information Produced at Hearing
- 101.628 Statements from Participants
- 101.630 Official Notice
- 101.632 Viewing of Premises

## SUBPART G: ORAL ARGUMENT

- Section
- 101.700 Oral Argument

## SUBPART H: SANCTIONS

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

## SUBPART I: REVIEW OF FINAL BOARD OPINIONS AND ORDERS

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

- 101.APPENDIX A Captions
  - 101.ILLUSTRATION A Enforcement Case
  - 101.ILLUSTRATION B Citizen's Enforcement Case
  - 101.ILLUSTRATION C Variance
  - 101.ILLUSTRATION D Adjusted Standard Petition
  - 101.ILLUSTRATION E Joint Petition for an Adjusted Standard
  - 101.ILLUSTRATION F Permit Appeal
  - 101.ILLUSTRATION G Underground Storage Tank Appeal
  - 101.ILLUSTRATION H Pollution Control Facility Siting Appeal
  - 101.ILLUSTRATION I Administrative Citation
  - 101.ILLUSTRATION J General Rulemaking
  - 101.ILLUSTRATION K Site-specific Rulemaking
- 101.APPENDIX B Appearance Form
- 101.APPENDIX C Withdrawal of Appearance Form

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- 101.APPENDIX D Notice of Filing
- 101.APPENDIX E Certificate of Service
  - 101.ILLUSTRATION A Service by Non-Attorney
  - 101.ILLUSTRATION B Service by Attorney
- 101.APPENDIX F Notice of Withdrawal (Repealed)
- 101.APPENDIX G Comparison of Former and Current Rules (Repealed)

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].

SOURCE: Filed with Secretary of State January 1, 1978; codified 6 Ill. Reg. 8357; Part repealed, new Part adopted in R88-5A at 13 Ill. Reg. 12055, effective July 10, 1989; amended in R90-24 at 15 Ill. Reg. 18677, effective December 12, 1991; amended in R92-7 at 16 Ill. Reg. 18078, effective November 17, 1992; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 446, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8743, effective June 8, 2005; amended in R06-9 at 29 Ill. Reg. 19666, effective November 21, 2005; amended in R07-17 at 31 Ill. Reg. 16110, effective November 21, 2007; amended in R10-22 at 34 Ill. Reg. 19566, effective December 3, 2010; amended in R12-22 at 36 Ill. Reg. 9211, effective June 7, 2012.

## SUBPART B: DEFINITIONS

**Section 101.202 Definitions for Board's Procedural Rules**

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

"Act" means the Environmental Protection Act [415 ILCS 5/1].

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

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

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

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

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

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

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

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

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

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

"Article" means *any object, material, device or substance, or whole or partial copy thereof, including any writing, record, document, recording, drawing,*

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*sample, specimen, prototype, model, photograph, culture, microorganism, blueprint or map* [415 ILCS 5/7.1].

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

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

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

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

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

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

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

"Brief" means a written statement that contains a summary of the facts of a proceeding, the pertinent laws, and an argument of how the law applies to the facts supporting a position.

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

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

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

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

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

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

"Clerk" means the Clerk of the Board.

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

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

"Copy" means *any facsimile, replica, photograph or other reproduction of an article, and any note, drawing or sketch made of or from an article* [415 ILCS 5/7.1].

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

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

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

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

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

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

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

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

"DNR" means the Illinois Department of Natural Resources.

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

"DOA" means the Illinois Department of Agriculture.

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

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

"Enforcement proceeding" means an adjudicatory proceeding brought upon a complaint filed pursuant to Section 31 of the Act by the Attorney General, State's Attorney, or other persons, in which the complaint alleges violation of the Act, any rule or regulation adopted under the Act, any permit or term or condition of a permit, or any Board order.

"Ex parte communication" means *any written or oral communication by any*

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

*statements by a person publicly made in a public forum, including pleadings, transcripts, and public comments made part of the proceeding's record;*

*statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter; and*

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

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

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

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

"Final order" means an order of the Board that terminates the proceeding leaving nothing further to litigate or decide and that is appealable to an appellate court pursuant to Section 41 of the Act. (See Subpart I of this Part.)

"Frivolous" means a request for relief that the Board does not have the authority

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to grant, or a complaint that fails to state a cause of action upon which the Board can grant relief.

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

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

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

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

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

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

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

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

"Intervenor" means a person, not originally a party to an adjudicatory proceeding,

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who voluntarily participates as a party in the proceeding with the leave of the Board. (See Section 101.402 of this Part.)

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

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

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

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

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

"Movant" means the person who files a motion.

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

"Non-disclosable information" means *information which constitutes a trade secret; information privileged against introduction in judicial proceedings; internal communications of the several agencies; information concerning secret manufacturing processes or confidential data submitted by any person under the Act* [415 ILCS 5/7(a)].

"Notice list" means the list of persons in a regulatory proceeding who will receive all Board opinions and orders and all hearing officer orders. Persons on a notice list generally do not receive copies of motions, public comments, or testimony.

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(See definition of "service list" in this Section.) (See also 35 Ill. Adm. Code 102.422.)

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

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

"OSFM" means Office of the State Fire Marshal.

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

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

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

"Party" means the person by or against whom a proceeding is brought.

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

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

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

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

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

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

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

*waste storage sites regulated under 40 CFR 761.42;*

*sites or facilities used by any person conducting a waste storage, waste treatment, waste disposal, waste transfer or waste incineration operation, or a combination thereof, for wastes generated by such person's own activities, when such wastes are stored, treated, disposed of, transferred or incinerated within the site or facility owned, controlled or operated by such person, or when such wastes are transported within or between sites or facilities owned, controlled or operated by such person;*

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

*abandoned quarries used solely for the disposal of concrete, earth materials, gravel, or aggregate debris resulting from road construction activities conducted by a unit of government or construction activities due*

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*to the construction and installation of underground pipes, lines, conduit or wires off of the premises of a public utility company which are conducted by a public utility;*

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

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

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

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

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

*the portion of a site or facility where used oil is collected or stored prior to shipment to a recycling or energy recovery facility, provided that the used oil is generated by households or commercial establishments, and the site or facility is a recycling center or a business where oil or gasoline is sold at retail;*

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

*located within a home rule unit of local government with a population of at least 30,000 according to the 2000 federal census, that home rule unit of local government has been designated as an*

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*Urban Round II Empowerment Zone by the United States Department of Housing and Urban Development, and that home rule unit of local government has enacted an ordinance approving the location of the site or facility and provided funding for the site or facility; and*

*in compliance with all applicable zoning requirements ~~[415 ILCS 5/3-330]~~;*

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

*the portion of a site or facility ~~that accepts~~~~accepting~~ exclusively general construction or demolition debris, ~~is~~ located in a county with a population over ~~3,000,000~~~~700,000~~ as of January 1, 2000 or in a county that is contiguous to such a county, and ~~is~~ operated and located in accordance with Section 22.38 of the Act;*

*the portion of a site or facility, located within a unit of local government that has enacted local zoning requirements, used to accept, separate, and process uncontaminated broken concrete, with or without protruding metal bars, provided that the uncontaminated broken concrete and metal bars are not speculatively accumulated, are at the site or facility no longer than one year after their acceptance, and are returned to the economic mainstream in the form of raw materials or products;*

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

*the portion of a site or facility located in a county with a population greater than 3,000,000 that has obtained local siting approval, under Section 39.2 of the Act, for a municipal waste incinerator on or before July 1, 2005 and that is used for wood combustion facilities for energy*

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*recovery that accept and burn only wood material, as included in a fuel specification approved by the Agency;*

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

*a transfer station used exclusively for landscape waste, including a transfer station where landscape waste is ground to reduce its volume, where the landscape waste is held no longer than 24 hours from the time it was received; ~~415 ILCS 5/3.330~~*

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

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

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

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

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

the portion of the site or facility used for the composting operation must be located at least one-eighth of a mile from the nearest residence, other than a residence located on the same property as the site or facility;

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

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

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

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

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

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

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

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

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

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

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

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

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

*the portion of a site or facility that is located entirely within a home rule unit having a population no less than 120,000 and no more than 135,000,*

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according to the 2000 federal census, and that meets all of the following requirements:

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

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

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

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

the portion of a site or facility that it used to incinerate only pharmaceuticals from residential sources that are collected and transported by law enforcement agencies under Section 17.9A of the Act. [415 ILCS 5/3.330]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Service list" means the list of persons designated by the hearing officer or Clerk

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

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

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

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

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

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

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

"Subpoena duces tecum" means a document that compels the production of specific documents and other items at a specified time and place.

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

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

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

"Transcript" means the official recorded testimony from a hearing.

"USEPA" means the United States Environmental Protection Agency.

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

"UST" means underground storage tank.

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

"Waiver" means the intentional relinquishing of a known right, usually with respect to a hearing before the Board or entry of a Board decision within the decision period. (See also Section 101.308 of this Part.)

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

(Source: Amended at 36 Ill. Reg. 9211, effective June 7, 2012)

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- 1) Heading of the Part: Proceedings Pursuant to Specific Rules or Statutory Provisions
- 2) Code Citation: 35 Ill. Adm. Code 106
- 3) 

<u>Section Number:</u>	<u>Adopted Action:</u>
106.100	Amend
106.1000	New
106.1002	New
106.1004	New
106.1006	New
106.1008	New
106.1010	New
106.1012	New
- 4) Statutory Authority: Implementing Section 95 of the Electronic Products Recycling and Reuse Act [415 ILCS 150/95] and authorized by Sections 26, 27, and 28 of the Environmental Protection Act (the Act) [415 ILCS 5/26, 27, and 28]
- 5) Effective Date of Amendments: June 17, 2012
- 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, are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.
- 9) Notice of Proposal Published in Illinois Register: February 17, 2012; 36 Ill. Reg. 2469
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: In the introductory language to Section 106.1002, Definitions, JCAR proposed to add the word "Act" to clarify a reference to the Electronic Products Recycling and Reuse Act.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes

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

14) Are there any amendments pending on this Part? Yes

<u>Section Numbers</u>	<u>Proposed Action:</u>	<u>Citation:</u>
106.100	Amend	36 Ill. Reg. 2643; February 24, 2012
106.900	New	36 Ill. Reg. 2643; February 24, 2012
106.902	New	36 Ill. Reg. 2643; February 24, 2012
106.904	New	36 Ill. Reg. 2643; February 24, 2012
106.906	New	36 Ill. Reg. 2643; February 24, 2012
106.908	New	36 Ill. Reg. 2643; February 24, 2012
106.910	New	36 Ill. Reg. 2643; February 24, 2012
106.912	New	36 Ill. Reg. 2643; February 24, 2012
106.914	New	36 Ill. Reg. 2643; February 24, 2012

15) Summary and Purpose of Amendments: The Board proposes procedural rules applicable to petitions for temporary waivers of the covered electronic device (CED) landfill ban under Section 95 of the Electronic Products Recycling and Reuse Act (EPRRA). 415 ILCS 150/95 (2010). Section 95(e) of EPRRA addresses matters including the contents of a petition for a temporary landfill ban waiver, criteria for the Board's consideration of a petition, the Board's decision deadline, appeal of Board orders denying temporary landfill ban waivers, and implementation of waivers. Specifically, the Board proposes a new 35 Ill. Adm. Code 106.Subpart J following the general format of other subparts of Part 106.

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

Timothy Fox  
 Illinois Pollution Control Board  
 100 W. Randolph 11-500  
 Chicago, IL 60601  
 312-814-6085

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R12-21 in your request. The Board order is also available from the Board's Web site ([www.ipcb.state.il.us](http://www.ipcb.state.il.us)).

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

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NOTICE OF ADOPTED AMENDMENTS

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

PART 106

PROCEEDINGS PURSUANT TO SPECIFIC RULES OR STATUTORY PROVISIONS

SUBPART A: GENERAL PROVISIONS

Section  
106.100      Applicability  
106.102      Severability  
106.104      Definitions

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

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

SUBPART C: WATER WELL SETBACK EXCEPTION PROCEDURES

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

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

Section

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

SUBPART E: MAXIMUM ACHIEVABLE CONTROL  
TECHNOLOGY DETERMINATIONS

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

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

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

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

- Section
- 106.700 Purpose

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

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

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

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

- Section
- 106.1000 General
- 106.1002 Definitions

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<a href="#">106.1004</a>	<a href="#">Initiation of Proceeding</a>
<a href="#">106.1006</a>	<a href="#">Petition Content Requirements</a>
<a href="#">106.1008</a>	<a href="#">Response and Reply</a>
<a href="#">106.1010</a>	<a href="#">Burden of Proof</a>
<a href="#">106.1012</a>	<a href="#">Board Decision</a>

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

AUTHORITY: Implementing and authorized by Sections 5, 14.2(c), 22.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5 and 52.3 of the Environmental Protection Act (the Act) [415 ILCS 5/5, 14.2(c), 22.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5 and 52.3], and Section 5 of the Regulation of Phosphorus in Detergents Act [415 ILCS 92/5], and Section 95 of the Electronic Products Recycling and Reuse Act [415 ILCS 150/95].

SOURCE: Filed with Secretary of State January 1, 1978; amended at 4 Ill. Reg. 2, p. 186, effective December 27, 1979; codified at 6 Ill. Reg. 8357; amended in R85-22 at 10 Ill. Reg. 992, effective February 2, 1986; amended in R86-46 at 11 Ill. Reg. 13457, effective August 4, 1987; amended in R82-1 at 12 Ill. Reg. 12484, effective July 13, 1988; amended in R88-10 at 12 Ill. Reg. 12817, effective July 21, 1988; amended in R88-5(A) at 13 Ill. Reg. 12094, effective July 10, 1989; amended in R88-5(B) at 14 Ill. Reg. 9442, effective June 5, 1990; amended in R93-24 at 18 Ill. Reg. 4230, effective March 8, 1994; amended in R93-30 at 18 Ill. Reg. 11579, effective July 11, 1994; amended in R99-9 at 23 Ill. Reg. 2697, effective February 16, 1999; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 550, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8817, effective June 8, 2005; amended in R10-19 at 34 Ill. Reg. 11486, effective July 23, 2010; amended in R12-21 at 36 Ill. Reg. 9236, effective June 17, 2012.

## SUBPART A: GENERAL PROVISIONS

**Section 106.100 Applicability**

- a) This Part applies to adjudicatory proceedings pursuant to specific rules or statutory provisions. Specifically, the Part applies to heated effluent, artificial cooling lake and sulfur dioxide demonstrations, water well setback exception procedures, revocation and reopening of CAAPP permits, maximum achievable control technology determinations, culpability determinations for particulate matter less than or equal to 10 microns, the involuntary termination of environmental management system agreements, ~~and~~ authorization of use of cleaning agents under the Regulation of Phosphorus in Detergents Act [415 ILCS

## POLLUTION CONTROL BOARD

## NOTICE OF ADOPTED AMENDMENTS

92], and temporary landfill ban waivers under the Electronic Products Recycling and Reuse Act [415 ILCS 150].

- b) This Part must be read in conjunction with 35 Ill. Adm. Code 101 which contains procedures generally applicable to all of the Board's adjudicatory proceedings. In the event of a conflict between the requirements of 35 Ill. Adm. Code 101 and those of this Part, the provisions of this Part apply.

(Source: Amended at 36 Ill. Reg. 9236, effective June 17, 2012)

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

Section 106.1000 General

- a) Applicability. This Subpart applies to any county government or municipal joint action agency filing a petition with the Board beginning April 1, 2012, but no later than December 31, 2013, for a temporary CED landfill ban waiver under Section 95(e) of the Electronic Products Recycling and Reuse Act [415 ILCS 150/95(e)].
- b) Demonstration. Any county government or municipal joint action agency filing a petition for a temporary CED landfill ban waiver under this Subpart must demonstrate that *the respective county's or action agency's jurisdiction may be granted a temporary CED landfill ban waiver due to a lack of funds and a lack of collection opportunities to collect CEDs and EEDs within the county's or action agency's jurisdiction.* [415 ILCS 150/95(e)].
- c) Parties. The person filing the petition for a temporary CED landfill ban waiver must be named the petitioner.
- d) Filing and service. The filing and service requirements of 35 Ill. Adm. Code 101.Subpart C will apply to the proceedings of this Subpart.

(Source: Added at 36 Ill. Reg. 9236, effective June 17, 2012)

Section 106.1002 Definitions

## POLLUTION CONTROL BOARD

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The definitions of 35 Ill. Adm. Code 101.Subpart B and Section 10 of the Electronic Products Recycling and Reuse Act will apply to this Subpart unless otherwise provided, or unless the context clearly indicates otherwise. If there is a conflict, the definitions of Section 10 of the Electronic Products Recycling and Reuse Act will apply. Terms defined in Section 10 of the Electronic Products Recycling and Reuse Act include the following:

"Covered electronic device" or "CED" means any computer, computer monitor, television, printer, electronic keyboard, facsimile machine, videocassette recorder, portable digital music player that has memory capability and is battery powered, digital video disc player, video game console, electronic mouse, scanner, digital converter box, cable receiver, satellite receiver, digital video disc recorder, or small-scale server sold at retail and taken out of service from a residence in this State. "Covered electronic device" does not include any of the following:

an electronic device that is part of a motor vehicle or any component part of a motor vehicle assembled by or for a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;

an electronic device that is functionally or physically part of a larger piece of equipment or that is taken out of service from an industrial, commercial (including retail), library checkout, traffic control, kiosk, security (other than household security), governmental, agricultural, or medical setting, including but not limited to diagnostic, monitoring, or control equipment; or

an electronic device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, water pump, sump pump, or air purifier.

To the extent allowed under federal and State laws and regulations, a CED that is being collected, recycled, or processed for reuse is not considered to be hazardous waste, household waste, solid waste, or special waste. [415 ILCS 150/10]

"Eligible electronic device" or "EED" means any of the following products sold at retail and taken out of service from a residence in this State: mobile telephone; computer cable; portable digital assistant (PDA); or zip drive. To the extent

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allowed under federal and State laws and regulations, an EED that is being collected, recycled, or processed for reuse is not considered to be hazardous waste, household waste, solid waste, or special waste. [415 ILCS 150/10]

"Municipal joint action agency" or "action agency" means a municipal joint action agency created under Section 3.2 of the Intergovernmental Cooperation Act. [415 ILCS 150/10]

"Program year" means a calendar year. The first program year is 2010. [415 ILCS 150/10]

(Source: Added at 36 Ill. Reg. 9236, effective June 17, 2012)

**Section 106.1004 Initiation of Proceeding**

The petitioner must file the petition for authorization with the Clerk of the Board and must serve one copy upon the Agency.

(Source: Added at 36 Ill. Reg. 9236, effective June 17, 2012)

**Section 106.1006 Petition Content Requirements**

- a) The petition from the county or action agency shall include the following:
- 1) documentation of the county's or action agency's attempts to gain funding, as well as the total funding obtained, for the collection of CEDs and EEDs in its jurisdiction from manufacturers or other units of government in the State; and
  - 2) an assessment of other collection opportunities in the county's or action agency's jurisdiction demonstrating insufficient capacity for the anticipated volume of CEDs and EEDs for the remainder of the program year in which the petition is being filed. [415 ILCS 150/95(e)]
- b) In addition to the information listed in subsection (a) of this Section, the petition from the county or action agency must also include:
- 1) total weight of CEDs and EEDs collected in the county's or action agency's jurisdiction during all preceding program years:

## POLLUTION CONTROL BOARD

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- 2) *total weight of CEDs and EEDs collected in the county's or action agency's jurisdiction during the year in which the petition is filed; and*
  - 3) *the projected difference in weight between prior program year in which the petition is filed. [415 ILCS 150/95(e)]*
- c) The petition shall include any other information that may be required by Section 95 of the Electronic Products Recycling and Reuse Act.

(Source: Added at 36 Ill. Reg. 9236, effective June 17, 2012)

**Section 106.1008 Response and Reply**

- a) Within 21 days after the filing of a petition, the Agency may file a response to any petition in which it has not joined as co-petitioner. The response must include comments concerning potential Board action on the petition.
- b) The petitioner may file a reply within 7 days after the service of any Agency response.

(Source: Added at 36 Ill. Reg. 9236, effective June 17, 2012)

**Section 106.1010 Burden of Proof**

The burden of proof is on the petitioner. A county government or municipal joint action agency filing a petition for a temporary CED landfill waiver ban must show *by clear and convincing evidence that a county or action agency has a lack of funds and its respective jurisdiction lacks sufficient collection opportunities to collect CEDs and EEDs.* [415 ILCS 150/95(e)]

(Source: Added at 36 Ill. Reg. 9236, effective June 17, 2012)

**Section 106.1012 Board Decision**

- a) *Within 60 days after the filing of the petition with the Board, the Board shall determine, based on the criteria in Section 95(e)(1) and (e)(2) of the Electronic Products Recycling and Reuse Act, whether a temporary CED landfill ban waiver shall be granted to the respective county or action agency for the remainder of the program year in which the petition is filed. [415 ILCS 150/95(e)]*

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- b) *If the Board grants a waiver under Section 95(e) of the Electronic Products Recycling and Reuse Act, Section 95(a) and (b) of that Act shall not apply to CEDs and EEDs that are taken out of service from residences within the jurisdiction of the county or action agency receiving the waiver and disposed of during the remainder of the program year in which the petition is filed. [415 ILCS 150/95(e)]*
- c) *Within 5 days after granting a temporary CED landfill ban waiver, the Board shall provide written notice to the Agency of the Board's decision. The notice shall be provided at least 15 days prior to the waiver taking effect. [415 ILCS 150/95(e)]*
- d) *If the Board denies the petition for a landfill ban waiver, the Board's order shall be final and immediately appealable to the circuit court having jurisdiction over the petitioner. [415 ILCS 150/95(e)]*

(Source: Added at 36 Ill. Reg. 9236, effective June 17, 2012)

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.3373                      Adopted Action:  
New Section
- 4) Statutory Authority: 35 ILCS 5/304(a)(3)(C-5)(iv)
- 5) Effective Date of Amendment: June 5, 2012
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the Department of Revenue's principal office and is available for public inspection.
- 9) Notice of Proposals Published in Illinois Register: 36 Ill. Reg. 2485; February 17, 2012
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Several non-substantive grammatical corrections were made in agreement with JCAR.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking provides guidance on when publishing and advertising services are received in Illinois for purposes of computing the sales factor used to determine the percentage of a nonresident's business income that is taxable by Illinois. The Department is expressly authorized to adopt rules providing guidance on this issue by IITA Section 304(a)(3)(C-5)(iv).

DEPARTMENT OF REVENUE

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

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

217/782-7055

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

## DEPARTMENT OF REVENUE

## NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUEPART 100  
INCOME TAX

## SUBPART A: TAX IMPOSED

## Section

- 100.2000 Introduction  
100.2050 Net Income (IITA Section 202)

## SUBPART B: CREDITS

## Section

- 100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))  
100.2101 Replacement Tax Investment Credit (IITA 201(e))  
100.2110 Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA 201(f))  
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone (IITA 201(g))  
100.2130 Investment Credit; High Impact Business (IITA 201(h))  
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))  
100.2150 Training Expense Credit (IITA 201(j))  
100.2160 Research and Development Credit (IITA 201(k))  
100.2163 Environmental Remediation Credit (IITA 201(l))  
100.2165 Education Expense Credit (IITA 201(m))  
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)  
100.2180 Credit for Residential Real Property Taxes (IITA 208)  
100.2185 Film Production Services Credit (IITA 213)  
100.2190 Tax Credit for Affordable Housing Donations (IITA Section 214)  
100.2193 Student-Assistance Contributions Credit (IITA 218)  
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)  
100.2196 Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)  
100.2197 Foreign Tax Credit (IITA Section 601(b)(3))  
100.2198 Economic Development for a Growing Economy Credit (IITA 211)  
100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

## SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS

## DEPARTMENT OF REVENUE

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## OCCURRING PRIOR TO DECEMBER 31, 1986

## Section

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

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

## Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns

## DEPARTMENT OF REVENUE

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- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

## SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

## Section

- 100.2405 Gross Income, Adjusted Gross Income, Taxable Income and Base Income Defined; Double Deductions Prohibited; Legislative Intention (IITA Section 203(e), (g) and (h))
- 100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
- 100.2430 Addition and Subtraction Modifications for Transactions with 80-20 and Noncombination Rule Companies
- 100.2435 Addition Modification for Student-Assistance Contribution Credit (IITA Sections 203(a)(2)(D-23), (b)(2)(E-16), (c)(2)(G-15), (d)(2)(D-10))
- 100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
- 100.2455 Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))
- 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
- 100.2480 Enterprise Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
- 100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

## SUBPART F: BASE INCOME OF INDIVIDUALS

## Section

- 100.2510 Subtraction for Contributions to Illinois Qualified Tuition Programs (Section 529 Plans) (IITA Section 203(a)(2)(Y))
- 100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
- 100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and Water Carriers

## SUBPART G: BASE INCOME OF TRUSTS AND ESTATES

## DEPARTMENT OF REVENUE

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## Section

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

## SUBPART I: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF BASE INCOME

## Section

- 100.3000 Terms Used in Article 3 (IITA Section 301)
- 100.3010 Business and Nonbusiness Income (IITA Section 301)
- 100.3015 Business Income Election (IITA Section 1501)
- 100.3020 Resident (IITA Section 301)

## SUBPART J: COMPENSATION

## Section

- 100.3100 Compensation (IITA Section 302)
- 100.3110 State (IITA Section 302)
- 100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

## SUBPART K: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

## Section

- 100.3200 Taxability in Other State (IITA Section 303)
- 100.3210 Commercial Domicile (IITA Section 303)
- 100.3220 Allocation of Certain Items of Nonbusiness Income by Persons Other Than Residents (IITA Section 303)

## SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

## Section

- 100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
- 100.3310 Business Income of Persons Other Than Residents (IITA Section 304) – In General
- 100.3320 Business Income of Persons Other Than Residents (IITA Section 304) – Apportionment (Repealed)

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- 100.3330 Business Income of Persons Other Than Residents (IITA Section 304) – Allocation
- 100.3340 Business Income of Persons Other Than Residents (IITA Section 304)
- 100.3350 Property Factor (IITA Section 304)
- 100.3360 Payroll Factor (IITA Section 304)
- 100.3370 Sales Factor (IITA Section 304)
- 100.3371 Sales Factor for Telecommunications Services
- [100.3373](#) [Sales Factor for Publishing](#)
- 100.3380 Special Rules (IITA Section 304)
- 100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
- 100.3400 Apportionment of Business Income of Financial Organizations for Taxable Years Ending Prior to December 31, 2008 (IITA Section 304(c))
- 100.3405 Apportionment of Business Income of Financial Organizations for Taxable Years Ending on or after December 31, 2008 (IITA Section 304(c))
- 100.3420 Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
- 100.3500 Allocation and Apportionment of Base Income by Nonresident Partners

## SUBPART M: ACCOUNTING

## Section

- 100.4500 Carryovers of Tax Attributes (IITA Section 405)

## SUBPART N: TIME AND PLACE FOR FILING RETURNS

## Section

- 100.5000 Time for Filing Returns: Individuals (IITA Section 505)
- 100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
- 100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
- 100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
- 100.5040 Innocent Spouses
- 100.5050 Frivolous Returns
- 100.5060 Reportable Transactions
- 100.5070 List of Investors in Potentially Abusive Tax Shelters and Reportable Transactions
- 100.5080 Registration of Tax Shelters (IITA Section 1405.5)

## SUBPART O: COMPOSITE RETURNS

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## Section

100.5100	Composite Returns: Eligibility
100.5110	Composite Returns: Responsibilities of Authorized Agent
100.5120	Composite Returns: Individual Liability
100.5130	Composite Returns: Required forms and computation of Income
100.5140	Composite Returns: Estimated Payments
100.5150	Composite Returns: Tax, Penalties and Interest
100.5160	Composite Returns: Credits on Separate Returns
100.5170	Composite Returns: Definition of a "Lloyd's Plan of Operation"
100.5180	Composite Returns: Overpayments and Underpayments

## SUBPART P: COMBINED RETURNS

## Section

100.5200	Filing of Combined Returns
100.5201	Definitions and Miscellaneous Provisions Relating to Combined Returns
100.5205	Election to File a Combined Return
100.5210	Procedures for Elective and Mandatory Filing of Combined Returns
100.5215	Filing of Separate Unitary Returns
100.5220	Designated Agent for the Members
100.5230	Combined Estimated Tax Payments
100.5240	Claims for Credit of Overpayments
100.5250	Liability for Combined Tax, Penalty and Interest
100.5260	Combined Amended Returns
100.5265	Common Taxable Year
100.5270	Computation of Combined Net Income and Tax
100.5280	Combined Return Issues Related to Audits

## SUBPART Q: REQUIREMENT AND AMOUNT OF WITHHOLDING

## Section

100.7000	Requirement of Withholding (IITA Section 701)
100.7010	Compensation Paid in this State (IITA Section 701)
100.7020	Transacting Business Within this State (IITA Section 701)
100.7030	Payments to Residents (IITA Section 701)
100.7035	Nonresident Partners, Subchapter S Corporation Shareholders, and Trust Beneficiaries (IITA Section 709.5)
100.7040	Employer Registration (IITA Section 701)

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100.7050	Computation of Amount Withheld (IITA Section 702)
100.7060	Additional Withholding (IITA Section 701)
100.7070	Voluntary Withholding (IITA Section 701)
100.7080	Correction of Underwithholding or Overwithholding (IITA Section 701)
100.7090	Reciprocal Agreement (IITA Section 701)
100.7095	Cross References

## SUBPART R: AMOUNT EXEMPT FROM WITHHOLDING

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100.7100	Withholding Exemption (IITA Section 702)
100.7110	Withholding Exemption Certificate (IITA Section 702)
100.7120	Exempt Withholding Under Reciprocal Agreements (IITA Section 702)

## SUBPART S: INFORMATION STATEMENT

Section	
100.7200	Reports for Employee (IITA Section 703)

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

Section	
100.7300	Returns and Payments of Income Tax Withheld from Wages (IITA Sections 704 and 704A)
100.7310	Returns Filed and Payments Made on Annual Basis (IITA Section 704)
100.7320	Time for Filing Returns and Making Payments for Taxes Required to Be Withheld Prior to January 1, 2008 (IITA Section 704)
100.7325	Time for Filing Returns and Making Payments for Taxes Required to Be Withheld On or After January 1, 2008 (IITA Section 704A)
100.7330	Payment of Tax Required to be Shown Due on a Return (IITA Sections 704 and 704A)
100.7340	Correction of Underwithholding or Overwithholding (IITA Section 704)
100.7350	Domestic Service Employment (IITA Sections 704 and 704A)
100.7360	Definitions and Special Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)
100.7370	Penalty and Interest Provisions Relating to Reporting and Payment of Income Tax Withheld (IITA Sections 704 and 704A)

## SUBPART U: ESTIMATED TAX PAYMENTS

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Section

- 100.8000 Payment of Estimated Tax (IITA Section 803)
- 100.8010 Failure to Pay Estimated Tax (IITA Sections 804 and 806)

SUBPART V: COLLECTION AUTHORITY

Section

- 100.9000 General Income Tax Procedures (IITA Section 901)
- 100.9010 Collection Authority (IITA Section 901)
- 100.9020 Child Support Collection (IITA Section 901)

SUBPART W: NOTICE AND DEMAND

Section

- 100.9100 Notice and Demand (IITA Section 902)

SUBPART X: ASSESSMENT

Section

- 100.9200 Assessment (IITA Section 903)
- 100.9210 Waiver of Restrictions on Assessment (IITA Section 907)

SUBPART Y: DEFICIENCIES AND OVERPAYMENTS

Section

- 100.9300 Deficiencies and Overpayments (IITA Section 904)
- 100.9310 Application of Tax Payments Within Unitary Business Groups (IITA Section 603)
- 100.9320 Limitations on Notices of Deficiency (IITA Section 905)
- 100.9330 Further Notices of Deficiency Restricted (IITA Section 906)

SUBPART Z: CREDITS AND REFUNDS

Section

- 100.9400 Credits and Refunds (IITA Section 909)
- 100.9410 Limitations on Claims for Refund (IITA Section 911)
- 100.9420 Recovery of Erroneous Refund (IITA Section 912)

SUBPART AA: INVESTIGATIONS AND HEARINGS

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## Section

100.9500	Access to Books and Records (IITA Section 913)
100.9505	Access to Books and Records – 60-Day Letters (IITA Section 913) (Repealed)
100.9510	Taxpayer Representation and Practice Requirements
100.9520	Conduct of Investigations and Hearings (IITA Section 914)
100.9530	Books and Records

## SUBPART BB: JUDICIAL REVIEW

## Section

100.9600	Administrative Review Law (IITA Section 1201)
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## SUBPART CC: DEFINITIONS

## Section

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

## SUBPART DD: LETTER RULING PROCEDURES

## Section

100.9800	Letter Ruling Procedures
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## SUBPART EE: MISCELLANEOUS

## Section

100.9900	Tax Shelter Voluntary Compliance Program
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100.APPENDIX A	Business Income Of Persons Other Than Residents
100.TABLE A	Example of Unitary Business Apportionment
100.TABLE B	Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

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SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a

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maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010; amended at 35 Ill. Reg. 4223, effective February 25, 2011; amended at 35 Ill. Reg. 15092, effective August 24, 2011; amended at 36 Ill. Reg. 2363, effective January 25, 2012; amended at 36 Ill. Reg. 9247, effective June 5, 2012.

## SUBPART L: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

**Section 100.3373 Sales Factor for Publishing**

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- a) For taxable years ending on or after December 31, 2008, sales of services (other than sales covered by IITA Section 304(a)(3)(B-1), (B-2) and (B-5)) are in this State if the services are received in this State. The Department may adopt rules prescribing where specific types of service are received, including, but not limited to, broadcast, cable, advertising, publishing, and utility service. (IITA Section 304(a)(3)(C-5)(iv)) This Section provides guidance for determining where publishing services are received and applies only to the gross receipts from publishing services of a taxpayer required to source gross receipts under IITA Section 304(a)(3)(C-5) in computing its sales factor.
- b) Definitions. For purposes of this Section, the following terms have the following meanings:
- 1) "Circulation factor" means, for each individual publication by the taxpayer of published material containing advertising, the ratio that the taxpayer's in-state circulation to purchasers and subscribers of the published material bears to its total circulation of the published material to purchasers and subscribers everywhere. If the geographic location of purchasers and subscribers of a publication is determined by the taxpayer for a business purpose (for example, in determining advertising rates), the circulation factor shall be determined for that publication using the geographic information used by the taxpayer for that purpose. Otherwise, the circulation factor shall be determined from the taxpayer's books and records or, if the books and records of the taxpayer are inadequate to allow the determination of the circulation factor of a publication or if the taxpayer so elects, the circulation factor for a publication shall be determined by reference to the rating statistics as reflected in such sources as Audit Bureau of Circulations, Internet World Stats, or other comparable sources, provided that the source selected is consistently used from year to year for that purpose.

EXAMPLE 1: Company A publishes advertising on the Internet for its customers. In order to calculate its circulation factor, Company A elects to utilize Internet World Stats. Company A determines its circulation factor by multiplying Illinois' population by the Internet penetration percentage of the United States, as reported on Internet World Stats, divided by the combined populations of the jurisdictions in which Company A does business multiplied by their respective Internet penetration percentages as

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reported on Internet World Stats. Company A must use this method consistently from year to year to compute its circulation factor.

- 2) "Publication" or "published material" includes, without limitation, the physical embodiment or printed version of any thought or expression, including, without limitation, a play, story, article, column or other literary, commercial, educational, artistic or other written or printed work. The determination of whether an item is or consists of published material shall be made without regard to its content. Published material may take the form of a book, newspaper, magazine, periodical, trade journal or any other form of printed matter and may be contained on any property or medium (including any electronic medium, such as, for example, the internet, but not including any broadcasting medium governed by IITA Section 304(a)(3)(B-7)).
  - 3) "Publishing" or "publishing services" means deriving business income from publishing, selling, licensing (other than licensing to another person for purposes of printing or other publication of the licensed material by that person within the meaning of IITA Section 304(a)(3)(B-1)) or distributing newspapers, magazines, periodicals, trade journals or other published material. "Publishing" or "publishing services" does not include delivery of materials published by a third party, and does not include delivery of materials published by the taxpayer when a separate charge is made for delivery. Fees for delivery services performed by a taxpayer who is not itself the publisher of the materials (such as a newspaper carrier) or that are charged separately by the publisher are sourced under Section 100.3370(c)(5), not under this Section.
  - 4) "Purchaser" and "subscriber" mean the individual, residence, business or other outlet that is the ultimate or final recipient of the published material. Neither term shall mean or include a wholesaler, retailer or other distributor of published material.
- c) Sales within this State from publishing include:
- 1) Gross receipts derived from the sale of published materials in the form of tangible personal property, as provided in Sections 100.3370(c) and 100.3380(c).

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- 2) The portion of gross receipts derived from sales of published materials in a form other than tangible personal property, from advertising and from the sale, rental or other use of the taxpayer's customer lists for a particular publication or any portion thereof attributed to this State using the taxpayer's circulation factor for that publication during the applicable tax period.
- d) For the purposes of this Section, other than sales of tangible personal property under subsection (c)(1):
- 1) Gross receipts from the performance of publishing services provided to a corporation, partnership, or trust may be attributed only to a state where that corporation, partnership, or trust has a fixed place of business, as defined in Section 100.3405(b)(1). (IITA Section 304(a)(3)(C-5)(iv)) When the circulation factor is determined by a method other than the taxpayer's own books and records, this subsection (d)(1) shall not apply.
- 2) If the state where the publishing services are received is not readily determinable or is a state where the corporation, partnership, or trust receiving the services does not have a fixed place of business, the services shall be deemed to be received at the location of the office of the customer from which the services were ordered in the regular course of the customer's trade or business. (IITA Section 304(a)(3)(C-5)(iv)) When the circulation factor is determined by a method other than the taxpayer's own books and records, this subsection (d)(2) shall not apply.
- 3) If the ordering office cannot be determined, the publishing services shall be deemed to be received at the office of the customer to which the services are billed. (IITA Section 304(a)(3)(C-5)(iv)) When the circulation factor is determined by a method other than the taxpayer's own books and records, this subsection (d)(3) shall not apply.
- 4) If the taxpayer is not taxable in the state in which the publishing services are received, the sale must be excluded from both the numerator and the denominator of the sales factor. (IITA Section 304(a)(3)(C-5)(iv)) See Section 100.3200 for guidance on determining when a taxpayer is taxable in a state.

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EXAMPLE 2: In computing its circulation factor, Company A from Example 1 must exclude from the denominator the population (weighted by the Internet penetration percentage as reported on Internet World Stats) of any jurisdiction in which Company A is not taxable.

(Source: Added at 36 Ill. Reg. 9247, effective June 5, 2012)

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## NOTICE OF PEREMPTORY AMENDMENTS

- 1) Heading of the Part: Meat and Poultry Inspection Act
- 2) Code Citation: 8 Ill. Adm. Code 125
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
125.30	Amendment
125.100	Amendment
125.142	Amendment
- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute that 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 77 FR 26929 (2012).
- 5) Statutory Authority: The Meat and Poultry Inspection Act [225 ILCS 650]
- 6) Effective Date: June 6, 2012
- 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 Federal Poultry Products Inspection Act and as required by Section 16 of the Meat and Poultry Inspection Act, the Department is adopting amendments to the federal meat and poultry products in rules.  
  
The Food Safety and Inspection Service (FSIS) is implementing provisions of the Food, Conservation, and Energy Act of 2008 by amending the federal meat and poultry products inspection regulations to require official establishments to promptly notify the appropriate District Office that an adulterated or misbranded meat or poultry product has entered commerce; require official establishments to prepare and maintain written procedures for the recall of all meat and poultry products produced and shipped by the establishment; and require official establishments to document each reassessment of the establishment's Hazard Analysis and Critical Control Point (HACCP) plans.
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date Filed with the Index Department: June 6, 2012
- 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.

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- 11) These preemptory amendments are in compliance with Section 5-150 of the Illinois Administrative Procedure Act.
- 12) Are there any other proposed rulemakings pending to this Part? No
- 13) Statement of Statewide Policy Objectives: These preemptory amendments do not affect units of local government.
- 14) Information and questions regarding these preemptory amendments shall be directed to:

Linda Rhodes  
Illinois Department of Agriculture  
State Fairgrounds, P. O. Box 19281  
Springfield, IL 62794-9281

217/524-9050  
217/557-5887 (fax)

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

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NOTICE OF PEREMPTORY AMENDMENTS

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

Section	
125.10	Definitions
125.20	Incorporation by Reference of Federal Rules
125.30	Application for License; Approval
125.40	Official Number
125.50	Inspections; Suspension or Revocation of License
125.60	Administrative Hearings; Appeals (Repealed)
125.70	Assignment and Authority of Program Employees
125.80	Schedule of Operations; Overtime
125.90	Official Marks of Inspection, Devices and Certificates
125.100	Records and Reports
125.110	Exemptions
125.120	Disposal of Dead Animals and Poultry
125.130	Reportable Animal and Poultry Diseases
125.140	Detention; Seizure; Condemnation
125.141	Sanitation Standard Operating Procedures (SOP's)
125.142	Hazard Analysis and Critical Control Point (HACCP) Systems
125.143	Imported Products
125.144	Preparation and Processing Operations
125.145	Control of Listeria Monocytogenes in Ready-to-Eat Meat and Poultry Products
125.146	Consumer Protection Standards: Raw Products
125.147	Rules of Practice
125.148	Quantity of Contents Labeling and Procedures and Requirements for Accurate Weights

SUBPART B: MEAT INSPECTION

Section	
125.150	Livestock and Meat Products Entering Official Establishments

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125.160	Equine and Equine Products
125.170	Facilities for Inspection
125.180	Sanitation (Repealed)
125.190	Ante-Mortem Inspection
125.200	Post-Mortem Inspection
125.210	Disposal of Diseased or Otherwise Adulterated Carcasses and Parts
125.220	Humane Slaughter of Animals
125.230	Handling and Disposal of Condemned or Other Inedible Products at Official Establishment
125.240	Rendering or Other Disposal of Carcasses and Parts Passed for Cooking
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

## SUBPART C: POULTRY INSPECTION

Section	
125.310	Application of Inspection
125.320	Facilities for Inspection
125.330	Sanitation
125.340	Operating Procedures
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 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].

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SOURCE: Adopted at 9 Ill. Reg. 1782, effective January 24, 1985; preemptory amendment at 9 Ill. Reg. 2337, effective January 28, 1985; preemptory amendment at 9 Ill. Reg. 2980, effective February 20, 1985; preemptory amendment at 9 Ill. Reg. 4856, effective April 1, 1985; preemptory amendment at 9 Ill. Reg. 9240, effective June 5, 1985; preemptory amendment at 9 Ill. Reg. 10102, effective June 13, 1985; preemptory amendment at 9 Ill. Reg. 11673, effective July 17, 1985; preemptory amendment at 9 Ill. Reg. 13748, effective August 23, 1985; preemptory amendment at 9 Ill. Reg. 15575, effective October 2, 1985; preemptory amendment at 9 Ill. Reg. 19759, effective December 5, 1985; preemptory amendment at 10 Ill. Reg. 447, effective December 23, 1985; preemptory amendment at 10 Ill. Reg. 1307, effective January 7, 1986; preemptory amendment at 10 Ill. Reg. 3318, effective January 24, 1986; preemptory amendment at 10 Ill. Reg. 3880, effective February 7, 1986; preemptory amendment at 10 Ill. Reg. 11478, effective June 25, 1986; preemptory amendment at 10 Ill. Reg. 14858, effective August 22, 1986; preemptory amendment at 10 Ill. Reg. 15305, effective September 10, 1986; preemptory amendment at 10 Ill. Reg. 16743, effective September 19, 1986; preemptory amendment at 10 Ill. Reg. 18203, effective October 15, 1986; preemptory amendment at 10 Ill. Reg. 19818, effective November 12, 1986; preemptory amendment at 11 Ill. Reg. 1696, effective January 5, 1987; preemptory amendment at 11 Ill. Reg. 2930, effective January 23, 1987; preemptory amendment at 11 Ill. Reg. 9645, effective April 29, 1987; preemptory amendment at 11 Ill. Reg. 10321, effective May 15, 1987; preemptory amendment at 11 Ill. Reg. 11184, effective June 5, 1987; preemptory amendment at 11 Ill. Reg. 14830, effective August 25, 1987; preemptory amendment at 11 Ill. Reg. 18799, effective November 3, 1987; preemptory amendment at 11 Ill. Reg. 19805, effective November 19, 1987; preemptory amendment at 12 Ill. Reg. 2154, effective January 6, 1988; amended at 12 Ill. Reg. 3417, effective January 22, 1988; preemptory amendment at 12 Ill. Reg. 4879, effective February 25, 1988; preemptory amendment at 12 Ill. Reg. 6313, effective March 21, 1988; preemptory amendment at 12 Ill. Reg. 6819, effective March 29, 1988; preemptory amendment at 12 Ill. Reg. 13621, effective August 8, 1988; preemptory amendment at 12 Ill. Reg. 19116, effective November 1, 1988; preemptory amendment at 12 Ill. Reg. 20894, effective December 21, 1988; preemptory amendment at 13 Ill. Reg. 228, effective January 11, 1989; preemptory amendment at 13 Ill. Reg. 2160, effective February 13, 1989; amended at 13 Ill. Reg. 3696, effective March 13, 1989; preemptory amendment at 13 Ill. Reg. 15853, effective October 5, 1989; preemptory amendment at 13 Ill. Reg. 16838, effective October 11, 1989; preemptory amendment at 13 Ill. Reg. 17495, effective January 18, 1990; amended at 14 Ill. Reg. 3424, effective February 26, 1990; preemptory amendment at 14 Ill. Reg. 4953, effective March 23, 1990; preemptory amendment at 14 Ill. Reg. 11401, effective July 6, 1990; preemptory amendment at 14 Ill. Reg. 13355, effective August 20, 1990; preemptory amendment at 14 Ill. Reg. 16064, effective September 24, 1990; preemptory amendment at 14 Ill. Reg. 21060, effective May 29, 1991; preemptory amendment at 15 Ill. Reg. 620, effective January 2, 1991; preemptory amendment withdrawn at 15 Ill. Reg. 1574, effective January 2, 1991; preemptory amendment at 15 Ill. Reg. 3117,

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effective September 3, 1991; preemptory amendment at 15 Ill. Reg. 8714, effective May 29, 1991; amended at 15 Ill. Reg. 8801, effective June 7, 1991; preemptory amendment at 15 Ill. Reg. 13976, effective September 20, 1991; preemptory amendment at 16 Ill. Reg. 1899, effective March 2, 1992; amended at 16 Ill. Reg. 8349, effective May 26, 1992; preemptory amendment at 16 Ill. Reg. 11687, effective July 10, 1992; preemptory amendment at 16 Ill. Reg. 11963, effective July 22, 1992; preemptory amendment at 16 Ill. Reg. 12234, effective July 24, 1992; preemptory amendment at 16 Ill. Reg. 16337, effective October 19, 1992; preemptory amendment at 16 Ill. Reg. 17165, effective October 21, 1992; preemptory amendment at 17 Ill. Reg. 2063, effective February 12, 1993; preemptory amendment at 17 Ill. Reg. 15725, effective September 7, 1993; preemptory amendment at 17 Ill. Reg. 16238, effective September 8, 1993; preemptory amendment at 17 Ill. Reg. 18215, effective October 5, 1993; preemptory amendment at 18 Ill. Reg. 304, effective December 23, 1993; preemptory amendment at 18 Ill. Reg. 2164, effective January 24, 1994; amended at 18 Ill. Reg. 4622, effective March 14, 1994; preemptory amendment at 18 Ill. Reg. 6442, effective April 18, 1994; preemptory amendment at 18 Ill. Reg. 8493, effective May 27, 1994; amended at 18 Ill. Reg. 11489, effective July 7, 1994; preemptory amendment at 18 Ill. Reg. 12546, effective July 29, 1994; preemptory amendment at 18 Ill. Reg. 14475, effective September 7, 1994; amended at 18 Ill. Reg. 14924, effective September 26, 1994; preemptory amendment at 18 Ill. Reg. 15452, effective September 27, 1994; preemptory amendment at 19 Ill. Reg. 1342, effective January 27, 1995; preemptory amendment at 19 Ill. Reg. 4765, effective March 13, 1995; preemptory amendment at 19 Ill. Reg. 7067, effective May 8, 1995; preemptory amendment at 19 Ill. Reg. 14896, effective October 6, 1995; preemptory amendment at 19 Ill. Reg. 15766, effective November 10, 1995; preemptory amendment at 19 Ill. Reg. 16866, effective December 22, 1995; preemptory amendment at 20 Ill. Reg. 5091, effective March 19, 1996; preemptory amendment at 20 Ill. Reg. 10403, effective July 17, 1996; amended at 20 Ill. Reg. 11928, effective September 1, 1996; preemptory amendment at 20 Ill. Reg. 12634, effective September 5, 1996; preemptory amendment at 20 Ill. Reg. 15371, effective November 13, 1996; preemptory amendment at 21 Ill. Reg. 1221, effective January 14, 1997; preemptory amendment at 21 Ill. Reg. 1719, effective January 28, 1997; preemptory amendment at 21 Ill. Reg. 6609, effective May 20, 1997; amended at 21 Ill. Reg. 11494, effective August 1, 1997; preemptory amendment at 21 Ill. Reg. 11788, effective August 8, 1997; preemptory amendment at 21 Ill. Reg. 12686, effective August 28, 1997; preemptory amendment at 21 Ill. Reg. 14575, effective October 22, 1997; preemptory amendment at 22 Ill. Reg. 3602, effective February 2, 1998; preemptory amendment at 22 Ill. Reg. 5740, effective March 5, 1998; preemptory amendment at 22 Ill. Reg. 9384, effective May 15, 1998; preemptory amendment at 22 Ill. Reg. 20645, effective November 16, 1998; amended at 23 Ill. Reg. 450, effective January 1, 1999; preemptory amendment at 23 Ill. Reg. 3851, effective March 11, 1999; preemptory amendment at 23 Ill. Reg. 10880, effective August 19, 1999; preemptory amendment at 24 Ill. Reg. 3933, effective February 22, 2000; preemptory amendment at 24 Ill. Reg. 5699, effective March 14, 2000; preemptory amendment at 24 Ill. Reg. 6734, effective April 14, 2000; amended

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at 24 Ill. Reg. 7197, effective April 27, 2000; preemptory amendment at 24 Ill. Reg. 14074, effective August 30, 2000; preemptory amendment at 24 Ill. Reg. 14451, effective September 15, 2000; preemptory amendment at 25 Ill. Reg. 7341, effective April 26, 2001; preemptory amendment at 25 Ill. Reg. 12434, effective September 13, 2001; preemptory amendment at 25 Ill. Reg. 15444, effective November 19, 2001; preemptory amendment at 26 Ill. Reg. 980, effective January 11, 2002; preemptory amendment at 26 Ill. Reg. 7750, effective May 10, 2002; amended at 27 Ill. Reg. 10205, effective July 1, 2003; preemptory amendment at 27 Ill. Reg. 13634, effective July 28, 2003; emergency amendment at 27 Ill. Reg. 14197, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; preemptory amendment at 27 Ill. Reg. 15172, effective September 15, 2003; preemptory amendment at 27 Ill. Reg. 17281, effective November 1, 2003; preemptory amendment at 27 Ill. Reg. 18270, effective November 14, 2003; amended at 28 Ill. Reg. 2131, effective February 1, 2004; preemptory amendment at 28 Ill. Reg. 3513, effective February 6, 2004; preemptory amendment at 28 Ill. Reg. 11934, effective August 5, 2004; preemptory amendment at 28 Ill. Reg. 15694, effective November 30, 2004; preemptory amendment at 28 Ill. Reg. 16368, effective December 6, 2004; preemptory amendment at 29 Ill. Reg. 2479, effective February 1, 2005; amended at 29 Ill. Reg. 5661, effective April 13, 2005; preemptory amendment at 29 Ill. Reg. 15645, effective October 7, 2005; amended at 29 Ill. Reg. 18432, effective October 28, 2005; preemptory amendment at 29 Ill. Reg. 20580, effective November 29, 2005; preemptory amendment at 29 Ill. Reg. 21058, effective December 21, 2005; preemptory amendment at 30 Ill. Reg. 2400, effective February 6, 2006; preemptory amendment at 30 Ill. Reg. 16081, effective September 25, 2006; preemptory amendment at 31 Ill. Reg. 5149, effective March 16, 2007; preemptory amendment at 31 Ill. Reg. 12624, effective August 20, 2007; preemptory amendment at 31 Ill. Reg. 16763, effective December 10, 2007; preemptory amendment at 32 Ill. Reg. 590, effective January 1, 2008; preemptory amendment at 32 Ill. Reg. 17831, effective October 30, 2008; preemptory amendment at 33 Ill. Reg. 1230, effective January 5, 2009; preemptory amendment at 33 Ill. Reg. 6338, effective April 17, 2009; preemptory amendment at 33 Ill. Reg. 12040, effective August 5, 2009; preemptory amendment at 35 Ill. Reg. 571, effective December 22, 2010; preemptory amendment at 35 Ill. Reg. 1802, effective January 14, 2011; preemptory amendment at 35 Ill. Reg. 19553, effective January 1, 2012; preemptory amendment at 36 Ill. Reg. 9264, effective June 6, 2012.

SUBPART A: GENERAL PROVISIONS FOR BOTH  
MEAT AND/OR POULTRY INSPECTION

**Section 125.30 Application for License; Approval**

- a) An application for license to operate an establishment or act as a broker shall be made in accordance with Section 3 of the Act. A fee as set forth in Section 3(b)

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of the Act shall accompany the license application.

- b) When there is a change in the ownership of the brokerage business or of the establishment or of any tenant or subsidiary of the licensee, a new application for license shall be submitted by the person desiring to operate the establishment or act as a broker in accordance with subsection (a) of this Section. If there has been no change in the facilities of the establishment as shown on the drawings and specifications required by subsection (c) of this Section and the licensee so states in writing to the Department, copies of drawings and specifications shall not be required to accompany the new application for license. When there is a change in the facilities or location of any official establishment or broker, a new application for license shall be submitted by the licensee in accordance with subsections (a) and (c) of this Section.
- c) In the case of establishments handling meat and meat products, the Department incorporates by reference 9 CFR 304.2(a)(1) and (2) and 304.3 (1997; [79 FR 26929, effective May 8, 2012](#)), and in case of establishments handling poultry and poultry products, the Department incorporates by reference 9 CFR 381.22 (2004; [79 FR 26929, effective May 8, 2012](#)). If the establishment handles both meat and/or poultry or meat and/or poultry products, the establishment shall comply with both of the before-stated provisions. Except that in any case, the Department requests 3 copies of said drawings and specifications to accompany the application for license. The specification requirements are as set forth in Sections 125.170 and 125.180.
- d) The applicant for license to operate an establishment or act as a broker shall submit the following information to the Department on the application form:
- 1) Name and address and telephone number of the applicant.
  - 2) Type of operation(s) the applicant will be performing (i.e., slaughter, processing, custom slaughter, meat broker, poultry broker, or meat and poultry broker).
  - 3) The location of the establishment or brokerage business for which the license is requested.
  - 4) The name and address of any tenant or subsidiary of the applicant that will be preparing meat and/or poultry or meat and/or poultry products at the

## DEPARTMENT OF AGRICULTURE

## NOTICE OF PEREMPTORY AMENDMENTS

establishment (if applicable).

- 5) Name of the establishment (trade name).
  - 6) Legal entity of the applicant (e.g., individual, association, corporation) and the legal name of the business.
  - 7) State where the corporation or association is incorporated and list of officers (if applicable).
- e) The applicant for license shall certify on the application for license that he/she shall comply with the Act and the rules of this Part. The applicant and any tenant or subsidiary of the applicant shall be responsible for compliance with the Act and rules of this Part.
  - f) The slaughter or preparation of meat and/or poultry products at any official establishment shall be performed only by employees of the licensee or by employees of the tenant or subsidiary whose name was submitted to the Department on the license application.
  - g) Before issuing a license to operate an establishment an inspection shall be made of the establishment to determine compliance with Sections 125.50, 125.170 and 125.180. All labels shall be approved in accordance with Sections 125.90 and 125.260 before any meat and/or poultry or meat and/or poultry product is transported in commerce. The Director shall issue a license to act as a broker or to operate an establishment if the applicant is not in violation of Section 19 of the Act and the establishment is in compliance with the rules of this Part. If the applicant for license is denied, the procedure as set forth in Section 19(F) of the Act shall be followed.
  - h) Only one license to operate an official establishment shall be issued by the Department for each facility. The slaughter of meat and/or poultry or the preparation of meat and/or poultry products by any tenant or subsidiary of the licensee who is listed on the application form shall be construed as part of the official establishment for inspection purposes.

(Source: Peremptory amendment at 36 Ill. Reg. 9264, effective June 6, 2012)

**Section 125.100 Records and Reports**

## DEPARTMENT OF AGRICULTURE

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- a) The Department incorporates by reference 9 CFR 320.1(b), 320.6(a), 320.7, 381.175(b), 381.180(a) and 381.181 (2004; 69 FR 1874, effective January 12, 2004; 74 FR 31829, effective July 6, 2009; [77 FR 26929, effective May 8, 2012](#)).
- b) Access to the establishment, its premises, records and inventories shall be provided to the Department in accordance with Section 14 of the Act and Section 125.70.
- c) Each person who is required to be licensed in accordance with Section 3 of the Act shall keep records as stated in the incorporated language of 9 CFR 320.1(b) and 381.175(b), except that for custom slaughtering and custom processing transactions, the recordkeeping requirements shall be those set forth in Section 5(B)(2)(f) of the Act. Records shall be retained for 5 years after December 31 of the year in which the transaction to which the record relates has occurred. If a record must be retained for longer than 5 years because of an on-going investigation or litigation, the Department shall notify the licensee in writing as to which record is to be retained, the reasons for such retention and the retention period. The Department shall consider when determining the retention period the court date, if known, or the time needed to conclude the investigation (e.g., considering the type of disease being investigated, the number of animals involved, and laboratory testing procedures, if applicable).
- d) The licensee of the official establishment shall maintain such records at the establishment. In the case of a broker, the records shall be maintained at the office listed on the application for license.
- e) The Department shall request a licensee to submit an evaluation of the inspection program or of the inspector's performance when the Department is conducting a review of the effectiveness of the Meat and Poultry Inspection Program or when a complaint on the inspector's performance has been received.

(Source: Peremptory amendment at 36 Ill. Reg. 9264, effective June 6, 2012)

**Section 125.142 Hazard Analysis and Critical Control Point (HACCP) Systems**

The Department incorporates by reference 9 CFR 417 (2004; [77 FR 26929, effective May 8, 2012](#)). The HACCP regulations set forth in 9 CFR 417 and related provisions set forth in 9 CFR 304, 327, and 381 will be applicable as follows:

## DEPARTMENT OF AGRICULTURE

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- a) In large establishments, defined as all establishments with 500 or more employees, on October 1, 1998;
- b) In smaller establishments, defined as all establishments with 10 or more employees but fewer than 500, on January 25, 1999;
- c) In very small establishments, defined as all establishments with fewer than 10 employees or annual sales of less than \$2.5 million, on January 25, 2000.

(Source: Peremptory amendment at 36 Ill. Reg. 9264, effective June 6, 2012)

## DEPARTMENT OF INSURANCE

## JULY 2012 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Access to Public Records, 2 Ill. Adm. Code 951

1) Rulemaking:

A) Description: The Department's existing Public Records Rule is being repealed and replaced by a new Rule that has been extensively revised to reflect amendments to the Illinois Freedom of Information Act [5 ILCS 140].

B) Statutory Authority: 5 ILCS 140, 215 ILCS 5/401 and 5 ILCS 100/5-15.

C) Scheduled meeting/hearing dates: None have been scheduled.

D) Date agency anticipates First Notice: Summer 2012.

E) Effect on small businesses, small municipalities or not for profit corporations: This proposal will not affect small businesses, small municipalities or not for profit organizations.

F) Agency contact person for information:

Susan Anders, Rules Coordinator  
Illinois Department of Insurance  
320 W. Washington St.  
Springfield, IL 62767-0001  
Telephone: 217/785-8220

G) Related rulemakings and other pertinent information: None.

b) Part(s) (Heading and Code Citation): Improper Claims Practice, 50 Ill. Adm. Code 919

1) Rulemaking:

A) Description: The proposed revision would incorporate the provisions of Department of Insurance Company Bulletin 2011-03 (Revised) "Use of Retained Asset Accounts" into Part 919.

B) Statutory Authority: 215 ILCS 5/154.6 and 224(1)(l)

## DEPARTMENT OF INSURANCE

## JULY 2012 REGULATORY AGENDA

- C) Scheduled meeting/hearing dates: None have been scheduled.
- D) Date agency anticipates First Notice: Summer 2012
- E) Effect on small businesses, small municipalities or not for profit corporations: This proposal will not affect small businesses, small municipalities or not for profit organizations.
- F) Agency contact person for information:

James J. Morris, Assistant Deputy Director  
Market Conduct & Analysis  
Illinois Department of Insurance  
320 West Washington St. 5<sup>th</sup> Floor  
Springfield, IL 62767-0001  
312/833-5582  
James.J.Morris@illinois.gov

- G) Related rulemakings and other pertinent information: None.

c) Part(s) (Heading and Code Citation): Medical Malpractice Data Base, 50 Ill. Adm. Code 928

1) Rulemaking:

- A) Description: On February 4, 2010, the Illinois Supreme Court held the limitation on non-economic damages in medical malpractice actions unconstitutional. Due to an inseverability provision in the Act in which the limitations (or "caps") were enacted (Public Act 94-677), the Supreme Court also held invalid the medical malpractice regulatory reforms contained in the Act. However, in its decision, the Supreme Court emphasized that other sections of Public Act 94-677 "are deemed invalid solely on inseverability grounds, the legislature remains free to reenact any provisions it deems appropriate."

As a result of the ruling, the Department is revising 50 Ill. Adm. Code 928 to comply with the law currently in effect. The Department anticipates

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## JULY 2012 REGULATORY AGENDA

that the current rule on file with the Secretary of State will be the starting point for any proposed amendments submitted for First Notice.

- B) Statutory Authority: 215 ILCS 5/155.19 and 401.
- C) Scheduled meeting/hearing dates: None have been scheduled.
- D) Date agency anticipates First Notice: Summer 2012.
- E) Effect on small businesses, small municipalities or not for profit corporations: This proposal will not affect small businesses, small municipalities or not for profit organizations.
- F) Agency contact person for information:

Joe Clennon, Staff Attorney  
Illinois Department of Insurance  
320 West Washington St.  
Springfield, IL 62767-0001  
217/557-1396

- G) Related rulemakings and other pertinent information: None.

d) Part(s) (Heading and Code Citation): Medical Liability Insurance Rules and Rate Filings, 50 Ill. Adm. Code 929

1) Rulemaking:

- A) Description: On February 4, 2010, the Illinois Supreme Court held the limitation on non-economic damages in medical malpractice actions unconstitutional. Due to an inseverability provision in the Act in which the limitations (or "caps") were enacted (Public Act 94-677), the Supreme Court also held invalid the medical malpractice regulatory reforms contained in the Act. However, in its decision, the Supreme Court emphasized that other sections of Public Act 94-677 "are deemed invalid solely on inseverability grounds, the legislature remains free to reenact any provisions it deems appropriate."

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As a result of the ruling, the Department is revising 50 Ill. Adm. Code 929 to comply with the law currently in effect. The Department anticipates that the current rule on file with the Secretary of State will be the starting point for any proposed amendments submitted for First Notice. One requirement that the Department will propose is that the rate and rule filings be submitted electronically. This electronic filing will be similar to other filings that the Department currently receives electronically.

- B) Statutory Authority: 215 ILCS 5/155.18
  - C) Scheduled meeting/hearing dates: None have been scheduled.
  - D) Date agency anticipates First Notice: Summer 2012
  - E) Effect on small businesses, small municipalities or not for profit corporations: This proposal will not affect small businesses, small municipalities or not for profit organizations.
  - F) Agency contact person for information:  
Joe Clennon, Staff Attorney  
Illinois Department of Insurance  
320 West Washington St.  
Springfield, IL 62767-0001  
217/557-1396
  - G) Related rulemakings and other pertinent information: None.
- e) Part(s) (Heading and Code Citation): Variable Contracts (50 Ill. Adm. Code 1451)
- 1) Rulemaking:
    - A) Description: The rulemaking focuses on the definition of variable contacts and the treatment of market value adjusted annuities. Clarification regarding the intent of how these items are to be treated is needed.
    - B) Statutory Authority: 215 ILCS 5/Art. XIV ½, 5/245.24 and 5/401.
    - C) Scheduled meeting/hearing dates: None have been scheduled.

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- D) Date agency anticipates First Notice: Fall 2012
- E) Effect on small businesses, small municipalities or not for profit corporations: This proposal will not affect small businesses, small municipalities or not for profit organizations.
- F) Agency contact person for information:  
  
Susan Lamb, Associate Actuary  
Department of Insurance  
320 West Washington, 4th Floor  
Springfield, Illinois 62767-0001  
217/782-1794
- G) Related rulemakings and other pertinent information: None.
- f) Part(s) (Heading and Code Citation): New rule, Accident and Health Expense Reporting, 50 Ill. Adm. Code 2043
- 1) Rulemaking:
- A) Description: The purpose of this rulemaking is to establish guidance for carriers to report to the Department information regarding administrative expenses for accident and health insurance business, as required by Section 359c of the Illinois Insurance Code [215 ILCS 5/359c].
- B) Statutory Authority: 215 ILCS 5/359c
- C) Scheduled meeting/hearing dates: None have been scheduled.
- D) Date agency anticipates First Notice: Summer 2012
- E) Effect on small businesses, small municipalities or not for profit corporations: None are anticipated.
- F) Agency contact person for information:  
  
Gerald Lucht, Health Actuary  
320 West Washington, 4th Floor

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Springfield, Illinois 62767-0001  
217/785-0260

G) Related rulemakings and other pertinent information: None

g) Part(s) (Heading and Code Citation): New rule, Workers' Compensation Electronic Claims, 50 Ill. Adm. Code 2908

1) Rulemaking:

A) Description: This rule is required to implement the electronic claims provisions contained in Section 8.2a of the Illinois Workers' Compensation Act [820 ILCS 305/8.2a]. The focus of this proposed rule is to provide a legal framework for electronic billing, processing, and payment of medical services and products provided to an injured employee and data reporting subject to Section 8.2a.

B) Statutory Authority: 820 ILCS 305/8.2a

C) Scheduled meeting/hearing dates: None have been scheduled.

D) Date agency anticipates First Notice: Summer 2012

E) Effect on small businesses, small municipalities or not for profit corporations: Unknown

F) Agency contact person for information:

Jim Stephens, Deputy Director  
Property & Casualty Compliance Unit  
320 W. Washington St., 5<sup>th</sup> Floor  
Springfield, IL 62767-0001  
217/558-3952  
James.Stephens@Illinois.gov

G) Related rulemakings and other pertinent information: None.

h) Part(s) (Heading and Code Citation): Notice of Eligibility, 50 Ill. Adm. Code 5301

## DEPARTMENT OF INSURANCE

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- 1) Rulemaking:
  - A) Description: Established pursuant to the federal Patient Protection and Affordable Care Act (P.L. 111-148), the Illinois Pre-Existing Condition Insurance Plan (IPXP) is a federally-funded alternative to the Illinois Comprehensive Health Insurance Program (CHIP). The IPXP has different eligibility requirements and may be more affordable for many consumers. By amending these notice requirements, Illinois consumers will be better informed about their options if they are turned down for health insurance for health reasons.
  - B) Statutory Authority: 215 ILCS 105/11
  - C) Scheduled meeting/hearing dates: None have been scheduled.
  - D) Date agency anticipates First Notice: Summer 2012.
  - E) Effect on small businesses, small municipalities or not for profit corporations: None.
  - F) Agency contact person for information:

Ted Whalen, Staff Attorney  
Department of Insurance  
100 W. Randolph St., Ste. 9-301  
Chicago, IL 60601  
312/814-5425
  - G) Related rulemakings and other pertinent information: None.
- i) Part(s) (Heading and Code Citation): Discount Rate – Periodic Payments – Medical Malpractice 50 Ill. Adm. Code NEW
  - 1) Rulemaking:
    - A) Description: 735 ILCS 5/2-1719 requires the Director of Insurance to promulgate rules and procedures:

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- 1) for determining which insurers, self-insurers, plans, arrangements, reciprocals or other entities under his or her regulation are financially qualified to provide the security required under Section 1711 and to be designated as qualified insurers;
- 2) to require insurers to post security under Section 2-1711 if found by the court to be obligated and capable of posting security; and
- 3) for publishing prior to January 1 of each year the rate of discount per annum set out in subsection (c) of Section 2-1709.

The proposed rule will fulfill these requirements.

- B) Statutory Authority: 735 ILCS 5/2-1719, 215 ILCS 5/401
- C) Scheduled meeting/hearing dates: None have been scheduled.
- D) Date agency anticipates First Notice: Fall 2012.
- E) Effect on small businesses, small municipalities or not for profit corporations: None.
- F) Agency contact person for information:  
  
Joe Clennon, Staff Attorney  
Illinois Department of Insurance  
320 West Washington St.  
Springfield, IL 62767-0001  
217/557-1396
- G) Related rulemakings and other pertinent information: None.

## POLLUTION CONTROL BOARD

## JULY 2012 REGULATORY AGENDA

- a) Parts (Headings and Code Citations): Proceedings Pursuant to Specific Rules or Statutory Provisions (35 Ill. Adm. Code 106)
- 1) Rulemaking: Docket number R12-11
- A) Description: The Board has proposed new procedural rules to be codified at 35 Ill. Adm. Code 106. Subpart I. These rules apply to Board authorizations made under P. A. 97-220, signed and effective July 28, 2011. Among other things, P.A. 97-220 amends Section 21(q) of the Environmental Protection Act (Act), 415 ILCS 5/21(q) (2010). The amendments to Section 21(q) now specify that the Board (rather than the Illinois Environmental Protection Agency, as previously provided) may authorize certain exceptions to the provisions of that section.
- One type of Board authorization available under Section 21(q)(2) would allow any person to apply landscape waste or composted landscape waste at a rate greater than "agronomic rates" of not more than 20 tons per acre per year. The other type of Board authorization is under Section 21(q)(3), and is limited to farm owners or operators of a composting facility on which the landscape waste composting material is utilized who wish to operate the compost facility on more than 2% of the property's total acreage. Without such Board authorizations, these activities are prohibited acts under Section 21(q), and violators are subject to enforcement.
- A second First Notice was published adding petition notice requirements, and proof of petition notice requirements.
- B) Statutory authority: Implementing Sections 21(q)(3)(A) and 26 of the Environmental Protection Act (the Act) [415 ILCS 21(q)(3)(A) and 26].
- C) Scheduled meeting/hearing dates: The Board does not intend to hold a hearing on these proposed rules unless requested to do so. The Board is not required to hold a public hearing to amend its procedural rules pursuant to Section 26 and 27 of the Act [415 ILCS 5/26 and 27].
- D) Date agency anticipates First Notice: First Notice was published in the *Illinois Register* on November 14, 2011. A second First Notice was published in the *Illinois Register* on February 24, 2012.

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- 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 is currently regulated by 35 Ill. Adm. Code 218.585, 219.585, and Subpart HH of Parts 218 and 219.
- F) Agency contact person for information: Address comments concerning the substance of the rulemaking to:

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

Address questions concerning this regulatory agenda to:

Kathleen Crowley, Senior Attorney  
Pollution Control Board  
100 W. Randolph St., Ste. 11-500  
Chicago, Illinois 60601  
312/814-6929  
crowlek@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Kathleen Crowley, Senior Attorney  
Pollution Control Board  
100 W. Randolph St., Ste. 11-500  
Chicago, Illinois 60601  
312/814-6929  
crowlek@ipcb.state.il.us

- b) Parts (Headings and Code Citations):

Definitions and General Provisions (35 Ill. Adm. Code 211)  
Organic Material Emission Standards and Limitations (35 Ill. Adm. Code 215)  
Organic Material Emission Standards and Limitations for the Chicago Area (35 Ill. Adm. Code 218)

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Organic Material Emission Standards and Limitations for the Metro East Area (35 Ill. Adm. Code 219)

- 1) Rulemaking: Docket number R12-24
  - A) Description: On April 2, 2012, the Illinois Environmental Protection Agency (Agency) filed a rulemaking proposal to amend the Board's regulations for organic material emission standards and limitations. More specifically, the Agency proposed to repeal the Gasoline Volatility Standards, codified at 35 Ill. Adm. Code 215.585 and 219.585, as well as those specific for the Metro East and Chicago areas. These standards have been essentially superseded by the Federal gasoline volatility standards and the federal Reformulated Gasoline (RFG) program. The proposal will also impact Subpart HH of Parts 218 and 219 applicable to motor vehicle refinishing operations. Proposed amendments would allow alternative use of equivalent High Volume Low Pressure (HVLP) spray gun technology for which USEPA has given written approval, and would repeal an Illinois registration program that overlaps with a federal one.
  - B) Statutory authority: Implementing Section 10 of the Environmental Protection Act [415 ILCS 5/10] and authorized by the Section 27 and 28 of the Environmental Protection Act [415 ILCS 5/27 and 5/28].
  - C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. The Board will conduct public hearings in accordance with the requirements established by Section 27 and 28 of the Act [415 ILCS 5/27 and 5/28].
  - D) Date agency anticipates First Notice: A Notice of Proposed Amendments appeared in the *Illinois Register* on May 11, 2012.
  - 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 is currently regulated by 35 Ill. Adm. Code 218.585, 219.585, or Subpart HH of Parts 218 and 219.
  - F) Agency contact person for information: Address comments concerning the substance of the rulemaking to:

## POLLUTION CONTROL BOARD

## JULY 2012 REGULATORY AGENDA

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

Address questions concerning this regulatory agenda to:

Kathleen M. Crowley, Senior Attorney  
Pollution Control Board  
100 W. Randolph Street, Suite 11-500  
Chicago, Illinois 60601  
312/814-6929  
crowlek@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Kent Mohr  
Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Ave. East  
Springfield, Illinois 62794-9276  
217-782-5544  
crowlek@ipcb.state.il.us

- c) Parts (Headings and Code Citations):

Permits and General Provisions (35 Ill. Adm. Code 201)  
Definitions and General Provisions (35 Ill. Adm. Code 211)  
Organic Material Emission Standards and Limitations (35 Ill. Adm. Code 215)  
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 Illinois Environmental Protection Agency (Agency) is in

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the process of developing a rulemaking proposal to file with the Board setting forth regulations that will incorporate the Federal National Emission Standards for Hazardous Air Pollutants (NESHAP) for certain area sources, including but not limited to gasoline dispensing facilities.

- 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].
- C) Scheduled meeting/hearing dates: The Agency has stated that it anticipates filing a rulemaking proposal with the Board within the next six months. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Section 27 of the Act [415 ILCS 5/27].
- D) Date agency anticipates First Notice: An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal within the next six months. After the filing of a proposal by the Agency, the Board will cause a Notice of Proposed Amendments to appear 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 would fall under the classification of a gasoline dispensing facility and other area source NESHAPs.
- F) Agency contact person for information: Address comments concerning the substance of the rulemaking to:

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

Address questions concerning this regulatory agenda to:

Carol Webb

## POLLUTION CONTROL BOARD

## JULY 2012 REGULATORY AGENDA

Pollution Control Board  
1021 North Grand Ave. East  
P.O. Box 19274  
Springfield, Illinois 62794  
webbc@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Kent Mohr  
Illinois Environmental Protection Agency  
Division of Legal Counsel  
021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794  
217/782-5544

- d) Parts (Headings and Code Citations):

Permits and General Provisions (35 Ill. Adm. Code 201)  
Definitions and General Provisions (35 Ill. Adm. Code 211)

- 1) Rulemaking: No docket presently reserved.
- A) Description: The Illinois Environmental Protection Agency (Agency) is currently contemplating developing amendments for proposal to the Board. The proposal relates to the collection of fees under the Clean Air Act Permit Program ("CAAPP") from sources emitting greenhouse gases. The proposal may amend or create definitions.
- B) Statutory authority: Implementing Section 10 of the Act [415 ILCS 5/10] and consistent with by Sections 27 of the Act [415 ILCS 5/27], and necessary should Section 39.5 of the Act be amended [415 ILCS 5/39.5].
- C) Scheduled meeting/hearing dates: The Agency has stated that it anticipates filing a rulemaking proposal with the Board within the next six months. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance

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with the requirements established by Section 27 of the Act [415 ILCS 5/27].

- D) Date agency anticipates First Notice: An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal within the next six months. After the filing of a proposal by the Agency, 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 proposal may affect any small business, small municipality or not-for-profit corporation that produces the various categories of products and may have to obtain permits and pay higher fees.
- F) Agency contact person for information: Address comments concerning the substance of the rulemaking to:

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

Address questions concerning this regulatory agenda to:

Carol Webb  
Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
webbc@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Charles Matoesian  
Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East

## POLLUTION CONTROL BOARD

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P.O. Box 19276  
Springfield, IL 62794-9276  
217/782-5544

e) Parts (Heading and Code Citations):

Permits and General Provisions (35 Ill. Adm. Code 201)

Organic Material Emission Standards and Limitations for the Chicago Area (35 Ill. Adm. Code 218)

1) Rulemaking: No docket presently reserved.

- A) Description: The Illinois Environmental Protection Agency (Agency) is currently developing amendments for proposal to the Board. The proposal would relate to the requirement to install a vapor collection and control system (Stage II system) on motor vehicle fuel dispensers at gasoline dispensing operations subject to 35 Ill. Adm. Code 218.586. This proposal is based on the United States Environmental Protection Agency's (USEPA) waiver of the Clean Air Act (CAA) Section 182(b)(3) Stage II requirement and onboard refueling vapor recovery (ORVR) widespread use determination under CAA Section 202(a)(6) (77 Fed. Reg. 28772).
- B) Statutory Authority: Implementing and authorized by Sections 10, 27, and 28 of the Environmental Protection Act [415 ILCS 5/10, 27, and 28].
- C) Scheduled meeting/hearing dates: No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Section 27 of the Act [415 ILCS 5/27].
- D) Date agency anticipates First Notice: An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency anticipates filing a proposal within the next six months. After the filing of a proposal by the Agency, 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 proposal may affect any small business, small municipality, or not-for-profit corporation subject to the requirements of

## POLLUTION CONTROL BOARD

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35 IAC 218.586.

- F) Agency contact person for information: Address questions concerning this regulatory agenda to:

Carol Webb  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
webbc@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the Agency's development of this proposal, please contact:

Kent Mohr  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 N. Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
kent.mohr@illinois.gov

- f) Parts (Headings and Code Citations): Major Stationary Sources Construction and Modification (35 Ill. Adm. Code 203)

- 1) Rulemaking: No docket presently reserved.

- A) Description: The Illinois Environmental Protection Agency (Agency) is in the process of developing a rulemaking to add relevant applicability provisions to explicitly address PM<sub>2.5</sub> and related precursor compounds.
- B) Statutory authority: Implementing Sections 9.1 and 10 and authorized by Section 27 and Section 28.5 of the Environmental Protection Act [415 ILCS 5/9.1, 10 and 27 and 28.5].
- C) Scheduled meeting/hearing dates: The Agency has stated that it anticipates filing a rulemaking proposal with the Board within the next six months. No meetings or hearings are scheduled at this time. Once the

## POLLUTION CONTROL BOARD

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proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Section 27 of the Act [415 ILCS 5/27].

- D) Date agency anticipates First Notice: An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal within the next six months. After the filing of a proposal by the Agency, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*.
- E) Effect on small business, small municipalities, or not-for-profit corporation: This rule change may affect any small business, small municipality, or not-for-profit corporation subject to provisions set forth in 35 Ill. Adm. Code Part 203.
- F) Agency contact person for information: Address comments concerning the substance of the rulemaking:

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

Address questions concerning this regulatory agenda:

Carol Webb  
Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
webbc@ipcb.state.il.us

- G) Related rulemakings and other pertinent information:  
For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Kent Mohr  
Illinois Environmental Protection Agency  
Division of Legal Counsel

## POLLUTION CONTROL BOARD

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1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544

- g) Parts (Headings and Code Citations): Major Stationary Sources Construction and Modification (35 Ill. Adm. Code 203)
- 1) Rulemaking: No docket presently reserved.
- A) Description: The Illinois Environmental Protection Agency (Agency) is currently developing amendments for proposal to the Board. The proposal will establish a "grandfathering" provision for particulate matter less than 2.5 micrometers (PM2.5) in the Federal Prevention of Significant Deterioration (PSD) program. The "grandfathering" provision applies to permit applications submitted before the July 15, 2008, effective date of the new rule, which allows the PM10 surrogate policy to continue to be used as the basis for approving such permits for PM2.5.
- B) Statutory authority: Implementing Section 10 of the Act [415 ILCS 5/10] and authorized by Section 27 of the Act [415 ILCS 5/27].
- C) Scheduled meeting/hearing dates: The Agency has stated that it anticipates filing a rulemaking proposal with the Board within the next six months. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Section 27 of the Act [415 ILCS 5/27].
- D) Date agency anticipates First Notice: An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal within the next six months. After the filing of a proposal by the Agency, 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 proposal may affect any small business, small municipality or not-for-profit corporation that produces the various components of particulate matter.

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- F) Agency contact person for information: Address comments concerning the substance of the rulemaking to:

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

Address questions concerning this regulatory agenda to:

Carol Webb  
Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
webbc@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Charles Matoesian  
Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, IL 62794-9276  
217/782-5544

- h) Part (Heading and Code Citations): Emissions Reduction Market System (35 Ill. Adm. Code 205)

- 1) Rulemaking: No docket presently reserved.

- A) Description: The Illinois Environmental Protection Agency (Agency) is currently developing amendments for proposal to the Board. The proposal would sunset the provisions of the Emissions Reduction Market System (ERMS). The ERMS is a market-based cap and trade program designed to

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reduce emissions of volatile organic material (VOM) in the Chicago area. The program allows trading among participating sources through the use of allotment trading units (ATUs) in order to meet a reduced cap on their overall VOM emissions. In studying the available data, the Agency finds that the ERMS program is operating successfully. The participating sources are performing significantly below the baseline and allotment levels. The ERMS has achieved its goals and is no longer needed for VOM emission reductions in the Chicago area. However, participating sources are still subject to applicable State and Federal air pollution regulations.

- B) Statutory Authority: Implementing and authorized by Sections 10, 27, and 28 of the Environmental Protection Act [415 ILCS 5/10, 27, and 28].
- C) Scheduled meeting/hearing dates: The Agency has stated that it anticipates filing a rulemaking proposal with the Board within the next six months. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Section 27 of the Act [415 ILCS 5/27].
- D) Date agency anticipates First Notice: An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal within the next six months. After the filing of a proposal by the Agency, 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 proposal may affect any small business, small municipality, or not-for-profit corporation subject to the ERMS.
- F) Agency contact person for information:

Address questions concerning this regulatory agenda to:

Carol Webb  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274

## POLLUTION CONTROL BOARD

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Springfield, Illinois 62794-9274  
webbc@ipcb.state.il.us

G) Related rulemakings and other pertinent information:

For information regarding the Agency's development of this proposal,  
please contact:

Gina Roccaforte  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 N. Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
gina.roccaforte@illinois.gov

i) Part (Heading and Code Citation): Definitions and General Provisions (35 Ill. Adm. Code 211)1) Rulemaking: Docket number R13-1A) Description:

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

The Board has reserved this docket number to accommodate any federal

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amendments to the 40 CFR 51.100(s) definition of VOM that USEPA may make in the period January 1, 2012 through June 30, 2012. At this time, the Board is not aware of any federal amendments to the federal RCRA Subtitle C hazardous waste rules that occurred during this update period.

Section 9.1(e) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Within the next month, the Board will verify the existence of any federal actions that may affect the text of the federal primary drinking water standards. The Board will then either propose corresponding amendments to the Illinois definition of VOM using the identical-in-substance procedure, or dismiss this docket if no action is needed.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 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 expects to verify any federal actions within the next month. If amendments are required, the Board will publish notice in the *Illinois Register* approximately 90 days before adoption to allow time for a 45-day public comment period. If no amendment is needed, the Board will dismiss this reserved docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations:  
This rulemaking may affect any small business, small municipality, or not-for-profit corporation that 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,

## POLLUTION CONTROL BOARD

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noting docket number R13-5 as follows:

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

Address questions concerning this regulatory agenda, noting docket number R13-5 as follows:

Michael J. McCambridge, Attorney  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601  
(312)814-6924  
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 in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

j) Parts (Headings and Code Citations):

Definitions and General Provisions (35 Ill. Adm. Code 211)  
Visible and Particulate Matter Emissions (35 Ill. Adm. Code 212)

- 1) Rulemaking: No docket presently reserved.

- A) Description: The Illinois Environmental Protection Agency (Agency) is in the process of developing a rulemaking to revise the methods for measuring filterable and condensable PM10 and to add methods for measuring filterable and condensable PM2.5. The rulemaking may also include necessary clean-up language and updates throughout Part 212.

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- B) Statutory authority: Implementing Section 10 and authorized by Section 27 and Section 28 of the Environmental Protection Act [415 ILCS 5/10 and 27 and 28].
- C) Scheduled meeting/hearing dates: The Agency has stated that it anticipates filing a rulemaking proposal with the Board within the next six months. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Section 27 of the Act [415 ILCS 5/27].
- D) Date agency anticipates First Notice: An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal within the next six months. After the filing of a proposal by the Agency, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*.
- E) Effect on small business, small municipalities, or not-for-profit corporation: This rule change may affect any small business, small municipality, or not-for-profit corporation subject to provisions set forth in 35 Ill. Adm. Code Part 212.
- F) Agency contact person for information:  
Address comments concerning the substance of the rulemaking:

John Therriault, Acting Clerk  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601  
312/814-3629

Address questions concerning this regulatory agenda:

Carol Webb  
Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274

## POLLUTION CONTROL BOARD

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webbc@ipcb.state.il.us

- H) Related rulemakings and other pertinent information:  
For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Kent Mohr  
Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544

- k) Parts (Heading and Code Citations):

Definitions and General Provisions (35 Ill. Adm. Code 211)  
Sulfur Limitation (35 Ill. Adm. Code 214)

- 1) Rulemaking: No docket presently reserved.
- A) Description: The Illinois Environmental Protection Agency (Agency) is currently developing amendments for proposal to the Board. The proposal would amend our current sulfur dioxide (SO<sub>2</sub>) emission limitations as needed to address the 2010 SO<sub>2</sub> National Ambient Air Quality Standards (NAAQS).
- B) Statutory Authority: Implementing and authorized by Sections 10, 27, and 28 of the Environmental Protection Act [415 ILCS 5/10, 27, and 28].
- C) Scheduled meeting/hearing dates:  
The Agency has stated that it anticipates filing a rulemaking proposal with the Board within the next six months. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Section 27 of the Act [415 ILCS 5/27].
- D) Date agency anticipates First Notice: An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated

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that it expects to file a proposal within the next six months. After the filing of a proposal by the Agency, 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 proposal may affect any small business, small municipality, or not-for-profit corporation subject to the requirements of SO<sub>2</sub> NAAQS.

- F) Agency contact person for information:

Address questions concerning this regulatory agenda to:

Carol Webb  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
webbc@ipcb.state.il.us

- G) Related rulemakings and other pertinent information:  
For information regarding the Agency's development of this proposal, please contact:

Dana Vetterhoffer  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 N. Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
dana.vetterhoffer@illinois.gov

- I) Parts (Headings and Code Citations):

Definitions and General Provisions (35 Ill. Adm. Code 211)  
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)

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- 1) Rulemaking: No docket presently reserved.
  - A) Description: The Illinois Environmental Protection Agency (Agency) is currently developing amendments for proposal to the Board. The proposal will modify the definitions of "miscellaneous metal parts and products coating" and "coil coating" for Parts 218 and 219 to clarify that lubricating oils are not considered "coatings" for purposes of Subpart F, Coating Operations, but rather protective oils applied to metal for the purpose of providing lubrication, similar to the treatment of such oils under the Federal National Emission Standards for Hazardous Air Pollutants for Surface Coating of Miscellaneous Metal Parts and Products, 40 CFR Part 63, Subpart Mmmm.
  - B) Statutory authority: Implementing Section 10 of the Act [415 ILCS 5/10] and authorized by Section 27 of the Act [415 ILCS 5/27].
  - C) Scheduled meeting/hearing dates: The Agency has stated that it anticipates filing a rulemaking proposal with the Board within the next six months. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Section 27 of the Act [415 ILCS 5/27].
  - D) Date agency anticipates First Notice: An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal within the next six months. After the filing of a proposal by the Agency, 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 proposal may affect any small business, small municipality or not-for-profit corporation that uses lubricating oil that is applied to metal for purposes of lubrication in a metal fabrication process.
  - F) Agency contact person for information: Address comments concerning the substance of the rulemaking to:

John Therriault, Acting Clerk

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

Address questions concerning this regulatory agenda to:

Carol Webb  
Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
webbc@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Gina Roccaforte  
Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544

- m) Part (Heading and Code Citations): Air Quality Standards (35 Ill. Adm. Code 243)

- 1) Rulemaking: No docket presently reserved.

- A) Description: The Illinois Environmental Protection Agency (Agency) is currently developing amendments for proposal to the Board. The proposal would amend Part 243 to reflect new National Ambient Air Quality Standards (NAAQS) adopted by the United States Environmental Protection Agency (USEPA). Specifically, the Agency proposes to update the sulfur dioxide (SO<sub>2</sub>) standard and the nitrogen dioxide (NO<sub>2</sub>) standard. The Agency will also include a general clean-up of Part 243.
- B) Statutory Authority: Implementing and authorized by Sections 10, 27, and 28 of the Environmental Protection Act [415 ILCS 5/10, 27, and 28].

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- C) Scheduled meeting/hearing dates: The Agency has stated that it anticipates filing a rulemaking proposal with the Board within the next six months. No meetings or hearings are scheduled at this time. Once the proposal is filed, the Board will conduct public hearings in accordance with the requirements established by Section 27 of the Act [415 ILCS 5/27].
- D) Date agency anticipates First Notice: An Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal within the next six months. After the filing of a proposal by the Agency, 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: Any small business, small municipality, or not-for-profit corporation that emits the contaminants regulated by Part 243 could be affected by the proposed amendments.
- F) Agency contact person for information:

Address questions concerning this regulatory agenda to:

Carol Webb  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
webbc@ipcb.state.il.us

- G) Related rulemakings and other pertinent information:  
For information regarding the Agency's development of this proposal, please contact:

Charles Matoesian  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 N. Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544

## POLLUTION CONTROL BOARD

## JULY 2012 REGULATORY AGENDA

charles.matoesian@illinois.gov

- n) Parts (Heading and Code Citation): Water Quality Standards (35 Ill. Adm. Code 302)
- 1) Rulemaking: Docket number R11-18
- A) Description: On December 2, 2010, pursuant to the requirements of the Clean Water Act to conduct triennial reviews of water quality standards [33 U.S.C. §1313(c)(1)], the Illinois Environmental Protection Agency filed a rulemaking proposal with the Board. The proposal would update the Public and Food Processing Water Supply and General Use water quality standards in 35 Ill. Adm. Code Part 302 for boron, manganese and fluoride based on the most up to date scientific information available.
- The Agency has also proposed other miscellaneous changes, including a proposal to eliminate the *Illinois Register* publication requirement for numeric criteria derived under 35 Ill. Adm. Code 302.Subpart F, such criteria instead to be maintained on the Agency website under specified update conditions; corrections to the General Use zinc standard; elimination of STORET codes (as that database is no longer being supported by USEPA); revision to cross-references; clarification of language in Section 302.208; and changes of references to cyanide mercury, chloride, and toluene in tables.
- 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: A hearing was held in Springfield on June 21, 2011, and another hearing is scheduled for July 26, 2011 in Chicago.
- D) Date agency anticipates First Notice: A Notice of Proposed Amendments was published in the *Illinois Register* on April 13, 2012.
- 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 discharge boron, manganese, fluoride, or zinc into waters of the State designated as General Use waters or Public and Food Processing Water Supply waters.

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- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R11-18 to:

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

Address questions concerning this regulatory agenda, noting docket number R11-18 to:

Kathleen M. Crowley, Senior Attorney  
Pollution Control Board  
100 W. Randolph Street, Suite 11-500  
Chicago, Illinois 60601  
312/814-6929  
crowlek@ipcb.state.il.us

- G) Related Rulemaking and other pertinent information: Interested persons may contact the Agency 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  
217/782-5544

- o) Parts (Heading and Code Citations):

Water Quality Standards (35 Ill. Adm. Code 302)  
Effluent Standards (35 Ill. Adm. Code 304)

- 1) Rulemaking: No docket presently reserved.

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- A) Description: The Agency is working toward establishing a new narrative standard for "cultural eutrophication" to protect aquatic life from the adverse impacts of excess algae and aquatic plant growth. Measurable parameters such as dissolved oxygen will be used to identify cultural eutrophication. The proposed standard would prohibit cultural eutrophication and the presence of such would trigger a technology-based phosphorus limit on dischargers that would significantly contribute to cultural eutrophication. The technology based phosphorus limits applicable to such dischargers would be proposed by updating 35 Ill. Adm. Code 304.123. Other technology-based phosphorus effluent standards covering certain dischargers of phosphorus independent of a finding of cultural eutrophication will also be proposed for 35 Ill. Adm. Code 304.123.
- B) Statutory Authority: Implementing and authorized by Section 11 and 27 of the Environmental Protection Act [415 ILCS 5/11 & 27]
- C) Scheduled meeting/hearing dates: There have been several meetings with stakeholders over the last several years and it is anticipated more meetings will be scheduled before proposing amendments to the Board. No 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 Agency submittal to the Board would commence this proceeding, and the Agency anticipates filing a proposal in the spring or summer of 2012. After filing the proposal, the Board will cause a Notice of Proposed rule to appear in the *Illinois Register*.
- E) Effect on small businesses, small municipalities or not for profit corporations: Small businesses will be affected in the case they are covered by an NPDES permit and determined to be a significant source.
- F) Agency contact person for information: Address questions concerning this regulatory agenda to:

Carol Webb  
Illinois Pollution Control Board  
1021 North Grand Avenue East

## POLLUTION CONTROL BOARD

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P.O. Box 19274  
Springfield, Illinois 62794-9274  
webbc@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the development of these rules please contact:

Stefanie Diers  
Assistant Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
stefanie.diers@illinois.gov

- p) Part (Heading and Code Citation): Water Use Designations and Site Specific Water Quality Standards (35 Ill. Adm. Code 303)

- 1) Rulemaking: Docket number R08-9 Subdocket C

- A) Description: On November 1, 2007, the Board accepted a proposal for hearing in Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303, and 304 (R08-9). The proposal filed by the Illinois Environmental Protection Agency (Agency) on October 26, 2007, seeks to amend the Board's water quality standards for the "Chicago Area Water Way System" (CAWS) and the Lower Des Plaines River. On November 15, 2007, after the response time to the motion had run out, the Board granted the Agency's request to hold the hearings in this rulemaking in Chicago and Joliet.

In this rulemaking, the Agency proposes amendments to update the designated uses and criteria necessary to protect the uses for the waters currently designated for Secondary Contact and Indigenous Aquatic Life Uses. These specific designations were for those waters not suited for General Use activities. All waters in Illinois that carry these designations are water bodies that were a part of the engineering effort that reversed the flow of the Chicago River and are known as the CAWS and the Lower Des Plaines River. In 2000 and 2002, the Agency began pilot programs

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for the Lower Des Plaines River and CAWS to develop use attainability analysis (UAA) for these waters. These proposed rule changes incorporate the findings of the pilot programs.

On March 18, 2010, the Board split this rulemaking into four subdockets. Subdocket C will address the issues involving proposed aquatic life uses.

- B) Statutory authority: Implementing and authorized by Sections 11, 13, and 27 of the Environmental Protection Act [415 ILCS 5/11, 13 & 27].
- C) Scheduled meeting /hearing date: The Board has scheduled and held multiple days of hearings in this rulemaking as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. Hearings have been held during calendar years 2008, 2009, 2010 and 2011 in Chicago, Joliet, and Des Plaines. The Board has held 54 days of hearings.
- D) Date agency anticipates First Notice: The Board will consider this rulemaking for first notice publication in the *Illinois Register* within the next six months.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule may affect any small business, small municipality, or not-for-profit corporation that discharges into the Chicago River or the lower Des Plaines River.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

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

Address questions concerning this regulatory agenda to:

Marie Tipsord  
Pollution Control Board  
100 W. Randolph, Suite 11-500  
Chicago, Illinois 60601

## POLLUTION CONTROL BOARD

## JULY 2012 REGULATORY AGENDA

312/814-4925  
tipsorm@ipcb.state.il.us

- G) Related rulemaking and other pertinent information: For information regarding the Agency'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

- q) Part (Heading and Code Citation): Water Use Designations and Site Specific Water Quality Standards (35 Ill. Adm. Code 303)

- 1) Rulemaking: Docket number R08-9 Subdocket D

- A) Description: On November 1, 2007, the Board accepted a proposal for hearing in Water Quality Standards and Effluent Limitations for the Chicago Area Waterway System and the Lower Des Plaines River: Proposed Amendments to 35 Ill. Adm. Code 301, 302, 303, and 304 (R08-9). The proposal filed by the Illinois Environmental Protection Agency (Agency) on October 26, 2007, seeks to amend the Board's water quality standards for the "Chicago Area Water Way System" (CAWS) and the Lower Des Plaines River. On November 15, 2007, after the response time to the motion had run out, the Board granted the Agency's request to hold the hearings in this rulemaking in Chicago and Joliet.

In this rulemaking, the Agency proposes amendments to update the designated uses and criteria necessary to protect the uses for the waters currently designated for Secondary Contact and Indigenous Aquatic Life Uses. These specific designations were for those waters not suited for General Use activities. All waters in Illinois that carry these designations are water bodies that were a part of the engineering effort that reversed the flow of the Chicago River and are known as the CAWS and the Lower Des Plaines River. In 2000 and 2002, the Agency began pilot programs for the Lower Des Plaines River and CAWS to develop use attainability

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analysis (UAA) for these waters. These proposed rule changes incorporate the findings of the pilot programs.

On March 18, 2010, the Board split this rulemaking into four subdockets. Subdocket D will address the issues dealing with water quality standards and criteria which are necessary to meet the aquatic life use designations.

- B) Statutory authority: Implementing and authorized by Sections 11, 13, and 27 of the Environmental Protection Act [415 ILCS 5/11, 13 & 27].
- C) Scheduled meeting /hearing date: The Board has scheduled and held multiple days of hearings in this rulemaking as required by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. Hearings have been held during calendar years 2008, 2009, 2010, and 2011 in Chicago, Joliet, and Des Plaines. The Board has held 54 days of hearing.
- D) Date agency anticipates First Notice: The Board will consider this rulemaking for first notice publication in the *Illinois Register* within the next six months.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rule may affect any small business, small municipality, or not-for-profit corporation that discharges into the Chicago river or the lower Des Plaines River.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

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

Address questions concerning this regulatory agenda to:

Marie Tipsord  
Pollution Control Board  
100 W. Randolph, Suite 11-500  
Chicago, Illinois 60601

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312/814-4925  
tipsorm@ipcb.state.il.us

- G) Related rulemaking and other pertinent information: For information regarding the Agency'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

- r) Parts (Headings and Code Citations):

Sewer Discharge Criteria (35 Ill. Adm. Code 307)  
Pretreatment Programs (35 Ill. Adm. Code 310)

- 1) Rulemaking: Docket number R13-7

- A) Description: Section 13.3 of the Environmental Protection Act [415 ILCS 5/13.3] mandates that the Board update the Illinois wastewater pretreatment regulations to reflect revisions made to the federal wastewater pretreatment rules made by the United States Environmental Protection Agency (USEPA).

The Board has reserved this docket to accommodate any amendments to the federal wastewater pretreatment rules, 40 CFR 400 through 499, that the USEPA may have made in the period January 1, 2012 through June 30, 2012. At this time, the Board is aware of two federal amendments to the federal wastewater pretreatment regulations that occurred during this update period.

May 16, 2012 (77 Fed. Reg. 29168)

Description of the USEPA action: USEPA Adopted as new 40 C.F.R. 449 effluent limitations guidelines and new source performance standards for the airport deicing

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category. USEPA did not establish pretreatment standards for this category, since the record did not indicate a need for such standards.

Prospective necessary Board action in response: No Board action will be necessary beyond observing that USEPA adopted new standards on April 13, 2012 that did not include wastewater pretreatment standards for any source.

May 18, 2012 (77 Fed. Reg. 29758)

Description of the USEPA action: USEPA revised the testing procedures approved for analyses under the Clean Water Act. Included were new and revised USEPA methods and new and revised methods published by voluntary consensus standard bodies, like ASTM International and the Standard Methods Committee. USEPA amended 40 C.F.R. 423, 430, and 435.

Prospective necessary Board action in response: Segments of 35 Ill. Adm. Code 307 correspond with 40 C.F.R. 423 and 430. Board action will be required on those provisions. No Board action will be necessary based on 40 C.F.R. 435, which has no counterpart in the Illinois wastewater pretreatment regulations.

Within the next month, the Board will verify the existence of any other federal actions that may affect the text of the federal wastewater pretreatment regulations and require Board action. The Board will then propose corresponding amendments to the Illinois wastewater pretreatment regulations using the identical-in-substance procedure.

Section 13.3 of the Act mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based.

- B) Statutory authority: Implementing and authorized by Sections 7.2, 13, 13.3, and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 13.3 & 27].

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- C) Scheduled meeting/hearing dates: The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board expects to verify any federal actions within the next month. If amendments are required, the Board will publish notice in the *Illinois Register* approximately 90 days before adoption to allow time for a 45-day public comment period. If no amendments are needed, the Board will dismiss this reserved docket.
- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that 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 R13-7, as follows:

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

Address questions concerning this regulatory agenda, noting docket number R13-7, as follows:

Michael J. McCambridge, Attorney  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601  
312/814-6924  
mccambm@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: No other presently known proceeding would affect provisions of 35 Ill. Adm. Code 307 and

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310.

Section 13.3 of the Environmental Protection Act provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) [5 ILCS 100/5-35, 5-40] shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

- s) Part (Heading and Code Citation): Testing Fees for Analytical Services (35 Ill. Adm. Code 309)
- 1) Rulemaking: No docket presently reserved.
- A) Description: The Illinois Environmental Protection Agency (Agency) is planning to propose amendments to the permitting requirements for the construction of simple pH adjustment pretreatment systems, cooling towers, oil/water separators and lifetime operating permits for all pretreatment systems and discharges.
- B) Statutory authority: Implementing and authorized by Section 13 of the Environmental Protection Act [415 ILCS 5/13]
- 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 Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal within the next six months. After the filing of a proposal by the Agency, 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 required to obtain any of the above mentioned permits pursuant to 35 Ill. Adm. Code 309.

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- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

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

Address questions concerning this regulatory agenda to:

Carol Webb  
Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
webbc@ipcb.state.il.us

- G) Related rulemakings and other pertinent information:

For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Sara Terranova  
Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
Sara.Terranova@illinois.gov

- t) 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 (Agency) is currently preparing a rulemaking proposal for filing before the Board

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relating to land application of sewage sludge. The rules would establish pollutant limits, pathogen reduction requirements, and vector control measures applicable to sludge applied to land.

- B) Statutory authority: Implementing and authorized by Sections 11 and 27 of the Environmental Protection Act [415 ILCS 5/11 & 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 Agency submittal of a proposal to the Board would commence this proceeding, and the Agency has stated that it expects to file a proposal within the next six months. After the filing of a proposal by the Agency, 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 to:

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

Address questions concerning this regulatory agenda to:

Carol Webb  
Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
webbc@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: The Agency has

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stated that it anticipates proposing amendments to its rules entitled "Design Criteria for Sludge Application on Land," 35 Ill. Adm. Code 391, which involve a related subject matter.

For information regarding the Agency's development of this proposal, please contact the following Agency attorney:

Stefanie Diers  
Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544

Interested persons may also contact the following Agency 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  
217/782-0810

u) Parts (Heading and Code Citation): Agriculture Related Water Pollution from Concentrated Animal Feeding Operations (CAFOs) (35 Ill. Adm. Code 501, 502, 504)

1) Rulemaking: Docket number R12-23

A) Description: On March 1, 2012, the Illinois Environmental Protection Agency (Agency) filed a proposal with the Board to amend Parts 501 and 502 so that they are consistent with, and as stringent as, the current federal CAFO regulations. Additionally, USEPA has indicated that Illinois needs to establish standards that address the rate at which manure, litter, and process wastewater may be applied on crop or forage land where the risk

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of phosphorus transport is high, as well as standards for land application on frozen soil and snow.

- 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.
- D) Date agency anticipates First Notice: The Board anticipates that a Notice of Proposed Amendments will be published in the *Illinois Register* within the next six months.
- E) Effect on small businesses, small municipalities or not for profit corporations: This rule could affect any agri-business that meets the definition of a Concentrated Animal Feeding Operation and discharges to waters of the State.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

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

Address questions concerning this regulatory agenda to:

Tim Fox  
Pollution Control Board  
100 W. Randolph St.  
Chicago, Illinois 60601  
foxt@ipcb.state.il.us  
312/814-6085

- G) Related Rulemaking and other pertinent information: Interested persons may contact the Board about its prospective rulemaking proposal as follows:

## POLLUTION CONTROL BOARD

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Tim Fox  
Pollution Control Board  
100 W. Randolph St.  
Chicago, Illinois 60601  
foxt@ipcb.state.il.us  
312/814-6085

- v) Parts (Heading and Code Citation): Ownership and Responsible Personnel (35 Ill. Adm. Code 603)
- 1) Rulemaking: No docket presently reserved.
    - A) Description: The Illinois Environmental Protection Agency (Agency) is currently developing a proposal for filing with the Board. The proposal will seek to amend the public water supply rules found in 35 Ill. Adm. Code 603 to make these rules consistent with the Public Water Supply Operations Act. Previously, this Act exempted certain public water supplies from the requirement that a certified operator supervise all portions of the system. Instead, these exempt public water supplies were required to register the name of the person in responsible charge of day-to-day operation of the supplies that were exempt from the certified operator requirements, repealing the section governing registration for responsible personnel, and grandfathering in uncertified operators at previously exempt facilities. Currently, Part 603 requires registration of the person in responsible charge of the supply for exempt facilities. This Agency anticipates amending Part 603 to ensure consistency with the current requirements of Public Water Supply Operations Act.
    - B) Statutory Authority: Implementing and authorized by Sections 17, 27, and 28 of the Environmental Protection Act [415 ILCS 5/17, 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 and 28]
    - D) Date agency anticipates First Notice: The Agency submittal of the rulemaking proposal is anticipated within the next six months. The Board will conduct proceedings pursuant to Sections 27 and 28 of the Act [415 ILCS 5/27 and 28] upon receipt of the proposal, and would cause a Notice

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of Proposed Amendments to appear in the *Illinois Register* when it decides to propose amendments for first notice.

E) Effect on small businesses, 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 to:

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

Address questions concerning this regulatory agenda to:

Carol Webb  
Pollution Control Board  
1021 North Grand Ave. East  
Springfield, Illinois 62794  
webbc@ipcb.state.il.us

G) Related Rulemaking and other pertinent information: Interested persons may contact the Board about its prospective rulemaking proposal as follows:

Joanne M. Olson

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Legal Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Ave. East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544

w) Part (Heading and Code Citation): Primary Drinking Water Standards (35 Ill. Adm. Code 611)

1) Rulemaking: Docket number R13-2

A) Description: Section 17.5 of the Environmental Protection Act [415 ILCS 5/17.5] mandates that the Board update the Illinois drinking water regulations to reflect the USEPA amendments to the federal Safe Drinking Water Act (SDWA) primary drinking water regulations.

The Board has reserved this docket number 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 January 1, 2012 through June 30, 2012. At this time, the Board is aware of two sets of federal amendments to the SDWA primary drinking water regulations that occurred during this update period. The set of amendments and public notice are the following:

May 2, 2012 (77 Fed. Reg. 26072)

Description of the USEPA action: USEPA adopted the third installment of the Unregulated Contaminants Rule (UCMR 3). USEPA implements the UMCRs, including UCMR 3, with or without the assistance of the state, but not requiring any state to incorporate UCMR elements into the state program. Included with the UCMR 3 rule was a series of updates to analytical methods for regulated contaminants (nitrate, nitrite, and orthophosphate), which are not related to the UCMR.

Prospective necessary Board action in response: The Board

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must incorporate the analytical methods updates for regulated contaminants (nitrate, nitrite, and orthophosphate) that are not related to the UCMR 3 rules.

May 18, 2012 (77 Fed. Reg. 29758)

Description of the USEPA action: USEPA revised the testing procedures approved for analyses under the Clean Water Act. Included were new and revised USEPA methods and new and revised methods published by voluntary consensus standard bodies, like ASTM Internationals and the Standard Methods Committee. USEPA amended 40 C.F.R. 136.

Prospective necessary Board action in response: The methods of 40 C.F.R. 136 are incorporated by reference in Part 611. Board action will be required on to update the incorporation by reference.

The Board will verify the existence of any other federal actions that may affect the text of the federal primary drinking water standards and determine the Board action required in response to each by mid-August 2012.

Section 17.5 mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based.

- B) Statutory authority: Implementing and authorized by Sections 17, 17.5, and 27 of the Environmental Protection Act [415 ILCS 5/17, 17.5 & 27].
- C) Scheduled meeting/hearing dates: 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 will publish notice in the *Illinois Register* approximately 90 days before adoption to allow time for a 45-day public comment period. If no amendment to the Illinois definition

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is needed, the Board will dismiss this reserved docket.

- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation 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 R13-2, as follows:

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

Address questions concerning this regulatory agenda, noting docket number R13-2, as follows:

Michael J. McCambridge, Attorney  
Pollution Control Board  
100 West Randolph Street Suite 11-500  
Chicago, Illinois 60601  
312/814-6924  
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 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.

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- x) Parts (Headings and Code Citations): Maximum Setback Zones (35 Ill. Adm. Code 618)
- 1) Rulemaking: Docket number R11-25
- A) Description: On April 21, 2011, the Board received from the Illinois Environmental Protection Agency a rulemaking proposal to establish a maximum setback zone for six community water supply (CWS) wells owned by Fayette Water Company (FWC) in Fayette County.
- B) Statutory authority: Implementing and authorized by Sections 14.3(d), 27, and 28 of the Environmental Protection Act [415 ILCS 5/14.3(d), 27, 28].
- C) Scheduled meeting/hearing dates: The Board held hearings on July 27, 2011 in Vandalia, and September 22, 2011 in Chicago.
- D) Date agency anticipates First Notice: First Notice appeared in the *Illinois Register* on March 16, 2012.
- 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 to the extent the affected entity operates within the radius of the proposed maximum setback zone.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R11-25, as follows:

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

Address questions concerning this regulatory agenda, noting docket number R11-25, as follows:

Timothy Fox  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601

## POLLUTION CONTROL BOARD

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312/814-6085  
foxt@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: For information regarding the Board's development of the proposal, please contact:
- y) Part (Heading and Code Citation): Groundwater Quality (35 Ill. Adm. Code 620)
- 1) Rulemaking: Docket number R08-18
- A) Description: The proposed amendments update the groundwater quality rules based upon new scientific data, federal amendments, and technical references. The changes proposed for first notice add groundwater quality standards for those chemical constituents detected in Illinois groundwater that have toxicity values established by the United States Environmental Protection Agency (USEPA) or that have groundwater remediation objectives under the Tiered Approach to Corrective Action Objectives (TACO) (35 Ill. Adm. Code 742). In all, 39 chemical constituents are added to Part 620. Additionally, the Class I groundwater quality standard for arsenic is revised from 0.05 milligrams per liter (mg/L) to 0.10 mg/L in order to reflect the new federal Maximum Contaminant Level (MCL) for arsenic in drinking water. Also included are amendments to various definitions, provisions for preventive response levels, compliance determinations, monitoring and analytical requirements, and health advisories, as well as Part 620 Appendices A through D. For a more detailed discussion of these amendments, please refer to the Board's October 20, 2011 opinion and order in docket R08-18 Proposed Amendments to Groundwater Quality Standards (35 Ill. Adm. Code 620).
- B) Statutory authority: Implementing and authorized by Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8] and Section 27 of the Environmental Protection Act [415 ILCS 5/27].
- C) Scheduled meeting /hearing date: The Board held two hearings in this rulemaking as required by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27, 28]. The first hearing took place in Chicago on June 18, 2008, and the second hearing took place in Springfield on July 16, 2008.

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- D) Date agency anticipates First Notice: First notice was published in the *Illinois Register* on November 14, 2011.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: It is not anticipated that the proposed amendments would have a significant impact on any small business, small municipality, or not-for-profit corporation. Facilities that may be impacted would include those that cause, threaten, or allow the contamination of groundwater. However, the proposed amendments do not establish new corrective action or monitoring programs, and new chemical constituent standards would be phased into existing programs, as appropriate, on a site-by-site basis over time. Any economic impact resulting from applying the new standards therefore should be incremental. Considering the groundwater resource and its end users, economic benefits may result from adopting these new standards, including reduced health risks, reduced expenses for treating water at wellheads, and reduced expenses for obtaining water supplies.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:
- John Therriault, Acting Clerk  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601
- Address questions concerning this regulatory agenda to:
- Richard McGill  
Pollution Control Board  
100 W. Randolph, Suite 11-500  
Chicago, Illinois 60601  
312/814-6983  
mcgillr@ipcb.state.il.us
- G) Related rulemaking and other pertinent information: A related rulemaking is pending in Board docket R11-9, captioned Tiered Approach to Corrective Action Objectives (TACO) (Indoor Inhalation): Amendments to 35 Ill. Adm. Code 742.

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For information regarding the Agency'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  
217/785-4787

z) Parts (Headings and Code Citations):

RCRA and UIC Permit Programs (35 Ill. Adm. Code 702)  
UIC Permit Program (35 Ill. Adm. Code 704)  
Procedures For Permit Issuance (35 Ill. Adm. Code 705)  
Hazardous Waste Management System: General (35 Ill. Adm. Code 720)  
Underground Injection Control Operating Requirements (35 Ill. Adm. Code 730)  
Hazardous Waste Injection Restrictions (35 Ill. Adm. Code 738)

1) Rulemaking: Docket number R13-3

- A) Description: Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)] mandates that the Board update the Illinois underground injection control (UIC) regulations to reflect amendments to the United States Environmental Protection Agency (USEPA) UIC regulations.

The Board has reserved this docket to accommodate any amendments to the federal UIC regulations, 40 CFR 144 through 148, during the period January 1, 2012 through June 30, 2012. At this time, the Board is not aware of any federal amendments to the federal UIC rules that occurred during this update period.

Section 13(c) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Within the next month, the Board will verify the existence of any federal actions that may affect the text of these rules. The Board will then either propose corresponding amendments to the Illinois rules using the identical-in-substance procedure, or dismiss this docket if no action is needed.

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- B) Statutory authority: Implementing and authorized by Sections 7.2, 13(c) and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13(c) & 27].
- C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
- D) Date agency anticipates First Notice: The Board expects to verify any federal actions within the next month. If amendments are required, the Board will publish notice in the *Illinois Register* approximately 90 days before adoption to allow time for a 45-day public comment period. If no amendment is needed, the Board will dismiss this reserved docket.
- 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 R13-3, as follows:

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

Address questions concerning this regulatory agenda, noting docket number R13-3, as follows:

Michael J. McCambridge, Attorney  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601  
312/814-6924  
mccambm@ipcb.state.il.us

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- G) Related rulemakings and other pertinent information: The reserved RCRA Subtitle C update docket for the period July 1, 2011 through December 31, 2011 and other, as yet unknown, unrelated Board proceedings may affect the text of 35 Ill. Adm. Code 702, 705, and 720. No other presently known proceeding would affect 35 Ill. Adm. Code 704, 730, 738.

Section 13(c) of the Environmental Protection Act [415 ILCS 5/13(c)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

aa) Parts (Headings and Code Citations):

RCRA AND UIC Permit Programs (35 Ill. Adm. Code 702)  
RCRA Permit Program (35 Ill. Adm. Code 703)  
Procedures For Permit Issuance (35 Ill. Adm. Code 705)  
Hazardous Waste Management System: General (35 Ill. Adm. Code 720)  
Identification and Listing of Hazardous Waste (35 Ill. Adm. Code 721)  
Standards Applicable to Generators of Hazardous Waste (35 Ill. Adm. Code 722)  
Standards Applicable to Transporters of Hazardous Waste (35 Ill. Adm. Code 723)  
Standards For Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724)  
Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 725)  
Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste Management Facilities (35 Ill. Adm. Code 726)  
Land Disposal Restrictions (35 Ill. Adm. Code 728)  
Standards for Universal Waste Management (35 Ill. Adm. Code 733)  
Hazardous Waste Injection Restrictions (35 Ill. Adm. Code 738)  
Standards for the Management of Used Oil (35 Ill. Adm. Code 739)

1) Rulemaking: Docket number R13-5

- A) Description: Section 22.4(a) of the Environmental Protection Act [415

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ILCS 5/22.4(a)] mandates that the Board update the Illinois rules implementing Subtitle C of the federal Resource Conservation and Recovery Act (RCRA) to reflect the United States Environmental Protection Agency (USEPA) amendments to the federal RCRA Subtitle C regulations.

The Board has reserved this docket 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 January 1, 2012 through June 30, 2012. At this time, the Board is aware of three federal amendments to the federal RCRA Subtitle C hazardous waste rules that occurred during this update period.

**April 13, 2012 (77 Fed. Reg. 22226)**

Description of the USEPA action: USEPA denied a petition to review the exclusion from the definition of hazardous waste adopted January 2, 2008 (73 Fed. Reg. 57) for oil-bearing hazardous secondary materials generated by oil refineries and inserted into the refining process or thermal cracking units, with certain exceptions. No amendment to any federal rule occurred by this action.

Prospective necessary Board action in response: The Board adopted this exclusion from the definition of hazardous waste in RCRA Subtitle C Update, USEPA Amendments (January 1, 2008 through June 30, 2008), R09-3 (Nov. 20, 2008). No Board action will be necessary other than observing that USEPA denied to review the rule on April 13, 2012.

**April 13, 2012 (77 Fed. Reg. 22229)**

Description of the USEPA action: USEPA adopted a limited number of corrections and clarifications to one provision in each of 40 C.F.R. 261 and 40 C.F.R. 266.

Prospective necessary Board action in response: The Board must determine whether action is needed to make similar

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changes in the corresponding Illinois rules at 35 Ill. Adm. Code 721 and 726.

May 18, 2012 (77 Fed. Reg. 29758)

Description of the USEPA action: USEPA revised the testing procedures approved for analyses under the Clean Water Act. Included were new and revised USEPA methods and new and revised methods published by voluntary consensus standard bodies, like ASTM Internationals and the Standard Methods Committee. USEPA amended 40 C.F.R. 136 and 260.

Prospective necessary Board action in response: The Board must amend Part 720 to incorporate the changes to 40 C.F.R. 260. The methods of 40 C.F.R. 136 are incorporated by reference in 35 Ill. Adm. Code 720, requiring further revision of Part 720.

Section 22.4(a) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Within the next month, the Board will verify the existence of any federal actions that may affect the text of the federal rules. The Board will then either propose corresponding amendments to the Illinois rules, or dismiss this docket if no action is needed.

- 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 expects to verify any federal actions within the next month. If amendments are required, the Board will publish notice in the *Illinois Register* approximately 90 days

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before adoption to allow time for a 45-day public comment period. If no amendment is needed, the Board will dismiss this docket.

- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that engages in the generation, transportation, treatment, storage, or disposal of hazardous waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R13-5, as follows:

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

Address questions concerning this regulatory agenda, noting docket number R13-5, as follows:

Michael J. McCambridge, Attorney  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601  
312/814-6924  
mccambm@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: No other presently known proceeding would affect 35 Ill. Adm. Code 702, 703, 720, 721, 722, 723, 724, 725, 726, 728, 733, or 739.

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.

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bb) Part (Heading and Code Citation): Underground Storage Tanks (35 Ill. Adm. Code 731)

1) Rulemaking: Docket number R13-6

A) Description: Section 22.4(d) of the Environmental Protection Act [415 ILCS 5/22.4(d)] mandates that the Board update the Illinois underground storage tank (UST) regulations to reflect amendments to the United States Environmental Protection Agency (USEPA) UST regulations. The mandate specifically excludes federal amendments relating to the design, construction, installation, general operation, release detection, release reporting, release investigation, release confirmation, out-of-service systems, and closure or financial responsibilities for USTs.

The Board has reserved this docket to accommodate any amendments to 40 CFR 281 through 283 that USEPA may make in the period January 1, 2012 through June 30, 2012. At this time, the Board is not aware of any amendments to the federal UST regulations that occurred during this update period.

Section 22.4(d) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Within the next month, the Board will verify the existence of any federal amendments that may require Board action. The Board will then propose corresponding amendments to the Illinois UST regulations using the identical-in-substance procedure or dismiss this docket if no action is needed.

B) Statutory authority: Implementing and authorized by Sections 7.2, 22.4(d), and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4(d) & 27].

C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.

D) Date agency anticipates First Notice: The Board expects to verify any

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federal actions within the next month. If amendments are required, the Board will publish notice in the *Illinois Register* approximately 90 days before adoption to allow time for a 45-day public comment period. If no amendment is needed, the Board will dismiss this reserved docket.

- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit corporation that owns or operations USTs.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R13-6, as follows:

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

Address questions concerning this regulatory agenda, noting docket number R13-6, as follows:

Michael J. McCambridge, Attorney  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601  
312/814-6924  
mccambm@ipcb.state.il.us

- 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.

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- cc) Part (Heading and Code Citations): Petroleum Underground Storage Tanks (Releases Reported On or After June 24, 2002) (35 Ill. Adm. Code 734)
- 1) Rulemaking: No docket presently reserved.
- A) Description: The Illinois Environmental Protection Agency (Illinois EPA) is planning to propose conforming amendments to the Board's regulations at Part 734 resulting from amendments to the Board's regulations at 35 Ill. Adm. Code 742: Tiered Approach to Corrective Action Objectives (TACO).
- B) Statutory Authority: Sections 5, 22, 27, and 57.14A of the Environmental Protection Act (Act) [415 ILCS 5/5, 22, 27, 57.14A].
- 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 may submit a proposal to the Board as soon as late Spring or Summer of 2012, 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 small businesses, small municipalities, or not-for-profit corporations that are addressing a release of petroleum under the Board's Leaking Underground Storage Tank rules or that seek payment from the Underground Storage Tank Fund.
- F) Agency Contract person for information:

Address written comments concerning the substance of the rulemaking as follows:

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

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Agency contact person for information: Address questions concerning this regulatory agenda to:

Carol Webb  
Illinois Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
webbc@ipcb.state.il.us

For information regarding the development of these rules please contact:

Mark Wight  
Assistant Counsel  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
Mark.Wight@illinois.gov

G) Related rulemakings and other pertinent information:

Docket number R11-9: In the Matter of: Tiered Approach to Corrective Action Objectives (TACO) (Indoor Inhalation): Amendments to 35 Ill. Adm. Code 742.

dd) Part (Headings and Code citation): Site Remediation Program; (35 Ill. Adm. Code 740)

1) Rulemaking: No docket presently reserved.

- A) Description: The Site Remediation Program ("SRP") is one of the Illinois Environmental Protection Agency's ("Illinois EPA") primary remediation programs for the cleanup of contaminants released to soil or groundwater. Remediation sites from throughout Illinois participate in the SRP. Periodically, it is necessary to amend program rules to account for new scientific data, updated technical references, and necessary administrative changes to the implementation of the rules. To that end, the proposed amendments are intended to ensure that the rules stay current.

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- B) Statutory Authority: Sections 4(i), 27, and 28 of the Environmental Protection Act [415 ILCS 5/4(i), 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: The Illinois EPA anticipates submitting its proposal in the Spring or Summer of 2012 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 perform environmental remediation pursuant to the Site Remediation Program. In most cases, participation in the SRP is voluntary, the exception being participation under Board or court orders arising out of enforcement actions.
- F) Agency contract person for information: Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

Carol Webb  
Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
webbc@ipcb.state.il.us

- G) Related rulemakings and other pertinent information:  
For information regarding the development of these amendments please

## POLLUTION CONTROL BOARD

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contact:

Kim Geving  
Illinois Environmental Protection Agency  
Division of Legal Counsel  
1021 North Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
Kim.Geving@illinois.gov

ee) Part (Headings and Code Citation): Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742)

1) Rulemaking: Docket number R11-9

A) Description: On April 19, 2012, the Board adopted an opinion and order (TACO) rules (35 Ill. Adm. Code 742). The rulemaking is captioned Tiered Approach to Corrective Action Objectives (TACO) (Indoor Inhalation): Amendments to 35 Ill. Adm. Code 742, docket R11-9. Since 1997, the TACO rules have provided procedures for developing remediation objectives based upon risks posed to human health by environmental conditions at a variety of sites. TACO is used at sites being remediated under any one of several regulatory programs: Leaking Underground Storage Tank (UST) Program; Site Remediation Program (SRP); and Resource Conservation and Recovery Act (RCRA) Part B Permits and Closure Plans.

The first-notice amendments include the addition of a new exposure route under TACO: the indoor inhalation exposure route. To protect building occupants, this exposure route addresses the potential for vapors to migrate into buildings from underlying volatile chemicals in soil or groundwater, a process commonly known as "vapor intrusion" or "VI." The Board also proposed adding 13 chemicals to the TACO tables based upon the Board's pending rulemaking on groundwater quality standards, captioned Proposed Amendments to Groundwater Quality Standards (35 Ill. Adm. Code 620), docket R08-18. Further, the first-notice amendments to TACO update physical and chemical parameters and revise toxicity values in accordance with the new United States Environmental Protection

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Agency hierarchy for selecting human health toxicity values.

The R11-9 rulemaking was initiated when the Illinois Environmental Protection Agency (IEPA) filed a proposal with the Board on November 9, 2010, under Section 27 of the Environmental Protection Act [415 ILCS 5/27]. After conducting two public hearings and receiving public comments, the Board adopted, for first notice, the amendments proposed or agreed to by IEPA, with minor clarifying changes. In addition, the Board proposed requiring that IEPA be notified if an indoor inhalation building control technology at a school is rendered inoperable. The Board also proposed that the entire set of amendments would become effective on a date certain 60 days after their final adoption. For further information, please refer to the Board's first-notice opinion and order of April 19, 2012, which is available through the Clerk's Office On-Line (COOL) on the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

- B) Statutory Authority: These amendments were proposed pursuant to Section 27 of the Environmental Protection Act [415 ILCS 5/27].
- C) Scheduled Meeting/Hearing Dates: The Board held two hearings in this rulemaking as required by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27, 28]. The first hearing took place in Springfield on March 29, 2011, and the second hearing took place in Chicago on May 24, 2011.
- D) Date Agency Anticipates First Notice: First notice was published in the *Illinois Register* on May 18, 2012.
- E) Effect on Small Business, Small Municipalities, or Not-for-Profit Corporations: The amendments could impact any small business, small municipality, or not-for-profit corporation in a regulatory program subject to TACO remediation objectives (*i.e.*, Leaking UST Program; SRP; RCRA Part B Permits and Closure Plans). In addition to the professional skills currently necessary to comply with the existing TACO regulations, compliance with the amendments may involve addressing the indoor inhalation exposure route through the sampling/analysis of soil gas and the design/installation of building control technologies, such as sub-slab depressurization (SSD) systems or vented raised floors. Along with better protecting building occupants from migrating volatile chemicals, the

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addition of the indoor inhalation exposure route to TACO is expected to facilitate property transactions and provide expanded liability relief to property owners. Also, where a school receives an NFR letter based upon the use of an indoor inhalation building control technology, the site owner/operator must notify IEPA upon the building control technology being rendered inoperable.

The amendments are proposed to become effective on a date certain 60 days after their final adoption by the Board. The delayed effective date would help to accommodate those entities with sites near closure who wish to submit remediation completion documentation to IEPA in order to receive a No Further Remediation (NFR) letter in accordance with the existing TACO regulations. The Board found that the amendments are technically feasible and economically reasonable and will not have an adverse economic impact on the People of Illinois.

- F) Agency Contact Person for Information: Address written comments concerning the substance of the rulemaking to:

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

Address questions concerning this regulatory agenda to:

Richard McGill  
Pollution Control Board  
100 W. Randolph Street, Suite 11-500  
Chicago, Illinois 60601  
312/814-6983  
mcgillr@ipcb.state.il.us

- G) Related Rulemaking and other pertinent information: A related rulemaking is pending in Board docket R08-18, captioned Proposed Amendments to Groundwater Quality Standards, 35 Ill. Adm. Code 620.

For information regarding the development of these amendments, please contact:

## POLLUTION CONTROL BOARD

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Kimberly A. Geving  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 N. Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
kimberly.geving@illinois.gov

ff) Part (Headings and Code Citation):

Operation of the Hazardous Waste Fee System (35 Ill. Adm. Code 855)  
Standards for New Solid Waste Landfills (35 Ill. Adm. Code 811)

- 1) Rulemaking: No docket presently reserved.
  - A) Description: The Illinois Environmental Protection Agency (Agency) is planning to propose amendments to the Board's regulations to remove the requirements for non-hazardous special waste manifests to be sent to the Agency except in the case of non-hazardous special waste containing polychlorinated biphenyls.
  - B) Statutory Authority: These amendments will be proposed pursuant to Sections 21, 22, 22.01, and 27 of the Environmental Protection Act [415 ILCS 5/21, 22, 22.01, 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 Environmental Protection Act [415 ILCS 5/27, 28].
  - D) Date Agency Anticipates First Notice: The Agency may submit a proposal to the Board within the next six months, after which the Board will cause publication of a Notice of Proposed Rules in the *Illinois Register*.
  - E) Effect on Small Business, Small Municipalities, or Not-for-Profit Corporations: This rulemaking may affect any small business, small

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municipality or not-for-profit corporation generating or receiving non-hazardous special waste in Illinois.

- F) Agency Contact Person for Information: Address written comments concerning the substance of the rulemaking to:

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

Address questions concerning this regulatory agenda to:

Carol Webb  
Pollution Control Board  
1021 North Grand Ave. East  
Springfield, Illinois 62794  
(217)524-8509  
webbc@ipcb.state.il.us

- G) Related Rulemaking and other pertinent information: For information regarding the development of these rules, please contact:

Stephanie Flowers  
Division of Legal Counsel  
Illinois Environmental Protection Agency  
1021 N. Grand Avenue East  
P.O. Box 19276  
Springfield, Illinois 62794-9276  
217/782-5544  
Stephanie.Flowers@illinois.gov

- gg) Parts (Headings and Code Citations):

Solid Waste (35 Ill. Adm. Code 807)  
Solid Waste Disposal: General Provisions (35 Ill. Adm. Code 810)  
Standards for New Solid Waste Landfills (35 Ill. Adm. Code 811)  
Information to Be Submitted in a Permit Application (35 Ill. Adm. Code 812)  
Procedural Requirements for Permitted Landfills (35 Ill. Adm. Code 813)

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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: Docket number R13-4
  - A) Description: Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] mandates that the Board update the Illinois Resource Conservation and Recovery Act (RCRA) Subtitle D municipal solid waste landfill (MSWLF) regulations to reflect the United States Environmental Protection Agency (USEPA) amendments to the federal RCRA Subtitle D MSWLF rules.

The Board has reserved this docket to accommodate any amendments to the RCRA Subtitle D regulations, 40 CFR 258, that USEPA may make in the period January 1, 2012 through June 30, 2012. At this time, the Board is not aware of any federal amendments to the federal MSWLF rules that occurred during this update period.

Section 22.40(a) mandates that the Board complete amendments within one year of the date on which USEPA adopted the earliest action upon which the amendments are based. Within the next month, the Board will verify the existence of any additional federal actions that may affect the text of the federal primary drinking water standards. The Board will then propose corresponding amendments to the Illinois RCRA Subtitle D MSWLF regulations using the identical-in-substance procedure, or dismiss this docket if no action is needed.
  - B) Statutory authority: Implementing and authorized by Sections 7.2, 22.40(a) and 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.40(a) & 27].
  - C) Scheduled meeting/hearing dates: None scheduled at this time. The Board will vote to propose any amendments at an open meeting in accordance with requirements established by Sections 27 and 28 of the Act [415 ILCS 5/27 & 28]. No hearing is required in identical-in-substance proceedings.
  - D) Date agency anticipates First Notice: The Board expects to verify any federal actions within the next month. If amendments are required, the

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Board will publish notice in the *Illinois Register* approximately 90 days before adoption to allow time for a 45-day public comment period. If no amendment is needed, the Board will dismiss this docket.

- E) Effect on small business, small municipalities, or not-for-profit corporations: This rulemaking may affect any small business, small municipality, or not-for-profit that engages in the land disposal of municipal solid waste.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking, noting docket number R13-4 as follows:

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

Address questions concerning this regulatory agenda, noting docket number R13-4, as follows:

Michael J. McCambridge, Attorney  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601  
312/314-6924  
mccambm@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: Section 22.40(a) of the Environmental Protection Act [415 ILCS 5/22.40(a)] provides that Title VII of the Act and Section 5 of the Administrative Procedure Act (APA) shall not apply. Because this rulemaking is not subject to Section 5 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules. Rather, the Board will cause a Notice of Proposed Amendments to appear in the *Illinois Register*, and it will accept public comments on the proposal for 45 days after the date of publication.

hh) Part (Heading and Code Citation):

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Nonhazardous Special Waste Hauling and the Uniform Program (35 Ill. Adm. Code 809)

- 1) Rulemaking: Docket number R12-13
  - A) Description: The Illinois Environmental Protection Agency filed a rulemaking proposal with the Board on October 28, 2011. The proposed amendments implement Public Act 97-220, which includes provisions to remove Illinois from the Uniform State Hazardous Materials Transportation Registration and Permit Program.
  - B) Statutory authority: Implementing Sections 5, 10, 13, 21, 22, 22.01, and 22.2 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 10, 13, 21, 22, 22.01, 22.2 and 27] (see P.A. 90-219).
  - C) Scheduled meeting/hearing dates: The Board held hearings on January 12, 2012 in Springfield, and on February 15, 2012 in Chicago.
  - D) Date Agency anticipates First Notice: First Notice was published in the *Illinois Register* on April 6, 2012.
  - E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking may affect nonhazardous waste generators and receiving facilities.
  - F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

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

Address questions concerning this regulatory agenda to:

Tim Fox  
Pollution Control Board  
100 W. Randolph Street, Suite 11-500  
Chicago, Illinois 60601

## POLLUTION CONTROL BOARD

## JULY 2012 REGULATORY AGENDA

foxt@ipcb.state.il.us  
312/14-6085

- G) Related rulemakings and other pertinent information: For information regarding the development of these rules please contact:

Tim Fox  
Pollution Control Board  
100 W. Randolph Street, Suite 11-500  
Chicago, Illinois 60601  
foxt@ipcb.state.il.us  
312/14-6085

- ii) Part (Headings and Code Citations): Management of Used and Waste Tires (35 Ill. Adm. Code 848)

- 1) Rulemaking: No docket presently reserved.

- A) Description: The Illinois Environmental Protection Agency (Agency) is planning to propose amendments to the Board's regulations that will allow better implementation of the used and waste tire management program. The proposal will include, among others, 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: The Agency may submit a proposal to the Board within the next six months, 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

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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 to:

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

Address questions concerning this regulatory agenda to:

Carol Webb  
Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
webbc@ipcb.state.il.us

- G) Related rulemakings and other pertinent information: 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@il.gov

- jj) Part (Headings and Code Citations): Clean Construction or Demolition Debris Fill Operations (35 Ill. Adm. Code 1100)

- 1) Rulemaking: Docket number R12-9

- A) Description: On July 29, 2011, the Illinois Environmental Protection Agency (Agency) filed a proposal to allow for use of uncontaminated clean construction or demolition debris (CCDD) and soil to be used as fill

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material. The rule as proposed allows the Board to consider TACO background levels for all carcinogens, and allow professional geologists, as well as professional engineers to provide certifications under the interim soil certification requirements. The Board must adopt this rule within one year of receiving the proposal.

- B) Statutory authority: Sections 3.160, 22.51 and 22.51a of the Environmental Protection Act [415 ILCS 5/3.160, 22.51 and 22.51a].
- C) Scheduled meeting/hearing dates: Hearings were held in Springfield on September 26, 2011, and in Chicago on March 13, 2012.
- D) Date Agency anticipates First Notice: First notice was published in the Illinois Register on February 24, 2012.
- 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 operates a clean construction or demolition debris fill operation or an uncontaminated soil fill operation as well as any small business, small municipality or not-for-profit corporation that disposes of clean construction or demolition debris or uncontaminated soil at a permitted or registered fill operation.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking to:

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

Address questions concerning this regulatory agenda to:

Marie Tipsord  
Pollution Control Board  
100 W. Randolph, Suite 11-500  
Chicago, Illinois 60601  
(312) 814-4925

## POLLUTION CONTROL BOARD

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- G) Related rulemakings and other pertinent information: 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@illinois.gov

- kk) Part (Headings and Code Citation): Standards and Requirements for Potable Water Supply Well Surveys and for Community Relations Activities Performed in Conjunction with Agency Notices of Threats from Contamination (35 Ill. Adm. Code 1600).

- 1) Rulemaking: No docket presently reserved.
- A) Description: Subpart C of Part 1600 contains "Standards and Requirements for Community Relations Activities." The purpose of Subpart C is to establish minimum standards and requirements for the development and implementation of community relations activities in accordance with Section 25d-7 of the Environmental Protection Act (Act) [415 ILCS 5/25d-7]. The Illinois Environmental Protection Agency (Illinois EPA) is planning to propose conforming amendments to the Board's regulations at Part 1600 resulting from amendments to the Board's regulations at 35 Ill. Adm. Code 742: Tiered Approach to Corrective Action Objectives (TACO) for threats from indoor inhalation of vapors from certain contaminants.
- 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 Agency may submit a proposal to the Board within the next six months, after which the Board will cause

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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 are addressing a release of contaminants pursuant to Pollution Control Board rules. For those who fall within the criteria for community relations activities and whose release of contaminants poses a threat to human health and safety from the indoor inhalation of vapors, the development and implementation of a community relations plan may be required.
- F) Agency contact person for information: Address written comments concerning the substance of the rulemaking as follows:

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

Address questions concerning this regulatory agenda as follows:

Carol Webb  
Pollution Control Board  
1021 North Grand Avenue East  
P.O. Box 19274  
Springfield, Illinois 62794-9274  
webbc@ipcb.state.il.us

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  
217/782-5544  
Mark.Wight@epa.state.il.us

POLLUTION CONTROL BOARD

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- G) Related rulemaking and other pertinent information: Docket number R11-9: In the Matter of: Tiered Approach to Corrective Action Objectives (TACO) (Indoor Inhalation): Amendments to 35 Ill. Adm. Code 742.

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- a) Part (Heading and Code Citation): Emergency Medical Services and Trauma Center Code (77 Ill. Adm. Code 515)

1) Rulemaking:

A) Description:

Section 515.315 is being amended to clarify when, how and what a hospital needs to report when going on bypass status. Section 515.240 changes the Bioterrorism Grants to update the rule to meet federal changes as well as State changes. Amendments are being made to 515.380 to comply with HB 3134.

Section 515.800 is being amended to allow a vehicle service provider's license to be valid for four years instead of one year. Section 515.830 is being amended to allow an alternate rural staffing authorization, an alternate response authorization and an alternate response authorization for secondary EMS response vehicles. A new Section will allow a person ages 16 to 18 years of age to have a provisional First Responder-Emergency Medical Responder license.

The amendments to Appendix O, Appendix L, Section 515.4000, and 515.4010 (EMS for Children) will reflect updates to the equipment list to follow national standards and changes to the Pediatric Critical Care checklist to match the Emergency Department Approved for Pediatrics and Standby Emergency Department for Pediatrics checklist previously updated.

Amendments to Section 515.200, 515.160, 515.210, 515.220, 515.230, 515.250, and 515.330, with the addition of a new Section and two new appendices, reflect changes passed with PA 96-0514, allowing the State to recognize hospitals that comply with the rules and Act as Primary Stroke Centers and Emergent Stroke Ready Hospitals.

Amendments to Sections 515.2000, 515.2020, 515.2030, 515.2035, 515.2040, and 515.2045 will update the trauma center rules to agree with nationally recognized standards. Two new Sections are being created, a Trauma Level 3 and Trauma Level 4, as recommended by national standards.

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- B) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50]
- C) Scheduled meeting/hearing dates: State Emergency Medical Services Advisory Council – Summer 2012
- D) Date agency anticipates First Notice: Summer 2012
- E) Effect on small businesses, small municipalities or not-for-profit corporations:  
Not-for-profit hospitals will have to comply with the updates 515.315 and 380.

The changes to Sections 515.580 and 515.583 will have a positive effect on small businesses, small municipalities and volunteer agencies that have emergency medical services. These changes are being made in response to the EMS Funding Task Force meetings held throughout the State to help with rural EMS issues.

Not-for profit hospitals will need the equipment required in the updated equipment list if they are recognized as a Pediatric Critical Care, Emergency Department Approved for Pediatrics or a Standby Emergency Department for Pediatrics hospital.

Not-for-profit hospitals that want to be a Primary Stroke Center or an Emergent Stroke Ready Hospital will have to comply with these rules and the Act.

Not-for-profit hospitals that want to be a Level 1, 2, 3 or 4 Trauma Center will have to comply with these rules and the Act.

- F) Agency contact person for information:  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
dph.rules@illinois.gov  
217/782-2043

## DEPARTMENT OF PUBLIC HEALTH

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- G) Related rulemakings and other pertinent information: None
- b) Part (Heading and Code Citation): Physical Fitness Facility Medical Emergency Preparedness Code (77 Ill. Adm. Code 527)
- 1) Rulemaking:
- A) Description: Section 527.600 is being amended to implement a portion of PA 96-0748, which amended the Physical Fitness Facility Medical Emergency Preparedness Act to require a physical fitness facility to have an AED trained user present during "staffed business hours" rather than during all physical fitness activities. Sections 527.200 and 527.1100 are being amended to update references to the Department's hearing rules. Section 527.1000 is being amended to update the mailing address for the Department's Division of Emergency Medical Services and Highway Safety.
- B) Statutory Authority: Physical Fitness Facility Medical Emergency Preparedness Act [210 ILCS 74]
- C) Scheduled meeting/hearing dates: State Board of Health - Summer 2012
- D) Date agency anticipates First Notice: Summer 2012
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Physical fitness facilities will have to comply with these rules and the Act.
- F) Agency contact person for information:  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
dph.rules@illinois.gov  
217/782-2043
- G) Related rulemakings and other pertinent information: None

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- c) Part (Heading and Code Citation): Distribution of Medical Student Scholarship Payback Funds (77 Ill. Adm. Code 594)
- 1) Rulemaking:
- A) Description: Part 594 will be updated to incorporate terms from the Family Practice Residency Act, Nurse Practice Act, Illinois Dental Practice Act and Physician Assistant Practice Act of 1987. Language in 594.200 will be amended to clarify the amount dedicated to loan repayment and the percentage of funds awarded that come from different sources (federal v. State). Reporting and recovery requirements of the Illinois Grant Funds Recovery Act will be incorporated. Requirements of the Business Enterprise for Minorities, Females and Persons with Disabilities Act will be included to ensure that grantees comply with the Business Enterprise Program Practices for minority-owned businesses, female-owned businesses and businesses owned by persons with disabilities. Finally, language will be inserted so that grantees can certify that they comply with Section 2-105 of the Illinois Human Rights Act regarding equal employment opportunities and affirmative action policies.
- B) Statutory Authority: Family Practice Residency Act [110 ILCS 935]
- C) Scheduled meeting/hearing dates: State Board of Health – Summer 2012
- D) Date agency anticipates First Notice: September 2012
- E) Effect on small businesses, small municipalities or not-for-profit corporations: No effect is anticipated on small businesses, small municipalities, and not-for-profit corporations.
- F) Agency contact person for information:  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
dph.rules@illinois.gov  
217/782-2043

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- G) Related rulemakings and other pertinent information: None
- d) Part (Heading and Code Citation): Illinois Water Well Construction Code (77 Ill. Adm. Code 920)
- 1) Rulemaking:
- A) Description: The amendments will clarify and expand existing language pertaining to the construction, sealing, and modification of water wells; implement the provisions of PA 97-0363 regarding the registration of closed loop well contractors, and the permitting of closed loop well systems.
- B) Statutory Authority: Illinois Water Well Construction Code [415 ILCS 30]
- C) Scheduled meeting/hearing dates: State Board of Health - Summer 2012
- D) Date agency anticipates First Notice: Fall 2012
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking will affect manufacturers of buried slabs for bored wells, closed loop well contractors, and owners of closed loop wells.
- F) Agency contact person for information:  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
dph.rules@illinois.gov  
217/782-2043
- G) Related rulemakings and other pertinent information: None
- e) Part (Heading and Code Citation): Private Sewage Disposal Code (77 Ill. Adm. Code 905)

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- 1) Rulemaking:
  - A) Description: The amendments reflect prescriptive mandates recently modified in the Private Sewage Disposal Licensing Act; set forth provisions for approval of new subsurface private sewage disposal systems; define maintenance requirements, frequency and Notice of Intent to maintain a private sewage disposal system; update reference material, sizing data, contact information and dates; set sizing requirements for subsurface chamber systems; provide clarifications and definitions, define sample ports and locations, and location and restriction of surface discharging private sewage disposal systems; modify fees, examination requirements and license requirements for contractors; approve baffle filters and disinfection devices; establish location of alarm and electrical connections for NSF Standard 40 systems, contractor requirements and minimum set back distances.
  - B) Statutory Authority: Private Sewage Disposal Licensing Act [225 ILCS 225]
  - C) Scheduled meeting/hearing dates: State Board of Health - Summer 2012
  - D) Date agency anticipates First Notice: Fall 2012
  - E) Effect on small businesses, small municipalities or not-for-profit corporations: Licensed Private Sewage Disposal System Contractors fees will be increasing.
  - F) Agency contact person for information:  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
dph.rules@illinois.gov  
217/782-2043
  - G) Related rulemakings and other pertinent information: None

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- f) Part (Heading and Code Citation): Local Health Protection Grant Rules (77 Ill. Adm. Code 615)
- 1) Rulemaking:
- A) Description: The Department plans to revise the requirements for the four health protection programs (infectious diseases, food protection, potable water supply, and private sewage disposal) funded by the Local Health Protection Grant. No revisions will be made to the funding methodology or distribution at this time.
- B) Statutory Authority: Counties Code [55 ILCS 5]; Public Health District Act [70 ILCS 905]; Illinois Municipal Code [65 ILCS 5]; and Section 2310-15 of the Civil Administrative Code of Illinois [20 ILCS 2310/2310-15]
- C) Scheduled meeting/hearing dates: State Board of Health – Summer or Fall 2012
- D) Date agency anticipates First Notice: Late calendar year 2012
- E) Effect on small businesses, small municipalities or not-for-profit corporations: All certified local health departments in Illinois must provide the four health protection programs and follow the requirements outlined in these rules.
- F) Agency contact person for information:  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
dph.rules@illinois.gov  
217/782-2043
- G) Related rulemakings and other pertinent information: The Department plans to work with the Local Health Protection Advisory Group to develop suggested language prior to the beginning of the formal rulemaking

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process. Once a proposed rule is drafted and approved through the IDPH internal rulemaking process, the Department plans to distribute the draft rule to all local health departments and other interested stakeholders for comment and/or revision before the rule is considered by the State Board of Health.

- g) Part (Heading and Code Citation): Animal Population Control Code (new rules)
- 1) Rulemaking:
- A) Description: The Department plans to establish rules to administer the Illinois Public Health and Safety Animal Population Control Program.
- B) Statutory Authority: Illinois Public Health and Safety Animal Population Control Act [510 ILCS 92]
- C) Scheduled meeting/hearing dates: State Board of Health – Summer or Fall 2012
- D) Date agency anticipates First Notice: Fall 2012
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Any veterinarian may participate in the program and will be reimbursed for a dog or cat sterilization procedure, for an examination, and for pre-surgical immunizations.
- F) Agency contact person for information:  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
dph.rules@illinois.gov  
217/782-2043
- G) Related rulemakings and other pertinent information: None
- h) Part (Heading and Code Citation): Ambulatory Surgical Treatment Center Licensing Requirements (77 Ill. Adm. Code 205)

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- 1) Rulemaking:
  - A) Description: These proposed amendments will expand the responsibilities of the ASTC governing body, promote patient rights, establish quality assessment and infection control programs, and improve pre-operative and post-operative patient assessment practices.
  - B) Statutory Authority: Ambulatory Surgical Treatment Center Act [210 ILCS 5]
  - C) Scheduled meeting/hearing dates: Ambulatory Surgical Treatment Center Licensing Board – August 2012
  - D) Date agency anticipates First Notice: Fall 2012
  - E) Effect on small businesses, small municipalities, or not-for-profit corporations: This rulemaking will affect ambulatory surgical treatment centers.
  - F) Agency contact person for information:  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
dph.rules@illinois.gov  
217/782-2043
  - G) Related rulemakings and other pertinent information: None
- i) Part (Heading and Code Citation): Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300); Sheltered Care Facilities Code (77 Ill. Adm. Code 330); Illinois Veterans' Homes Code (77 Ill. Adm. 340).
  - 1) Rulemaking:

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- A) Description: Proposed amendments, to Part 300 only, will implement provisions from PA 96-1372 regarding care for mentally ill residents in intermediate care facilities or skilled nursing facilities.
- B) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- C) Scheduled meeting/hearing dates: Long-Term Care Facility Advisory Board – Summer 2012
- D) Date agency anticipates First Notice: Fall 2012
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: This rulemaking will affect skilled nursing and intermediate care facilities licensed for mentally ill residents.
- F) Agency contact person for information:  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
dph.rules@illinois.gov  
217/782-2043
- G) Related rulemakings and other pertinent information: None
- 2) Rulemaking:
- A) Description: Proposed amendments to all three Parts will implement Public Act 96-0389, which mandates that facilities draft "a policy to identify, assess, and develop strategies to control risk of injury to residents and nurses" in transferring and moving residents.
- B) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- C) Scheduled meeting/hearing dates: Long-Term Care Facility Advisory Board – May 2012
- D) Date agency anticipates First Notice: Summer 2012

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- E) Effect on small businesses, small municipalities, or not-for-profit corporations: This rulemaking will affect skilled nursing facilities, sheltered cared facilities, and veterans' homes, including skilled nursing facilities owned by county governments.
- F) Agency contact person for information:  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
[dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)  
217/782-2043
- G) Related rulemakings and other pertinent information: None
- 3) Rulemaking:
- A) Description: This proposed amendment to all three Parts will add a requirement for reporting the death of a resident when that death is the result of an incident or accident.
- B) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- C) Scheduled meeting/hearing dates: Long-Term Care Facility Advisory Board – May 2012
- D) Date agency anticipates First Notice: Summer 2012
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: This rulemaking will affect skilled nursing facilities, sheltered cared facilities, and veterans' homes, including skilled nursing facilities owned by county governments.
- F) Agency contact person for information:  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health

## DEPARTMENT OF PUBLIC HEALTH

## JULY 2012 REGULATORY AGENDA

535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
dph.rules@illinois.gov  
217/782-2043

- G) Related rulemakings and other pertinent information: None
- j) Part (Heading and Code Citation): Long-Term Care Assistants and Aides Training Program Code (77 Ill. Adm. Code 395)
- 1) Rulemaking:
- A) Description: This overhaul of Part 395 is being undertaken to update and revise the minimum requirements for the Basic Nursing Assistant Training Program (Section 395.300), which have not been changed since 1993, and to add course requirements and a curriculum for a Train the Trainer program.
- B) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- C) Scheduled meeting/hearing dates: Long-Term Care Facility Advisory Board – May 2012
- D) Date agency anticipates First Notice: Summer 2012
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: This rulemaking will affect skilled nursing facilities, sheltered cared facilities, and veterans' homes, including skilled nursing facilities owned by county governments.
- F) Agency contact person for information:  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
dph.rules@illinois.gov  
217/782-2043

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- G) Related rulemakings and other pertinent information: None
- k) Part (Heading and Code Citation): Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350); Long-term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390)
- 1) Rulemaking:
- A) Description: These proposed amendments will implement Public Act 96-0339, PA 96-1187, and PA 97-227, which put Parts 350 and Part 390 under a new licensing Act and made numerous other changes.
- B) Statutory Authority: ID/DD Community Care Act [210 ILCS 47]
- C) Scheduled meeting/hearing dates: Unknown (Advisory Board has yet to be appointed)
- D) Date agency anticipates First Notice: Fall 2012
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: This rulemaking will affect facilities that care for residents who are developmentally disabled or who are under age 22.
- F) Agency contact person for information:  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
dph.rules@illinois.gov  
217/782-2043
- G) Related rulemakings and other pertinent information: None
- l) Part (Heading and Code Citation): Children's Community-Based Health Care Center Code (77 Ill. Adm. Code 260)
- 1) Rulemaking:

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- A) Description: These proposed amendments will update numerous policies and procedures, including infection control, admissions, child's rights, personnel, quality improvement, and food service. Physical plant requirements also are being updated.
- B) Statutory Authority: Alternative Health Care Delivery Act [210 ILCS 3]
- C) Scheduled meeting/hearing dates: State Board of Health - August 2012
- D) Date agency expects First Notice: Fall 2012
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: This rulemaking will affect facilities that provide respite care to persons who are under age 22 who are medically fragile, technology dependent, or who have special health care needs and who have been determined by a physician to be clinically stable.
- F) Agency contact person for information:  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
dph.rules@illinois.gov  
217/782-2043
- G) Related rulemakings and other pertinent information: None
- m) Part (Heading and Code Citation): End Stage Renal Disease (ESRD) Facility Code (77 Ill. Adm. Code 281)
- 1) Rulemaking:
- A) Description: This is a new Part implementing the End Stage Renal Disease Facility Act [210 ILCS 62].
- B) Statutory Authority: End Stage Renal Disease Facility Act [210 ILCS 62]
- C) Scheduled meeting/hearing dates: End Stage Renal Disease Advisory Committee -Unknown

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- D) Date agency expects First Notice: Fall 2012
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: This rulemaking will affect facilities that serve patients who require end stage renal disease therapy.
- F) Agency Contact Person for Information:  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
dph.rules@illinois.gov  
217/782-2043
- G) Related rulemakings and other pertinent information: None
- n) Part (Heading and Code Citation): Collection, Disclosure, and Confidentiality of Health Statistics (77 Ill. Adm. Code 1005)
- 1) Rulemaking:
- A) Description: The rules will be amended to ensure that confidential data covered under the Illinois Health Statistics Act and used by researchers is solely for bona fide research and statistical purposes. Other related rule modifications will address Institutional Review Board (IRB) approval, certain assurances (e.g., data security, need for a data use agreement) and that use of the data is consistent with the Department's mission (i.e., appropriate use).
- B) Statutory Authority: Illinois Health Statistics Act [410 ILCS 520]
- C) Scheduled meeting/hearing dates: State Board of Health – Summer 2012
- D) Date agency anticipates First Notice: October 2012
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None

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- F) Agency contact person for information:  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
dph.rules@illinois.gov  
217/782-2043
- G) Related rulemakings and other pertinent information: Per changes made by P.A. 96-966.
- o) Part (Heading and Code Citation): Grade A Pasteurized Milk and Milk Products (77 Ill. Adm. Code 775)
- 1) Rulemaking:
- A) Description: This rulemaking will update references to several documents that are incorporated by reference in the Grade A Pasteurized Milk and Milk Products rules. Documents that are being updated include the Grade A Pasteurized Milk Ordinance (PMO), the Methods of Making Sanitation Ratings of Milk Shippers (MMSR), the Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration (FDA) Program of the National Conference on Interstate Milk Shipments, Evaluation of Milk Laboratories and the incorporated sections of the Code of Federal Regulations, all published by the FDA, and the Official Methods of Analysis of the Association of Official Analytical Chemists.
- B) Statutory Authority: Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635]
- C) Scheduled meeting/hearing dates: State Board of Health – Summer or Fall 2012
- D) Date agency anticipates First Notice: December 2012
- E) Effect on small businesses, small municipalities or not-for-profit corporations: There will be a minimal impact bulk milk hauler/samplers,

## DEPARTMENT OF PUBLIC HEALTH

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milk tank truck owners, dairy producers and processors. There will be no economic effect.

F) Agency contact person for information:

Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
dph.rules@illinois.gov  
217/782-2043

G) Related rulemakings and other pertinent information: Nonep) Part (Heading and Code Citation): Illinois Formulary for the Drug Product Selection Program (77 Ill. Adm. Code 790)1) Rulemaking:

- A) Description: This rulemaking will repeal the requirement for the Department to maintain a listing of information on generic drug manufacturers and approved generic drugs. The program was eliminated in 2004 when the Department's pharmacist position was also eliminated.
- B) Statutory Authority: Illinois Food, Drug and Cosmetic Act [410 ILCS 620]
- C) Scheduled meeting/hearing dates: State Board of Health – Summer or Fall 2012
- D) Date agency anticipates First Notice: December 2012
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health

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535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
dph.rules@illinois.gov  
217/782-2043

G) Related rulemakings and other pertinent information:

q) Part(s) (Heading and Code Citation): Food Service Sanitation Code (77 Ill. Adm. Code 750)

1) Rulemaking:

- A) Description: Provided that SB2961 is made law, this rulemaking implementing Section 3 of the Food Handling Regulation Enforcement Act [410 ILCS 625/3] will update the rules according to language that eliminates the food service sanitation manager recertification and Department of Public Health food service sanitation certification examination, instead requiring individuals to take the national accredited certification exam. It will also incorporate Department-approved food handler training deadline requirements following employment and components covered in training. Appropriate updates will be completed to mirror those of 410 ILCS 625/3 with respect to the Food Service Sanitation Manager Certification Program.
- B) Statutory Authority: Illinois Food, Drug and Cosmetic Act [410 ILCS 620]; Sanitary Food Preparation Act [410 ILCS 650]; Food Handling Regulation Enforcement Act [410 ILCS 625]
- C) Scheduled meeting/hearing dates: Illinois Department of Public Health, Food Safety Advisory Committee, June 26, 2012, at 9:30 am; State Board of Health – Fall 2012
- D) Date agency anticipates First Notice: December 2012
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The changes will have a positive impact for small businesses, or retail food establishments, in relation to training hours, food safety principles, and renewal consistency.

## DEPARTMENT OF PUBLIC HEALTH

## JULY 2012 REGULATORY AGENDA

- F) Agency contact person for information:  
Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
535 W. Jefferson St., 5<sup>th</sup> Floor  
Springfield, Illinois 62761  
dph.rules@illinois.gov  
217/782-2043
- G) Related rulemakings and other pertinent information: None

## POLLUTION CONTROL BOARD

## NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/28.1(d)(3)

LISTINGS OF ADJUSTED STANDARDS AND COMBINED  
SEWER OVERFLOW EXCEPTIONS GRANTED BY THE BOARD  
DURING FISCAL YEAR 2012

Section 28.1(d)(3) of the Environmental Protection Act (Act) (415 ILCS 5/28.1(d)(3) (2006)) requires the Board to annually publish in the Illinois Register and Environmental Register a listing of all determinations made pursuant to Section 28.1 at the end of each fiscal year. This notice sets forth all adjusted standard and combined sewer overflow exception determinations made by the Board during the fiscal year 2012 (July 1, 2011, through June 30, 2012).

Final Actions Taken by the Pollution Control Board in Adjusted Standards Proceedings During  
Fiscal Year 2012 (July 1, 2011 through June 30, 2012)Docket/Docket TitleFinal Determination

In the Matter of: Petition of Grief  
Packaging, LLC for an Adjusted Standard  
from 35 Ill. Adm. Code 218.Subpart TT,  
AS 11-1 (April 5, 2012)

The Board granted this adjusted standard for Grief's fiber drum manufacturing facility located in Naperville, DuPage County. The adjusted standard from Section 218.986(a) applies to the emissions of VOM into the atmosphere from the QC test process, subject to conditions.

In the Matter of: Petition of Cabot  
Corporation for an Adjusted Standard  
from 35 Ill. Adm. Code 738.Subpart B,  
AS 12-1 (May 3, 2012)

The Board granted this petition for modification of the existing adjusted standard issued in AS 07-6 (Oct. 10, 2010, as corrected Nov. 18, 2010) for Cabot's inorganic chemical manufacturing facility located in Tuscola, Douglas County. The modification reflects USEPA's approval of Cabot's request to change limits relating to temperature and pH of underground injections.

Final Actions Taken by the Pollution Control Board in Combine Sewer Overflow Exception  
Proceedings During Fiscal Year 2012 (July 1, 2011 through June 30, 2012)

The Board took no action in combined sewer overflow exception proceedings during fiscal year 2012, as none were filed with the Board or pending during fiscal year 2012.

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/28.1(d)(3)

Request copies, noting the appropriate docket number, to:

John Therriault, Assistant Clerk  
Pollution Control Board  
100 West Randolph Street, Suite 11-500  
Chicago, Illinois 60601  
312-814-3629

Address questions concerning this notice, noting the appropriate docket number, to:

Carol Webb  
Pollution Control Board  
1021 North Grand Avenue East  
Springfield, Illinois 62794-9274  
217-524-8509  
[webbc@ipcb.state.il.us](mailto:webbc@ipcb.state.il.us)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of June 5, 2012 through June 11, 2012 and have been scheduled for review by the Committee at its July 10, 2012 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
7/19/12	<u>Department of Veterans' Affairs</u> , Payment of Maintenance Charges and Income Management at the Illinois Veterans Homes (95 Ill. Adm. Code 108)	4/6/12 36 Ill. Reg. 5450	7/10/12
7/19/12	<u>Department of Natural Resources</u> , White-Tailed Deer Hunting By Use of Muzzleloading Rifles (17 Ill. Adm. Code 660)	3/23/12 36 Ill. Reg. 4300	7/10/12
7/19/12	<u>Department of Natural Resources</u> , White-Tailed Deer Hunting By Use of Firearms (17 Ill. Adm. Code 650)	3/23/12 36 Ill. Reg. 4283	7/10/12
7/19/12	<u>Department of Natural Resources</u> , White-Tailed Deer Hunting By Use of Bow and Arrow (17 Ill. Adm. Code 670)	3/23/12 36 Ill. Reg. 4314	7/10/12
7/19/12	<u>Department of Natural Resources</u> , White-Tailed Deer Hunting By Use of Bow and Arrow (17 Ill. Adm. Code 670)	3/30/12 36 Ill. Reg. 4682	7/10/12
7/19/12	<u>Illinois Law Enforcement Training and Standards Board</u> , Intern Training Program (20 Ill. Adm. Code 1725)	4/6/12 36 Ill. Reg. 5077	7/10/12
7/19/12	<u>Department of Transportation</u> , Oversize and Overweight Permit Movements on State	4/6/12 36 Ill. Reg.	7/10/12

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

	Highways (92 Ill. Adm. Code 554)	5378	
7/19/12	<u>Department of Children and Family Services</u> , Licensing Standards for Group Homes (89 Ill. Adm. Code 403)	9/30/11 35 Ill. Reg. 15502	7/10/12
7/19/12	<u>Department of Financial and Professional Regulation</u> , Boxing and Full-contact Martial Arts Act (68 Ill. Adm. Code 1370)	3/30/12 36 Ill. Reg. 4467	7/10/12
7/20/12	<u>Department of Transportation</u> , Motor Carrier Safety Regulations: General (92 Ill. Adm. Code 390)	4/20/12 36 Ill. Reg. 5971	7/10/12
7/20/12	<u>Department of Transportation</u> , Qualification of Drivers (92 Ill. Adm. Code 391)	4/20/12 36 Ill. Reg. 5996	7/10/12
7/20/12	<u>Department of Transportation</u> , Driving of Commercial Motor Vehicles (92 Ill. Adm. Code 392)	4/20/12 36 Ill. Reg. 6003	7/10/12
7/21/12	<u>Illinois Racing Board</u> , Medication (11 Ill. Adm. Code 603)	4/20/12 36 Ill. Reg. 5954	7/10/12
7/21/12	<u>Illinois Racing Board</u> , Weights, Penalties, and Allowances; Scale of Weights for Age (11 Ill. Adm. Code 1412)	4/20/12 36 Ill. Reg. 5956	7/10/12
7/21/12	<u>Illinois Racing Board</u> , Regulations for Meetings (Thoroughbred) (11 Ill. Adm. Code 1424)	4/20/12 36 Ill. Reg. 5961	7/10/12
7/22/12	<u>Illinois Racing Board</u> , Claiming Races (11 Ill. Adm. Code 510)	4/20/12 36 Ill. Reg. 5950	7/10/12

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

## SECOND NOTICES RECEIVED

7/22/12	<u>Pollution Control Board</u> , Nonhazardous Special Waste Hauling and the Uniform Program (35 Ill. Adm. Code 809)	4/6/12 36 Ill. Reg. 5095	7/10/12
7/22/12	<u>Pollution Control Board</u> , Clean Construction or Demolition Debris Fill Operations (35 Ill. Adm. Code 1100)	2/24/12 36 Ill. Reg. 2801	7/10/12
7/25/12	<u>Illinois Board of Higher Education</u> , Private Business and Vocational Schools (23 Ill. Adm. Code 1095)	4/27/12 36 Ill. Reg. 6077	7/10/12
7/25/12	<u>Department of Employment Security</u> , Recovery of Benefits (56 Ill. Adm. Code 2835)	4/6/12 36 Ill. Reg. 5072	7/10/12

**ILLINOIS ADMINISTRATIVE CODE**  
**Issue Index - With Effective Dates**

Rules acted upon in Volume 36, Issue 25 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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