



**TABLE OF CONTENTS**

**May 10, 2013 Volume 37, Issue 19**

**PROPOSED RULES**

EXECUTIVE ETHICS COMMISSION  
Organization, Information, Rulemaking and Hearings  
2 Ill. Adm. Code 1620.....6008

POLLUTION CONTROL BOARD  
Permits and General Provisions  
35 Ill. Adm. Code 201.....6028

Organic Material Emission Standards and Limitations for the  
Chicago Area  
35 Ill. Adm. Code 218.....6054

Organic Material Emission Standards and Limitations for the  
Metro East Area  
35 Ill. Adm. Code 219.....6083

Groundwater Quality  
35 Ill. Adm. Code 620.....6123

PUBLIC HEALTH, DEPARTMENT OF  
Children's Community-Based Health Care Center Code  
77 Ill. Adm. Code 260.....6135

STATE UNIVERSITIES RETIREMENT SYSTEM  
Universities Retirement  
80 Ill. Adm. Code 1600.....6170

**ADOPTED RULES**

COMMERCE COMMISSION, ILLINOIS  
Distributed Generation Installer Certification  
83 Ill. Adm. Code 468.....6184

HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF  
Medical Payment  
89 Ill. Adm. Code 140.....6196

HEALTH FACILITIES AND SERVICES REVIEW BOARD  
Health Facilities and Services Review Operational Rules  
77 Ill. Adm. Code 1130.....6227

HUMAN SERVICES, DEPARTMENT OF  
Impartial Due Process Hearing  
89 Ill. Adm. Code 828.....6358

Sex Equity  
89 Ill. Adm. Code 829.....6368

**JOINT COMMITTEE ON ADMINISTRATIVE RULES AGENDA**  
JOINT COMMITTEE ON ADMINISTRATIVE RULES  
May Agenda.....6383

**SECOND NOTICES RECEIVED**  
JOINT COMMITTEE ON ADMINISTRATIVE RULES

Second Notices Received.....	6391
<b>OTHER INFORMATION REQUIRED BY LAW TO BE PUBLISHED IN THE ILLINOIS REGISTER</b>	
LABOR, DEPARTMENT OF	
Notice of Public Information.....	6392
STATE TREASURER, OFFICE OF THE	
Notice of Public Information.....	6395
<b>NOTICE OF AGENCY RESPONSE TO JOINT COMMITTEE OBJECTION TO PROPOSED RULE</b>	
HUMAN SERVICES, DEPARTMENT OF	
Maternal and Child Health Advisory Board	
77 Ill. Adm. Code 2260.....	6411
<b>EXECUTIVE ORDERS AND PROCLAMATIONS</b>	
PROCLAMATIONS	
Gubernatorial Proclamation 4	
2013-164.....	6412

## 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 2013

<b>Issue#</b>	<b>Rules Due Date</b>	<b>Date of Issue</b>
1	December 26, 2012	January 4, 2013
2	December 31, 2012	January 11, 2013
3	January 7, 2013	January 18, 2013
4	January 14, 2013	January 25, 2013
5	January 22, 2013	February 1, 2013
6	January 28, 2013	February 8, 2013
7	February 4, 2013	February 15, 2013
8	February 11, 2013	February 22, 2013
9	February 19, 2013	March 1, 2013
10	February 25, 2013	March 8, 2013
11	March 4, 2013	March 15, 2013
12	March 11, 2013	March 22, 2013
13	March 18, 2013	March 29, 2013
14	March 25, 2013	April 5, 2013
15	April 1, 2013	April 12, 2013
16	April 8, 2013	April 19, 2013
17	April 15, 2013	April 26, 2013
18	April 22, 2013	May 3, 2013
19	April 29, 2013	May 10, 2013
20	May 6, 2013	May 17, 2013

21	May 13, 2013	May 24, 2013
22	May 20, 2013	May 31, 2013
23	May 28, 2013	June 7, 2013
24	June 3, 2013	June 14, 2013
25	June 10, 2013	June 21, 2013
26	June 17, 2013	June 28, 2013
27	June 24, 2013	July 5, 2013
28	July 1, 2013	July 12, 2013
29	July 8, 2013	July 19, 2013
30	July 15, 2013	July 26, 2013
31	July 22, 2013	August 2, 2013
32	July 29, 2013	August 9, 2013
33	August 5, 2013	August 16, 2013
34	August 12, 2013	August 23, 2013
35	August 19, 2013	August 30, 2013
36	August 26, 2013	September 6, 2013
37	September 3, 2013	September 13, 2013
38	September 9, 2013	September 20, 2013
39	September 16, 2013	September 27, 2013
40	September 23, 2013	October 4, 2013
41	September 30, 2013	October 11, 2013
42	October 7, 2013	October 18, 2013
43	October 15, 2013	October 25, 2013
44	October 21, 2013	November 1, 2013
45	October 28, 2013	November 8, 2013
46	November 4, 2013	November 15, 2013
47	November 12, 2013	November 22, 2013
48	November 18, 2013	December 2, 2013
49	November 25, 2013	December 6, 2013
50	December 2, 2013	December 13, 2013
51	December 9, 2013	December 20, 2013
52	December 16, 2013	December 27, 2013

**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> through **Monday, July 1<sup>st</sup>, 2013.**

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Organization, Information, Rulemaking and Hearings
- 2) Code Citation: 2 Ill. Adm. Code 1620
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1620.825	Amend
1620.826	New Section
1620.900	Amend
1620.1250	New Section
- 4) Statutory Authority: Implementing and authorized by Sections 20-5, 20-50 and 20-55 of the State Officials and Employees Ethics Act [5 ILCS 430/20-5, 20-50 and 20-55], Section 2002 of the Fiscal Control and Internal Auditing Act [30 ILCS 10/2002], and Section 10-10, 10-5, 10-20, and 50-39 of the Illinois Procurement Code [30 ILCS 500/10-10, 10-15, 10-20 and 50-39] and authorized by Section 20-15 of the State Officials and Employees Ethics Act [5 ILCS 430/20-15] and Section 10-5 of the Illinois Administrative Procedure Act [5 ILCS 100/10-5]
- 5) A Complete Description of the Subjects and Issues Involved: The rules are being amended to address procurement communications reporting pursuant to Public Acts 97-618 and 97-895. The amendments also establish a process for the Commission's handling of conflict of interest recommendations pursuant to Public Act 97-895. The amendments change the due dates for the submission and content of the State employee ethics training reports required to be submitted annually to the Commission by each ultimate jurisdictional authority.
- 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 Objectives: This rulemaking does not affect units of local government.

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be forwarded to:

Chad D. Fornoff, Executive Director  
Executive Ethics Commission  
401 S. Spring Street  
Wm. Stratton Building, Room 513  
Springfield, IL 62706

217/558-1393

All written comments filed within 45 days after the date of publication of this Notice will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July, 2012 (36 Ill. Reg. 11577)

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

EXECUTIVE ETHICS COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION  
SUBTITLE E: MISCELLANEOUS STATE AGENCIES  
CHAPTER VI: EXECUTIVE ETHICS COMMISSION

PART 1620

ORGANIZATION, INFORMATION, RULEMAKING AND HEARINGS

SUBPART A: ORGANIZATION

Section	
1620.5	Definitions
1620.10	Composition of Executive Ethics Commission
1620.20	Officers
1620.30	Appointment of Executive Director
1620.40	Duties of Executive Director
1620.50	Duties of Staff

SUBPART B: INFORMATION

Section	
1620.110	Requests for Records
1620.120	Response to Requests for Records
1620.130	Appeal of a Denial (Repealed)
1620.140	Copies of Public Records – Fees
1620.150	Materials Immediately Available

SUBPART C: RULEMAKING

Section	
1620.200	Rulemaking Procedures

SUBPART D: INVESTIGATIONS

Section	
1620.300	Conduct of Investigations
1620.310	State Officer or Employee Case Initiation Form
1620.320	Case Initiation Form – Contents
1620.330	Opening an Investigation File
1620.340	Referral to the Appropriate Executive Inspector General

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

- 1620.350 Investigations  
1620.360 Investigations Not Concluded Within Six Months (Repealed)

## SUBPART E: HEARINGS

- Section  
1620.420 Attorney of Record  
1620.430 Filing Requirements  
1620.440 Complaint  
1620.450 Complaint – Required Provisions  
1620.460 Service  
1620.470 Objections  
1620.480 Sufficiency of the Complaint  
1620.490 Discovery  
1620.500 Subpoenas  
1620.510 Motions  
1620.520 Hearings  
1620.530 Decision of the Commission

## SUBPART F: REVOLVING DOOR PROHIBITION

- Section  
1620.610 Revolving Door Prohibition  
1620.620 Waiver of Revolving Door Prohibition – Commission Procedure (Repealed)  
1620.630 Finality of Decision (Repealed)  
1620.640 Waiver of Prohibition of Executive Inspector General Employees as Judicial Appointee  
1620.650 Waiver of Prohibition of Executive Inspector General Employees as Judicial Appointee – Commission Procedure

## SUBPART G: GIFT BAN

- Section  
1620.700 Gift Ban

## SUBPART H: MISCELLANEOUS FILINGS

- Section  
1620.800 Personnel Policies

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

1620.810	Quarterly and Six-Month Status Reports
1620.820	Ex Parte Communications
1620.825	Communications Related to Procurement
<u>1620.826</u>	<u>Communications Related to Power Procurement by the Illinois Power Agency</u>
1620.830	Designation of Ethics Officer

## SUBPART I: ETHICS TRAINING

Section	
1620.900	Ethics Training

## SUBPART J: RELEASE OF INVESTIGATION REPORTS

Section	
1620.1000	Investigation Reports Finding a Violation
1620.1010	Investigation Reports Finding No Violation
1620.1020	Release of Summary Reports

## SUBPART K: DISCIPLINARY ACTION

Section	
1620.1100	Disciplinary Action under the Ethics Act
1620.1110	Hearings to Contest Disciplinary Actions

## SUBPART L: PROCUREMENT CODE CONFLICTS OF INTEREST

PROVISIONSEXEMPTIONS

Section	
1620.1200	Procurement Code Conflicts of Interest Exemptions
<u>1620.1250</u>	<u>Potential Conflict of Interest Submittal from the Procurement Policy Board</u>

## SUBPART M: ACTIONS FOR REMOVING AND DISCIPLINING CERTAIN OFFICERS

Section	
1620.1300	Purpose
1620.1310	Instituting a Complaint for Removal or Discipline
1620.1320	Service of Process, Notice
1620.1330	Contents of the Complaint and Amendments
1620.1340	Objections to Sufficiency of Complaint

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

1620.1350	Sufficiency of the Complaint
1620.1360	Cause for Discharge or Discipline
1620.1370	Discovery
1620.1380	Subpoenas
1620.1390	Motions
1629.1400	Order of Evidentiary Hearing
1620.1410	Public Hearing
1620.1420	Proposal for Decision and Response
1620.1430	Decision of the Commission
1620.1440	Administrative Law Judge
1620.1450	Authority of Administrative Law Judge
1620.1460	Appearances – Representation
1620.1470	Record of Proceedings
1620.1480	Service of Pleadings

AUTHORITY: Implementing and authorized by Sections 20-5, 20-50 and 20-55 of the State Officials and Employees Ethics Act [5 ILCS 430/20-5, 20-50 and 20-55], Section 2002 of the Fiscal Control and Internal Auditing Act [30 ILCS 10/2002], and Section 10-10, 10-5, and 10-20 of the Illinois Procurement Code [30 ILCS 500/ 10-10, 10-15, 10-20, and 50-39] and authorized by Section 20-15 of the State Officials and Employees Ethics Act [5 ILCS 430/20-15] and Section 10-5 of the Illinois Administrative Procedure Act [5 ILCS 100/10-5].

SOURCE: Adopted by emergency rulemaking at 29 Ill. Reg. 3340, effective February 23, 2005, for a maximum of 150 days; adopted at 29 Ill. Reg. 9619, effective July 1, 2005; amended at 32 Ill. Reg. 7099, effective July 1, 2008; amended at 34 Ill. Reg. 13108, effective August 27, 2010; amended at 34 Ill. Reg. 19507, effective December 6, 2010; emergency rulemaking at 35 Ill. Reg. 563, effective January 1, 2011, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 35 Ill. Reg. 3797, effective February 17, 2011, for the remainder of the 150 days; amended at 35 Ill. Reg. 7308, effective April 21, 2011; amended at 36 Ill. Reg. 13826, effective August 21, 2012; amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART H: MISCELLANEOUS FILINGS

**Section 1620.825 Communications Related to Procurement**

- a) Unless otherwise specified in this Section, any~~Any~~ written or oral communication received by a State employee who, by the nature of his or her duties, has the authority to participate personally or substantially in the decision to award a

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

*State contract and that imparts or requests material information or makes a material argument regarding potential action concerning ~~an active~~ procurement matter, including but not limited to an application, a contract or a project, shall be reported~~report the communication~~ to the Procurement Policy Board, and, with respect to the Illinois Power Agency, by the initiator of the communication, and may be reported also by the recipient.* [30 ILCS 500/50-39(a)]

- 1) *As soon as practicable, but in no event more than 30 days after receipt of the communication or the first in a series of related communications described in subsection (b), the State employee shall report the communication to the Procurement Policy Board in accordance with the Board's rules.*
- 2) *Notwithstanding the requirements of subsection (a), as soon as practicable, but in no event more than 30 days after receipt of a communication described in subsection (b), the initiator of a communication received by an employee of the Illinois Power Agency shall also report, and the recipient of the communication may report, the communications to the Procurement Policy Board in accordance with the Board's rules.*
- 3) *No trade secrets or other proprietary or confidential information shall be included in any communication reported to the Procurement Policy Board.* [30 ILCS 500/50-39(b)(viii)]

b) A communication must be reported if it is material, regarding a potential action, relating to ~~an active~~ procurement matter, and not otherwise excluded from reporting.

- 1) Materiality
  - A) *"Material information" is information that a reasonable person would deem important in determining his or her course of action. It is information pertaining to significant issues, including, but not limited to, price, quantity and terms of payment or performance.* [30 ILCS 500/50-39(g)]
  - B) *A "material argument" is a communication that a reasonable person would believe was made for the purpose of influencing a decision relating to a procurement matter. It does not include*

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

*general information about products, services or industry best practices, or a response to a communication initiated by an employee of the State for the purpose of providing information to evaluate new products, trends, services or technologies. [30 ILCS 500/50-39(g)]*

- C) In determining whether a communication is material, the State employee must consider:
- i) whether the information conveyed is new or already known to the State agency (or repeated or restated privately) and other participants in the communication; and
  - ii) the likelihood that the information would influence a pending procurement matter.
- 2) A "potential action" is one that a reasonable person would believe could affect the initiation, development or outcome of a procurement matter.
- 3) ~~"Active procurement Procurement matters", unless otherwise excluded, are the processes of procuring specific goods, supplies, services, professional or artistic services, construction, leases of real property (whether the State is the lessor or lessee), or capital improvements, and include master contracts, contracts for financing through use of installment or lease-purchase arrangements, renegotiated contracts, amendments to contracts, and change orders. Procurement matters means a procurement process beginning with the requisition or determination of need by an agency are activities that occur during the time period beginning with the time an agency has identified a need for procurement as documented by the initiation of a procurement business case or equivalent document, as designated by the Chief Procurement Officer, and continuing through the publication of an award notice or other completion of a final procurement action, the resolution of any protests, and the expiration of any protest or Procurement Policy Board review period, if applicable. "Active procurement matter" also includes communications relating to change orders, renewals or extensions. [30 ILCS 500/50-39(g)] "Procurement processes" includes the processes of procuring specific goods, supplies, services, professional or artistic services, construction, leases of real property (whether the State is the lessor or lessee), or capital~~

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

improvements, and includes master contracts, contracts for financing through use of installment or lease-purchase arrangements, renegotiated contracts, amendments to contracts, and change orders. Active procurement ~~Procurement~~ matters include:

- A) drafting, reviewing or preparing specifications, plans or requirements, including determining the method of source selection;
  - B) drafting, reviewing or preparing any Invitations for Bid, Requests for Information, Requests for Proposals, sole source procurement justifications, emergency procurement justifications or selection information;
  - C) evaluating bids, responses and offers, other communications among an evaluation team and any technical advisors to the team relating to the evaluation of a procurement not yet awarded;
  - D) letting or awarding a contract;
  - E) resolving protests;
  - F) determining inclusion on prequalification lists or prequalification in general;
  - G) identifying potential conflicts of interest or voiding or allowing a contract, bid, offer or subcontract for a conflict of interest;
  - H) allowing a conflict or subcontract pursuant to Section 50-60 of the Illinois Procurement Code [30 ILCS 500]; and
  - I) determining, drafting, preparing, executing, denying or approving change orders or the renewal or extension of an existing contract.
- c) This Section does not apply to the following communications:
- 1) Statements ~~Communications~~ *made* by a person publicly made in a public forum. However ~~(however~~, communications made in a public forum, if made again privately, must be reported);

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

- 2) ~~Statements~~*Communications* regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter;
- 3) *Communications regarding the administration and implementation of an existing contract, except communications regarding change orders or the renewal or extension of an existing contract.* ~~[30 ILCS 500/150-39(a)]~~
- 4) ~~Statements made by~~*Communications between* a State employee ~~to and~~:
  - A) *the State employee's agency head;*
  - B) *other State-employees of that agency;*
  - C) *employees of the Executive Ethics Commission; or*
  - D) *an employee of another State agency who, through the communication, is either:*
    - i) *exercising his or her experience or expertise in the subject matter of the particular procurement in the normal course of business, for official purposes, and at the initiation of the purchasing agency or the appropriate State Purchasing Officer; or*
    - ii) *exercising oversight, supervisory or management authority over the procurement in the normal course of business and as part of official responsibilities.*
- 5) *Unsolicited communications providing general information about products, services or industry best practices, prior to those products or services becoming involved in a procurement matter.*
- 6) *Communications received in response to procurement solicitations pursuant to the Illinois Procurement Code, including, but not limited to, vendor responses to a Request for Information, Request for Proposal, Request for Qualifications, Invitation for Bid or a small purchase, sole source or emergency solicitation, ~~or~~ questions and answers posted to the*

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

*Procurement Bulletins to supplement the procurement action, provided that the communications are made in accordance with the instructions contained in the procurement solicitation, procedures or guidelines.*

- 7) *Communications that are privileged, protected or confidential under law.*
- 8) *Communications that are part of a formal procurement process as set out by statute, rule or the solicitation, guidance or procedures, such as the posting of procurement opportunities, the process for approving a procurement business case or its equivalent, fiscal approval, submission of bids, the finalizing of contract terms and conditions with an awardee or apparent awardee, and similar formal procurement process. [\[30 ILCS 500/50-39\(a\)\]](#)*
- d) Notwithstanding any exemption provided in subsection (c), a State employee must report any communication that imparts or requests material information or makes a material argument regarding a potential action concerning **an active** procurement matter if that communication attempts to influence through duress, coercion or the direct or indirect offer or promise of anything of value to any person or entity in consideration for any benefit or preference in the procurement process.
- e) Notwithstanding any exemption provided in subsection (c), a State employee must report any communication that imparts or requests material information or makes a material argument regarding a potential action concerning **an active** procurement matter if the employee reasonably believes the communication was made for any improper purpose, including, but not limited to, providing an improper benefit, monetary or non-monetary, to any person or entity.
- f) ~~This Section does not apply to communications concerning procurements that are exempt from the Illinois Procurement Code. As soon as practicable, but in no event more than 30 days after receipt of the communication or the first in a series of related communications described in subsection (b), the State employee shall report the communication to the Procurement Policy Board in accordance with the Board's rules.~~
- e) For purposes of this Section, "State employee" means:

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

- 1) any person employed full-time, part-time or pursuant to a personal services contract and whose employment duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed;
  - 2) any appointed or elected commissioner, trustee, director or board member of a board of a State agency; or
  - 3) any other person appointed to a position in or with a State agency, regardless of whether the position is compensated.
- h) For purposes of this Section, "public forum" includes any meeting that satisfies the notice requirements contained in Section 2.02 of the Open Meetings Act [5 ILCS 120/2.02], but also includes other public events that are advertised and generally open to the public. A meeting may be a public forum even if a reasonable fee is required, such as educational seminars and conferences.
- i) ~~For purposes of this Section, "procurement business case" means a formal request for approval to procure using either an electronic system or document designated for this purpose by the Chief Procurement Officer.~~

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1620.826 Communications Related to Power Procurement by the Illinois Power Agency**

- a) This Section implements Section 50-39 of the Illinois Procurement Code concerning communications with the Illinois Power Agency relating to power procurement.
- b) For purposes of this Section, the identified terms have the following definitions:
  - 1) "Illinois Power Agency" or "IPA" means the agency created by Section 1-15 of the Illinois Power Agency Act [20 ILCS 3855/1-15];
  - 2) "Illinois Power Agency employee" means:
    - A) any person employed full-time, part-time or pursuant to a personal services contract with IPA and whose employment duties are

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

subject to the direction and control of the IPA Director or staff with regard to the material details of how the work is to be performed;

B) the Director of IPA;

C) or any person associated with IPA as an independent contractor performing services or providing goods pursuant to terms specified by contract with IPA, including employees of any such independent contractor.

3) "Content of any power procurement plan" means the substance of the power procurement plan provided in the Illinois Power Agency Act (IPA Act) [20 ILCS 3855] and Sections 16-111.5 and 16-111.5B of the Public Utilities Act (PUA) [220 ILCS 5/16-111.5 and 16-111.5B].

4) "Manner of conducting a power procurement process" means the method of carrying out and administering the procurement process provided in Section 1-75 of the IPA Act and Section 16-111.5 of the PUA.

5) "Method or structure of contracting with power suppliers" means the system or composition of agreeing with a provider of electricity or related services, including renewable resources, for procurements administered by IPA, whether or not IPA is a party to the contract.

6) "Procurement of a power supply" means the acquisition of electricity or related services, including renewable resources, on behalf of participating utilities or IPA. A procurement of a power supply commences when IPA begins efforts, formal or informal, on the power procurement plan provided in the IPA Act and Section 16-111.5 of the PUA or, for procurements of renewable energy resources, pursuant to Section 1-56 of the IPA Act, and continues through the conclusion of the procurement process provided in Sections 1-75 and 1-56 of the IPA Act and Section 16-111.5 of the PUA, and includes any alternate procedures adopted by the Director pursuant to Section 20-10(i) of the Illinois Procurement Code.

7) "Public forum" includes any meeting that satisfies the notice requirements of Section 2.02 of the Open Meetings Act [5 ILCS 120/2.02], but also includes other public events that are advertised and generally open to the

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

public. A meeting may be a public forum even if a reasonable fee is required, such as educational seminars and conferences.

8) "Participating utility" means a utility that is required to or elects to participate in the IPA procurement process pursuant to Section 16-111.5(a) of the PUA.

c) Any person communicating orally, in writing, electronically, or otherwise with the Illinois Power Agency to impart, solicit, or transfer any information related to the content of any power procurement plan, the manner of conducting any power procurement process, the procurement of any power supply, or the method or structure of contracting with power suppliers must disclose to the Procurement Policy Board the full nature, content and extent of any such communication.

d) The disclosure required under this Section shall be filed as soon as practicable, but in no event more than 30 days after receipt of the communication. The report shall include the following information:

1) The names of any party to the communication.

2) The date on which the communication occurred.

3) The time at which the communication occurred.

4) The duration of the communication.

5) The method (written, oral, etc.) of the communication.

6) A summary of the substantive content of the communication. [30 ILCS 500/50-39(a)]

e) No trade secrets or other proprietary or confidential information shall be included in any communication reported to the Procurement Policy Board. [30 ILCS 500/50-39(b)]

f) This Section does not apply to the following communications:

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

- 1) Statements by a person publicly made in a public forum. However, communications made in a public forum, if made again privately, must be reported.
- 2) 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.
- 3) Communications regarding the administration and implementation of an existing contract, except communications regarding change orders or the renewal or extension of an existing contract. [30 ILCS 500/50-39(a)]
- 4) Statements made by an IPA employee to:
  - A) the Director of IPA;
  - B) other employees of IPA;
  - C) persons associated with IPA as an independent contractor performing services or providing goods pursuant to terms specified by contract with the agency;
  - D) a commissioner or employee of the Executive Ethics Commission exercising oversight of IPA as part of official responsibilities; or
  - E) a commissioner or employee of the Illinois Commerce Commission (ICC), when the communications are part of the procurement process provided in Section 1-75 of the IPA Act and Sections 16-111.5 and 16-111.5B of the PUA.
- 5) Communications that are privileged, protected or confidential under law. [30 ILCS 500/50-39(a)]
- 6) Communications that are required as part of formal processes set out by statute, rule or solicitation, guidance or procedures relating to the process for determining the content of any power procurement plan, the manner of conducting any power procurement process, the procurement of any power supply, or the method or structure of contracting with power suppliers, provided that the communications are made in accordance with the

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

instructions contained in the statute, rule, solicitation, guidance or procedures.

- 7) Unsolicited communications providing general information about products, services or industry best practices, prior to those products or services becoming involved in a procurement matter. [30 ILCS 500/50-39(a)]
- 8) Communications that are submitted and published on IPA's and ICC's websites in accordance with statute or rules.
- g) Notwithstanding any exemption provided in subsection (f), a person must report any communication subject to this Section if that communication attempts to influence through duress, coercion or the direct or indirect offer or promise of anything of value to any person or entity for any benefit or preference in the power procurement process.
- h) Notwithstanding any exemption provided in subsection (f), a person must report any communication subject to this Section if the person reasonably believes the communication was made for any improper purpose, including, but not limited to, providing an improper benefit, monetary or non-monetary, to any person or entity.
- i) This Section does not apply to communications concerning the hiring of procurement administrators or procurement planning consultants pursuant to Section 1-75 of the IPA Act.

(Source: Added at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART I: ETHICS TRAINING

**Section 1620.900 Ethics Training**

- a) Beginning in ~~2014~~2014, on or before February 1~~December 31~~ of each year, each ultimate jurisdictional authority (UJA) shall submit an annual report to the Commission that summarizes ethics training that was completed during the previous calendar year and lays out the plan for the ethics training programs in the coming year. [5 ILCS 430/5-10(b)]
- b) This report shall contain the following information:

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

- 1) A copy of all materials used in the ethics training of employees and officers of the UJA during the previous year.
  - 2) The number of officers or employees who completed initial~~completing~~ ethics training and the number of officers and employees who completed annual ethics training in the previous year, identified by agency.
  - 3) The identity of any officers or employees who, for any reason, failed to complete required annual ethics training or initial ethics training during the previous year, the reason, if available, for each failure, and what disciplinary or administrative action the UJA has imposed or plans to impose in response to this failure.
  - 4) All ethics training materials to be used during the current~~next~~ calendar year to train employees subject to the jurisdiction of that UJA, if available by February 1~~December 31~~. If these materials are not available on February 1~~December 31~~, they should be forwarded when available, but in any case, at least 8 weeks before training commences.
  - 5) Other information deemed necessary by the Commission to fulfill its duties.
- c) The ethics training materials described in subsection (b)(4) shall also be submitted at the same time to the appropriate Executive Inspector General. The Commission and appropriate Executive Inspector General shall review the materials and offer amendments within 4 weeks. The ethics training information described in subsections (b)(2) and (b)(3) shall also be submitted at the same time to the appropriate Executive Inspector General.
- d) Certification of Training Sent to Ethics Officer
- 1) *Upon completion of any ethics training program required by the Act, each officer and employee must certify in writing that the person has completed the training program. Each officer and employee must provide to his or her Ethics Officer a signed copy of the certification by the deadline for completion of the ethics training program. [5 ILCS 430/5-10(d)]*

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

- 2) The certification shall state: "I certify that I have carefully read and reviewed the content of, and completed, the [insert name of training program]. Furthermore, I certify that I understand my failure to comply with the laws, rules, policies and procedures referred to within this training course may result in disciplinary action up to and including termination of State employment/appointment, administrative fines, and possible criminal prosecution, depending on the nature of the violation."
- 3) The certification required by this Part may be made in accordance with the Illinois Commerce Security Act [5 ILCS 175] or in a manner substantially similar to the requirements of that Act, and notice of this certification shall be forwarded electronically to the Ethics Officer for those employees whose ethics training is conducted electronically.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART L: PROCUREMENT CODE CONFLICTS OF INTEREST

PROVISIONSEXEMPTIONS**Section 1620.1250 Potential Conflict of Interest Submittal from the Procurement Policy Board**

*If, based on a potential conflict of interest that was not originally disclosed by the contractor or subcontractor, the Procurement Policy Board makes a recommendation to void a contract or void a bid or offer and the Chief Procurement Officer selected or intends to award the contract to the bidder or offeror, the Executive Ethics Commission shall hold a public hearing within 30 days after receiving the Board's recommendation. [30 ILCS 500/50-35(d)]*

- a) The Procurement Policy Board shall forward its recommendations to void a contract, bid or offer pursuant to [Section 50-35\(d\) of the Illinois Procurement Code](#), to the [Executive Director of the Commission](#) and the appropriate [Chief Procurement Officer](#) within five days after making the recommendation. The recommendation shall contain the following information:
  - 1) The name and contact information of the bidder, offeror, contractor and/or subcontractor.

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENTS

- 2) A statement of all relevant facts the Board considered in reaching its recommendation, including the names of all individuals that provided information or testified.
  - 3) A statement of all relevant legal conclusions the Board made in reaching its recommendation.
  - 4) A written or recorded record of the Board's hearing, if one took place.
  - 5) A copy of all documents relied upon by the Board in making its recommendation.
- b) Within five business days after receipt of the Board's recommendation, the appropriate Chief Procurement Officer shall inform the Commission, in writing, whether the Chief Procurement Officer intends to accept or reject the Board's recommendation.
  - c) If, based on a potential conflict of interest that was not originally disclosed by the contractor or subcontractor, the Procurement Policy Board makes a recommendation to void a contract or void a bid or offer and the Chief Procurement Officer selected or intends to award the contract to the bidder or offerer, the Commission shall set a date, time and location for a public hearing to take place within 30 days after receiving the Board's recommendation.
  - d) The appropriate Chief Procurement Officer shall publish notice of the date, time and location of the hearing in the online Illinois Procurement Bulletin at least 14 days prior to the hearing. The Commission shall provide notice via the United States Postal Service to the bidder, offeror or contractor and to the Procurement Policy Board and post notice on its website.
  - e) The Commission shall appoint a hearing officer to conduct the public hearing. At the public hearing any person may present written or oral testimony. The hearing shall be recorded by a court reporter with transcripts available upon payment of any costs.
  - f) The Chief Procurement Officer may award a contract for which a Board's recommendation does not support award to a bidder or offerer only upon conclusion of the Commission's public hearing conducted pursuant to this Section.

EXECUTIVE ETHICS COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- g) Within 30 days after the public hearing, or as established by the Hearing Officer, the Chief Procurement Officer shall publish in the online Illinois Procurement Bulletin a notice of action taken in regard to the award or selection of a bid or offer or the voiding of a contract that was the subject of a public hearing conducted by the Commission pursuant to this Section.

(Source: Added at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Permits and General Provisions
- 2) Code Citation: 35 Ill. Adm. Code 201
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
201.146	Amend
201.210	Amend
201.302	Amend
- 4) Statutory Authority: Implementing Sections 9, 10, 39, and 39.5 of the Environmental Protection Act [415 ILCS 5/9, 10, 39, 39.5] and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27, 28]
- 5) A Complete Description of the Subjects and Issues Involved: In this rulemaking, the Illinois Pollution Control Board (Board) proposes to phase out the Stage II (gasoline dispensing to motor vehicles at gasoline dispensing operations) (35 Ill. Adm. Code 218.586) program, including the Stage II registration provision (35 Ill. Adm. Code 218.586(h)). In addition, the Board proposes to repeal the Stage I (storage tank filling at gasoline dispensing operations) (35 Ill. Adm. Code 218.583(e) and 219.583(e)) registration provisions due to overlapping federal notification requirements and State tracking systems for gasoline dispensing operations. The available permitting exemptions (currently conditioned upon registration) provided by these Stage I and II registration provisions are proposed to be relocated to 35 Ill. Adm. Code 201.146(l). The new, combined Stage I and II proposed permitting exemption at Section 201.146(l) does not require registration and expands the exemption to include non-retail State I operations not previously exempted. Additionally, the amendments propose clarifications to Section 201.146(n) and (nn), and repeal Section 201.146(kk) as it is no longer necessary. Also, the amendments propose an insignificant activity for gasoline storage tanks with a capacity of less than 2000 gallons at Section 201.210(a)(10)(B). Additionally, the amendments propose an insignificant activity for fuel dispensing at Section 201.210(a)(19). The amendments propose a clarification to Section 201.210(b)(4). Further, the amendments propose a clarification and clean-up to the requirement for annual emissions reports at Section 201.302.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking:  
  
Clean Air Act (42 USC 7401 *et seq.*)

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

40 CFR 63, Subpart CCCCCC (2012)

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

John Therriault, Assistant Clerk  
Pollution Control Board  
JRTC  
100 W. Randolph Street, Suite 11-500  
Chicago, IL 60601

312/814-3620

Public comments may also be filed electronically 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).

In addition, two public hearings will be held. The first hearing will take place in Springfield on May 8, 2013. The second hearing will take place in Chicago on June 5, 2013.

- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: Any small business, small municipality, or not for profit corporation

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

engaged in storage tank filling or fuel dispensing at gasoline dispensing operations

- B) Reporting, bookkeeping or other procedures required for compliance: Permitting exemptions will be maintained. Also, permitting exemptions and insignificant activities will be added for certain affected sources, which will remove the permitting requirement and/or remove or lessen permit application, reporting, and/or recordkeeping requirements.
  - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE B: AIR POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER a: PERMITS AND GENERAL PROVISIONS

PART 201  
PERMITS AND GENERAL PROVISIONS

SUBPART A: DEFINITIONS

Section	
201.101	Other Definitions
201.102	Definitions
201.103	Abbreviations and Units
201.104	Incorporations by Reference

SUBPART B: GENERAL PROVISIONS

Section	
201.121	Existence of Permit No Defense
201.122	Proof of Emissions
201.123	Burden of Persuasion Regarding Exceptions
201.124	Annual Report
201.125	Severability
201.126	Repealer

SUBPART C: PROHIBITIONS

Section	
201.141	Prohibition of Air Pollution
201.142	Construction Permit Required
201.143	Operating Permits for New Sources
201.144	Operating Permits for Existing Sources
201.146	Exemptions from State Permit Requirements
201.147	Former Permits
201.148	Operation Without Compliance Program and Project Completion Schedule
201.149	Operation During Malfunction, Breakdown or Startups
201.150	Circumvention
201.151	Design of Effluent Exhaust Systems

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

## SUBPART D: PERMIT APPLICATIONS AND REVIEW PROCESS

Section	
201.152	Contents of Application for Construction Permit
201.153	Incomplete Applications (Repealed)
201.154	Signatures (Repealed)
201.155	Standards for Issuance (Repealed)
201.156	Conditions
201.157	Contents of Application for Operating Permit
201.158	Incomplete Applications
201.159	Signatures
201.160	Standards for Issuance
201.161	Conditions
201.162	Duration
201.163	Joint Construction and Operating Permits
201.164	Design Criteria
201.165	Hearings
201.166	Revocation
201.167	Revisions to Permits
201.168	Appeals from Conditions
201.169	Special Provisions for Certain Operating Permits
201.170	Portable Emission Units
201.175	Registration of Smaller Sources (ROSS)

SUBPART E: SPECIAL PROVISIONS FOR OPERATING  
PERMITS FOR CERTAIN SMALLER SOURCES

Section	
201.180	Applicability (Repealed)
201.181	Expiration and Renewal (Repealed)
201.187	Requirement for a Revised Permit (Repealed)

## SUBPART F: CAAPP PERMITS

Section	
201.207	Applicability
201.208	Supplemental Information
201.209	Emissions of Hazardous Air Pollutants

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 201.210 Categories of Insignificant Activities or Emission Levels
- 201.211 Application for Classification as an Insignificant Activity
- 201.212 Revisions to Lists of Insignificant Activities or Emission Levels

## SUBPART G: EXPERIMENTAL PERMITS (Reserved)

SUBPART H: COMPLIANCE PROGRAMS AND  
PROJECT COMPLETION SCHEDULES

- Section
- 201.241 Contents of Compliance Program
- 201.242 Contents of Project Completion Schedule
- 201.243 Standards for Approval
- 201.244 Revisions
- 201.245 Effects of Approval
- 201.246 Records and Reports
- 201.247 Submission and Approval Dates

## SUBPART I: MALFUNCTIONS, BREAKDOWNS OR STARTUPS

- Section
- 201.261 Contents of Request for Permission to Operate During a Malfunction, Breakdown or Startup
- 201.262 Standards for Granting Permission to Operate During a Malfunction, Breakdown or Startup
- 201.263 Records and Reports
- 201.264 Continued Operation or Startup Prior to Granting of Operating Permit
- 201.265 Effect of Granting of Permission to Operate During a Malfunction, Breakdown or Startup

## SUBPART J: MONITORING AND TESTING

- Section
- 201.281 Permit Monitoring Equipment Requirements
- 201.282 Testing
- 201.283 Records and Reports

## SUBPART K: RECORDS AND REPORTS

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

Section	
201.301	Records
201.302	Reports

## SUBPART L: CONTINUOUS MONITORING

Section	
201.401	Continuous Monitoring Requirements
201.402	Alternative Monitoring
201.403	Exempt Sources
201.404	Monitoring System Malfunction
201.405	Excess Emission Reporting
201.406	Data Reduction
201.407	Retention of Information
201.408	Compliance Schedules

201.APPENDIX A	Rule into Section Table
201.APPENDIX B	Section into Rule Table
201.APPENDIX C	Past Compliance Dates

AUTHORITY: Implementing Sections 10, 39 and 39.5 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/10, 27, 39 and 39.5].

SOURCE: Adopted as Chapter 2: Air Pollution, Part I: General Provisions, in R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R78-3 and 4, 35 PCB 75 and 243, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5, at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13579; amended in R82-1 (Docket A) at 10 Ill. Reg. 12628, effective July 7, 1986; amended in R87-38 at 13 Ill. Reg. 2066, effective February 3, 1989; amended in R89-7(A) at 13 Ill. Reg. 19444, effective December 5, 1989; amended in R89-7(B) at 15 Ill. Reg. 17710, effective November 26, 1991; amended in R93-11 at 17 Ill. Reg. 21483, effective December 7, 1993; amended in R94-12 at 18 Ill. Reg. 15002, effective September 21, 1994; amended in R94-14 at 18 Ill. Reg. 15760, effective October 17, 1994; amended in R96-17 at 21 Ill. Reg. 7878, effective June 17, 1997; amended in R98-13 at 22 Ill. Reg. 11451, effective June 23, 1998; amended in R98-28 at 22 Ill. Reg. 11823, effective July 31, 1998; amended in R02-10 at 27 Ill. Reg. 5820, effective March 21, 2003; amended in R05-19 and R05-20 at 30 Ill. Reg. 4901, effective March 3, 2006; amended in R07-19 at 33 Ill. Reg. 11965, effective August 6, 2009; amended in R10-21 at 34 Ill. Reg. 19575, effective December 1, 2010; amended in R12-10 at 35 Ill. Reg. 19790, effective December 5, 2011; amended in R13-18 at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

## SUBPART C: PROHIBITIONS

**Section 201.146 Exemptions from State Permit Requirements**

Construction or operating permits, pursuant to Sections 201.142, 201.143 and 201.144 of this Part, are not required for the classes of equipment and activities listed below in this Section. The permitting exemptions in this Section do not relieve the owner or operator of any source from any obligation to comply with any other applicable requirements, including the obligation to obtain a permit pursuant to Sections 9.1(d) and 39.5 of the Act, sections 165, 173 and 502 of the Clean Air Act or any other applicable permit or registration requirements.

- a) Air contaminant detectors or recorders, combustion controllers or combustion shutoffs;
- b) Air conditioning or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;
- c) Each fuel burning emission unit for indirect systems and for heating and reheating furnace systems used exclusively for residential, or commercial establishments using gas and/or fuel oil exclusively with a design heat input capacity of less than 14.6 MW (50 mmbtu/hr), except that a permit shall be required for any such emission unit with a design heat input capacity of at least 10 mmbtu/hr that was constructed, reconstructed or modified after June 9, 1989 and that is subject to 40 CFR 60, subpart D;
- d) Each fuel burning emission unit other than those listed in subsection (c) of this Section for direct systems used for comfort heating purposes and indirect heating systems with a design heat input capacity of less than 2930 kW (10 mmbtu/hr);
- e) Internal combustion engines or boilers (including the fuel system) of motor vehicles, locomotives, air craft, watercraft, lifttrucks and other vehicles powered by nonroad engines;
- f) Bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated laboratory fume hoods, vacuum producing devices and control devices installed primarily to address potential accidental releases;

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- g) Coating operations located at a source using not in excess of 18,925 l (5,000 gal) of coating (including thinner) per year;
- h) Any emission unit acquired exclusively for domestic use, except that a permit shall be required for any incinerator and for any fuel combustion emission unit using solid fuel with a design heat input capacity of 14.6 MW (50 mmbtu/hr) or more;
- i) Any stationary internal combustion engine with a rated power output of less than 1118 kW (1500 bhp) or stationary turbine, except that a permit shall be required for the following:
- 1) Any internal combustion engine with a rating at equal to or greater than 500 bhp output that is subject to the control requirements of 35 Ill. Adm. Code 217.388(a) or (b); or
  - 2) Any stationary gas turbine engine with a rated heat input at peak load of 10.7 gigajoules/hr (10 mmbtu/hr) or more that is constructed, reconstructed or modified after October 3, 1977 and that is subject to requirements of 40 CFR 60, subpart GG;
- j) Rest room facilities and associated cleanup operations, and stacks or vents used to prevent the escape of sewer gases through plumbing traps;
- k) Safety devices designed to protect life and limb, provided that a permit is not otherwise required for the emission unit with which the safety device is associated;
- l) Storage tanks and fuel dispensing equipment that are both used for the dispensing of fuel to mobile sources, including on-road and off-road vehicles, for use in such mobile sources~~Storage tanks for liquids for retail dispensing except for storage tanks that are subject to the requirements of 35 Ill. Adm. Code 215.583(a)(2), 218.583(a)(2) or 219.583(a)(2);~~
- m) Printing operations with aggregate organic solvent usage that never exceeds 2,839 l (750 gal) per year from all printing lines at the source, including organic solvent from inks, dilutents, fountain solutions and cleaning materials;
- n) Storage tanks of:

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Organic liquids with a capacity of less than 37,850 l (10,000 gal), provided the storage tank is not used to store any amount of material or mixture of any material listed as a hazardous air pollutant pursuant to section 112(b) of the Clean Air Act, ~~and provided the storage tank is not subject to the requirements of 35 Ill. Adm. Code 215.583(a)(2), 218.583(a)(2) or 219.583(a)(2);~~
  - 2) Any size containing exclusively soaps, detergents, surfactants, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, corn syrup, aqueous salt solutions or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials; or
  - 3) Any size containing virgin or re-refined distillate oil, hydrocarbon condensate from natural gas pipeline or storage systems, lubricating oil or residual fuel oils;
- o) Threaded pipe connections, vessel manways, flanges, valves, pump seals, pressure relief valves, pressure relief devices and pumps;
  - p) Sampling connections used exclusively to withdraw materials for testing and analyses;
  - q) All storage tanks of Illinois crude oil with capacity of less than 151,400 l (40,000 gal) located on oil field sites;
  - r) All organic material-water single or multiple compartment effluent water separator facilities for Illinois crude oil of vapor pressure of less than 34.5 kPa absolute (5 psia);
  - s) Grain-handling operations, exclusive of grain-drying operations, with an annual grain through-put not exceeding 300,000 bushels;
  - t) Grain-drying operations with a total grain-drying capacity not exceeding 750 bushels per hour for 5% moisture extraction at manufacturer's rated capacity, using the American Society of Agricultural Engineers Standard 248.2, Section 9, Basis for Stating Drying Capacity of Batch and Continuous-Flow Grain Dryers;
  - u) Portable grain-handling equipment and one-turn storage space;

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- v) Cold cleaning degreasers that are not in-line cleaning machines, where the vapor pressure of the solvents used never exceeds 2 kPa (15 mmHg or 0.3 psi) measured at 38°C (100°F) or 0.7 kPa (5 mmHg or 0.1 psi) at 20°C (68°F);
- w) Coin-operated dry cleaning operations;
- x) Dry cleaning operations at a source that consume less than 30 gallons per month of perchloroethylene;
- y) Brazing, soldering, wave soldering or welding equipment, including associated ventilation hoods;
- z) Cafeterias, kitchens, and other similar facilities, including smokehouses, used for preparing food or beverages, but not including facilities used in the manufacturing and wholesale distribution of food, beverages, food or beverage products, or food or beverage components;
- aa) Equipment for carving, cutting, routing, turning, drilling, machining, sawing, surface grinding, sanding, planing, buffing, sand blast cleaning, shot blasting, shot peening, or polishing ceramic artwork, leather, metals (other than beryllium), plastics, concrete, rubber, paper stock, wood or wood products, where such equipment is either:
  - 1) Used for maintenance activity;
  - 2) Manually operated;
  - 3) Exhausted inside a building; or
  - 4) Vented externally with emissions controlled by an appropriately operated cyclonic inertial separator (cyclone), filter, electro-static precipitator or a scrubber;
- bb) Feed mills that produce no more than 10,000 tons of feed per calendar year, provided that a permit is not otherwise required for the source pursuant to Section 201.142, 201.143 or 201.144;
- cc) Extruders used for the extrusion of metals, minerals, plastics, rubber or wood,

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

excluding:

- 1) Extruders used in the manufacture of polymers;
  - 2) Extruders using foaming agents or release agents that contain volatile organic materials or Class I or II substances subject to the requirements of Title VI of the Clean Air Act; and
  - 3) Extruders processing scrap material that was produced using foaming agents containing volatile organic materials or Class I or II substances subject to the requirements of Title VI of the Clean Air Act;
- dd) Furnaces used for melting metals, other than beryllium, with a brim full capacity of less than 450 cubic inches by volume;
- ee) Equipment used for the melting or application of less than 22,767 kg/yr (50,000 lbs/yr) of wax to which no organic solvent has been added;
- ff) Equipment used for filling drums, pails or other packaging containers, excluding aerosol cans, with soaps, detergents, surfactants, lubricating oils, waxes, vegetable oils, greases, animal fats, glycerin, sweeteners, corn syrup, aqueous salt solutions or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials;
- gg) Loading and unloading systems for railcars, tank trucks, or watercraft that handle only the following liquid materials: soaps, detergents, surfactants, lubricating oils, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, corn syrup, aqueous salt solutions or aqueous caustic solutions, provided an organic solvent has not been mixed with such materials;
- hh) Equipment used for the mixing and blending of materials at ambient temperatures to make water based adhesives, provided each material mixed or blended contains less than 5% organic solvent by weight;
- ii) Die casting machines where a metal or plastic is formed under pressure in a die located at a source with a through-put of less than 2,000,000 lbs of metal or plastic per year, in the aggregate, from all die casting machines;
- jj) Air pollution control devices used exclusively with other equipment that is

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

exempt from permitting, as provided in this Section;

- ~~kk)~~ ~~An emission unit for which a registration system designed to identify sources and emission units subject to emission control requirements is in place, such as the registration system found at 35 Ill. Adm. Code 218.586 (Gasoline Dispensing Operations—Motor Vehicle Fueling Operations) and 35 Ill. Adm. Code 218, Subpart HH (Motor Vehicle Refinishing);~~
- ~~kk)H)~~ Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy;
- ~~ll)mm)~~ Equipment used for hydraulic or hydrostatic testing;
- ~~mmmm)~~ General vehicle maintenance and servicing activities conducted at a source, motor vehicle repair shops, and motor vehicle body shops, but not including motor vehicle refinishing;
- 1) ~~Gasoline fuel handling; and~~
- 2) ~~Motor vehicle refinishing;~~
- ~~nn)oo)~~ Equipment using water, water and soap or detergent, or a suspension of abrasives in water for purposes of cleaning or finishing, provided no organic solvent has been added to the water;
- ~~oo)pp)~~ Administrative activities including, but not limited to, paper shredding, copying, photographic activities and blueprinting machines. This does not include incinerators;
- ~~pp)qq)~~ Laundry dryers, extractors, and tumblers processing that have been cleaned with water solutions of bleach or detergents that are:
- 1) Located at a source and process clothing, bedding and other fabric items used at the source, provided that any organic solvent present in such items before processing that is retained from cleanup operations shall be addressed as part of the VOM emissions from use of cleaning materials;
- 2) Located at a commercial laundry; or

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

3) Coin operated;

~~qq)rr~~) Housekeeping activities for cleaning purposes, including collecting spilled and accumulated materials, including operation of fixed vacuum cleaning systems specifically for such purposes, but not including use of cleaning materials that contain organic solvent;

~~rr)ss~~) Refrigeration systems, including storage tanks used in refrigeration systems, but excluding any combustion equipment associated with such systems;

~~ss)tt~~) Activities associated with the construction, on-site repair, maintenance or dismantlement of buildings, utility lines, pipelines, wells, excavations, earthworks and other structures that do not constitute emission units;

~~tt)uu~~) Piping and storage systems for natural gas, propane and liquefied petroleum gas;

~~uu)vv~~) Water treatment or storage systems, as follows:

1) Systems for potable water or boiler feedwater;

2) Systems, including cooling towers, for process water, provided that such water has not been in direct or indirect contact with process streams that contain volatile organic material or materials listed as hazardous air pollutants pursuant to section 112(b) of the Clean Air Act;

~~vv)ww~~) Lawn care, landscape maintenance and grounds keeping activities;

~~ww)xx~~) Containers, reservoirs or tanks used exclusively in dipping operations to coat objects with oils, waxes or greases, provided no organic solvent has been mixed with such materials;

~~xx)yy~~) Use of consumer products, including hazardous substances as that term is defined in the Federal Hazardous Substances Act (15 USC 1261 et seq.), where the product is used at a source in the same manner as normal consumer use;

~~yy)zz~~) Activities directly used in the diagnosis and treatment of disease, injury or other medical condition;

~~zz)aaa~~) Activities associated with the construction, repair or maintenance of roads or

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

other paved or open areas, including operation of street sweepers, vacuum trucks, spray trucks and other vehicles related to the control of fugitive emissions of such roads or other areas;

- | aaabbb) Storage and handling of drums or other transportable containers, where the containers are sealed during storage and handling;
- | bbbeee) Activities at a source associated with the maintenance, repair or dismantlement of an emission unit or other equipment installed at the source, not including the shutdown of the unit or equipment, including preparation for maintenance, repair or dismantlement, and preparation for subsequent startup, including preparation of a shutdown vessel for entry, replacement of insulation, welding and cutting, and steam purging of a vessel prior to startup;
- | cccddee) Equipment used for corona arc discharge surface treatment of plastic with a power rating of 5 kW or less or equipped with an ozone destruction device;
- | dddeee) Equipment used to seal or cut plastic bags for commercial, industrial or domestic use;
- | eeefff) Each direct-fired gas dryer used for a washing, cleaning, coating or printing line, excluding:
  - 1) Dryers with a rated heat input capacity of 2930 kW (10 mmbtu/hr) or more; and
  - 2) Dryers for which emissions other than those attributable to combustion of fuel in the dryer, including emissions attributable to use or application of cleaning agents, washing materials, coatings or inks or other process materials that contain volatile organic material are not addressed as part of the permitting of such line, if a permit is otherwise required for the line;
- | fffeeee) Municipal solid waste landfills with a maximum total design capacity of less than 2.5 million Mg or 2.5 million m<sup>3</sup> that are not required to install a gas collection and control system pursuant to 35 Ill. Adm. Code 220 or 800 through 849 or Section 9.1 of the Act;

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- ggghhh) Replacement or addition of air pollution control equipment for existing emission units in circumstances where:
- 1) The existing emission unit is permitted and has operated in compliance for the past year;
  - 2) The new control equipment will provide equal or better control of the target pollutants;
  - 3) The new control device will not be accompanied by a net increase in emissions of any non-targeted criteria air pollutant;
  - 4) Different State or federal regulatory requirements or newly proposed regulatory requirements will not apply to the unit; and  
BOARD NOTE: All sources must comply with underlying federal regulations and future State regulations.
  - 5) Where the existing air pollution control equipment had required monitoring equipment, the new air pollution control equipment will be equipped with the instrumentation and monitoring devices that are typically installed on the new equipment of that type.  
BOARD NOTE: For major sources subject to Section 39.5 of the Act, where the new air pollution control equipment will require a different compliance determination method in the facility's CAAPP permit, the facility may need a permit modification to address the changed compliance determination method;
- hhhi) Replacement, addition, or modification of emission units at facilities with federally enforceable State operating permits limiting their potential to emit in circumstances where:
- 1) The potential to emit any regulated air pollutant in the absence of air pollution control equipment from the new emission unit, or the increase in the potential to emit resulting from the modification of any existing emission unit, is less than 0.1 pound per hour or 0.44 tons per year;
  - 2) The raw materials and fuels used or present in the emission unit that cause or contribute to emissions, based on the information contained in Material Safety Data Sheets for those materials, do not contain equal to or greater

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

than 0.01 percent by weight of any hazardous air pollutant as defined under section 112(b) of the federal Clean Air Act;

- 3) The emission unit or modification is not subject to an emission standard or other regulatory requirement pursuant to section 111 of the federal Clean Air Act;
- 4) Potential emissions of regulated air pollutants from the emission unit or modification will not, in combination with emissions from existing units or other proposed units, trigger permitting requirements under Section 39.5, permitting requirements under section 165 or 173 of the federal Clean Air Act, or the requirement to obtain a revised federally enforceable State operating permit limiting the source's potential to emit; and
- 5) The source is not currently the subject of a Non-compliance Advisory, Clean Air Act Section 114 Request, Violation Notice, Notice of Violation, Compliance Commitment Agreement, Administrative Order, or civil or criminal enforcement action, related to the air emissions of the source;

iiijj) Replacement, addition, or modification of emission units at permitted sources that are not major sources subject to Section 39.5 of the Act and that do not have a federally enforceable State operating permit limiting their potential to emit, in circumstances where:

- 1) The potential to emit of any regulated air pollutant in the absence of air pollution control equipment from the new emission unit, or the increase in the potential to emit resulting from the modification of any existing emission unit is either:
  - A) Less than 0.1 pound per hour or 0.44 tons per year; or
  - B) Less than 0.5 pound per hour, and the permittee provides prior notification to the Agency of the intent to construct or install the unit. The unit may be constructed, installed or modified immediately after the notification is filed;
- 2) The emission unit or modification is not subject to an emission standard or other regulatory requirement under section 111 or 112 of the federal Clean Air Act;

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 3) Potential emissions of regulated air pollutants from the emission unit or modification will not, in combination with the emissions from existing units or other proposed units, trigger permitting requirements under Section 39.5 of the Act or the requirement to obtain a federally enforceable permit limiting the source's potential to emit; and
- 4) The source is not currently the subject of a Non-compliance Advisory, Clean Air Act Section 114 Request, Violation Notice, Notice of Violation, Compliance Commitment Agreement, Administrative Order, or civil or criminal enforcement action, related to the air emissions of the source;

~~jjjkkk~~) The owner or operator of a CAAPP source is not required to obtain an air pollution control construction permit for the construction or modification of an emission unit or activity that is an insignificant activity as addressed by Section 201.210 or 201.211 of this Part. Section 201.212 of this Part must still be followed, as applicable. Other than excusing the owner or operator of a CAAPP source from the requirement to obtain an air pollution control construction permit for the emission units or activities, nothing in this subsection shall alter or affect the liability of the CAAPP source for compliance with emission standards and other requirements that apply to the emission units or activities, either individually or in conjunction with other emission units or activities constructed, modified or located at the source;

~~kkkH~~) Plastic injection molding equipment with an annual through-put not exceeding 5,000 tons of plastic resin in the aggregate from all plastic injection molding equipment at the source, and all associated plastic resin loading, unloading, conveying, mixing, storage, grinding, and drying equipment and associated mold release and mold cleaning agents.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART F: CAAPP PERMITS

**Section 201.210 Categories of Insignificant Activities or Emission Levels**

- a) The owner or operator of a CAAPP source, pursuant to 35 Ill. Adm. Code 270, shall submit to the Agency within its CAAPP application a list of the following activities or emission levels:

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Any emission unit determined to be an insignificant activity by the Agency pursuant to Section 201.211 of this Part;
- 2) Emission units with emissions that never exceed 0.1 lbs/hr of any regulated air pollutant in the absence of air pollution control equipment and that do not emit any air pollutant listed as hazardous pursuant to ~~section~~[Section](#) 112(b) of the Clean Air Act;
- 3) Emission units with emissions that never exceed 0.44 tons/year of any regulated air pollutant in the absence of air pollution control equipment and that do not emit any air pollutant listed as hazardous pursuant to ~~section~~[Section](#) 112(b) of the Clean Air Act;
- 4) Direct combustion units designed and used for comfort heating purposes and fuel combustion emission units as follows:
  - A) Units with a rated heat input capacity of less than 2.5 mmbtu/hr that fire only natural gas, propane or liquefied petroleum gas;
  - B) Units with a rated heat input capacity of less than 1.0 mmbtu/hr that fire only oil or oil in combination with only natural gas, propane, or liquefied petroleum gas;
  - C) Units with a rated capacity of less than 200,000 btu/hr which never burn refuse or treated or chemically contaminated wood;
- 5) Extruders used for the extrusion of metals, minerals, plastics, rubber, or wood, excluding extruders used in the manufacture of polymers, provided that volatile organic materials or class I or II substances subject to the requirements of Title VI of the Clean Air Act are not used as foaming agents or release agents or were not used as foaming agents in the case of extruders processing scrap material;
- 6) Furnaces used for melting metals other than beryllium with a brim full capacity of less than 450 cubic inches by volume;
- 7) Equipment used for the melting or application of less than 50,000 lbs/yr of wax to which no organic solvent has been added;

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 8) Equipment used for filling drums, pails or other packaging containers, excluding aerosol cans, with soaps, detergents, surfactants, lubricating oils, waxes, vegetable oils, greases, animal fats, glycerin, sweeteners, corn syrup, aqueous salt solutions, or aqueous caustic solutions;
- 9) Equipment used for the mixing and blending of materials at ambient temperature to make water based adhesives provided each material contains less than 5% organic solvent by weight;
- 10) Storage tanks, as follows:
  - A) Storage tanks of organic liquids with a capacity of less than 10,000 gallons and an annual throughput of less than 100,000 gallons provided the tank is not used for the storage of gasoline or any material listed as a hazardous air pollutant pursuant to sectionSection 112(b) of the Clean Air Act;
  - B) Storage tanks of gasoline, including gasoline/ethanol blend fuels, with a capacity of less than 2000 gallons;
- 11) Storage tanks of virgin or rerefined distillate oil, hydrocarbon condensate from natural gas pipeline or storage systems, lubricating oil, or residual fuel oils;
- 12) Die casting machines where a metal or plastic is formed under pressure in a die;
- 13) Coating operations (excluding powder, architectural and industrial maintenance coating) with aggregate VOM usage that never exceeds 15 lbs/day from all coating lines at the source, including VOM from coating, dilutents, and cleaning materials;
- 14) Printing operations with aggregate organic solvent usage that never exceeds 750 gallons per year from all printing lines at the source, including organic solvent from inks, dilutents, fountain solutions, and cleaning materials;
- 15) Gas turbines and stationary reciprocating internal combustion engines of

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

less than 112 kW (150 horsepower) power output;

- 16) Gas turbines and stationary reciprocating internal combustion engines of between 1118 and 112 kW (1500 and 150 horsepower) power output that are emergency or standby units;
- 17) Storage tanks of any size containing exclusively soaps, detergents, surfactants, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, corn syrup, aqueous salt solutions, or aqueous caustic solutions provided an organic solvent has not been mixed with such materials; ~~and~~
- 18) Loading and unloading systems for railcars, tank trucks, or watercraft that handle only the following liquid materials provided an organic solvent has not been mixed with such materials: soaps, detergents, surfactants, lubricating oils, waxes, glycerin, vegetable oils, greases, animal fats, sweetener, corn syrup, aqueous salt solutions, or aqueous caustic solutions; ~~and-~~
- 19) Fuel dispensing operations and fuel dispensing equipment for the fuels specified in subsections (a)(19)(A) and (B), for mobile sources, including on-road and off-road vehicles, for use in such mobile sources. For purposes of this subsections (a)(19), fuel dispensing equipment means equipment for transferring fuel to a mobile source, including nozzles, hoses, swivels, breakaways, hose retractors, vapor valves, dispensers, vacuum-assist devices, vapor-return piping, and liquid collection points. Storage tanks and storage tank equipment are not included in fuel dispensing operations or fuel dispensing equipment and are addressed separately.
  - A) Gasoline, including gasoline/ethanol blend fuels, if the annual average throughput of the fuel dispensed is less than 120,000 gallons (rolling 12 month total).
  - B) Distillate oil, including kerosene and diesel fuel, biodiesel and biodiesel/distillate oil blends.

- b) The owner or operator of a CAAPP source is not required to individually list the following activities in a CAAPP application pursuant to 35 Ill. Adm. Code 270. The applicant shall denote whether any of the following activities are present at

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

the source in its CAAPP application:

- 1) Air conditioning or ventilating equipment not designed to remove air contaminants generated by or released from associated equipment;
- 2) Photographic process equipment by which an image is reproduced upon material sensitized to radiant energy;
- 3) Equipment used for hydraulic or hydrostatic testing;
- 4) General vehicle maintenance and servicing activities at the source, other than gasoline, including gasoline/ethanol blend fuels, distillate oil, including kerosene and diesel fuel, biodiesel, and biodiesel/distillate oil blends fuel handling and dispensing;
- 5) Cafeterias, kitchens, and other facilities used for preparing food or beverages primarily for consumption at the source;
- 6) Equipment using water, water and soap or detergent, or a suspension of abrasives in water for purposes of cleaning or finishing provided no organic solvent has been added to the water;
- 7) Administrative activities including, but not limited to, paper shredding, copying, photographic activities, and blueprinting machines. This does not include incinerators;
- 8) Laundry dryers, extractors, and tumblers processing clothing, bedding, and other fabric items used at the source that have been cleaned with water solutions of bleach or detergents provided that any organic solvent present in such items before processing that is retained from clean-up operations shall be addressed as part of the VOM emissions from use of cleaning materials;
- 9) Housekeeping activities for cleaning purposes, including collecting spilled and accumulated materials at the source, including operation of fixed vacuum cleaning systems specifically for such purposes, but not including use of cleaning materials that contain organic solvent;
- 10) Refrigeration systems, including storage tanks used in refrigeration

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

systems, but excluding any combustion equipment associated with such systems;

- 11) Bench scale laboratory equipment and laboratory equipment used exclusively for chemical and physical analysis, including associated laboratory fume hoods, vacuum producing devices and control devices installed primarily to address potential accidental releases;
- 12) Restroom facilities, and associated clean-up operations, and stacks or vents used to prevent the escape of sewer gases through plumbing traps;
- 13) Activities associated with the construction, on-site repair, maintenance or dismantlement of buildings, utility lines, pipelines, wells, excavations, earthworks and other structures that do not constitute emission units;
- 14) Storage tanks of organic liquids with a capacity of less than 500 gallons, provided the tank is not used for storage of any material listed as a hazardous air pollutant pursuant to ~~section~~Section 112(b) of the Clean Air Act;
- 15) Piping and storage systems for natural gas, propane, and liquefied petroleum gas;
- 16) Water treatment or storage systems, as follows:
  - A) Systems for potable water or boiler feedwater;
  - B) Systems, including cooling towers, for process water provided that such water has not been in direct or indirect contact with process streams that contain volatile organic material or materials listed as hazardous air pollutants pursuant to ~~section~~Section 112(b) of the Clean Air Act;
- 17) Lawn care, landscape maintenance, and groundskeeping activities;
- 18) Containers, reservoirs, or tanks used exclusively in dipping operations to coat objects with oils, waxes, or greases, provided no organic solvent has been mixed with such materials;

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 19) Cold cleaning degreasers that are not in-line cleaning machines, where the vapor pressure of the solvents used never exceed 2 kPa (15 mmHg or 0.3 psi) measured at 38°C (100°F) or 0.7 kPa (5 mmHg or 0.1 psi) at 20°C (68°F);
- 20) Manually operated equipment used for buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, scarfing, surface grinding or turning;
- 21) Use of consumer products, including hazardous substances as that term is defined in the Federal Hazardous Substances Act (15 ~~USCU.S.C.~~ 1261 et seq.), where the product is used at a source in the same manner as normal consumer use;
- 22) Activities directly used in the diagnosis and treatment of disease, injury or other medical condition;
- 23) Firefighting activities and training in preparation for fighting fires conducted at the source;  
~~BOARD NOTE~~(Note: Open burning permits may be required for certain training activities.);
- 24) Internal combustion engine or boiler (including the fuel system) of motor vehicles, locomotives, aircraft, watercraft, lifttrucks, and other vehicles powered by nonroad engines;
- 25) Activities associated with the construction, repair or maintenance of roads or other paved or open areas, including operation of street sweepers, vacuum trucks, spray trucks and other vehicles related to the control of fugitive emissions of such roads or other areas;
- 26) Storage and handling of drums or other transportable containers where the containers are sealed during storage and handling;
- 27) Individual points of emission or activities as follows:
  - A) Individual flanges, valves, pump seals, pressure relief valves and other individual components that have the potential for leaks;

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- B) Individual sampling points, analyzers, and process instrumentation, whose operation may result in emissions;
- C) Individual features of an emission unit such as each burner and sootblowers in a boiler or each use of cleaning materials on a coating or printing line;
- D) Individual equipment that is transportable or activities within a facility established for testing units prior to sale or distribution or for purposes of research; and
- E) Individual equipment or activities within a pilot plant facility that is used for research or training;

BOARD NOTE(~~Note~~: Notwithstanding the foregoing, such points of emissions or activities shall be addressed in a CAAPP application in sufficient detail to identify applicable requirements and demonstrate compliance with such requirements. Emission data for such activities shall be addressed in the aggregate for each emission unit or group of related emission units).

- 28) Activities at a source associated with the modification only or construction only of a facility, an emission unit or other equipment at the source; and BOARD NOTE(~~Note~~: Notwithstanding the status of this activity as insignificant, a particular activity that entails modification or construction of an emission unit or construction of air pollution control equipment may require a construction permit pursuant to Section 201.142 of this Part and may subsequently require a revised CAAPP permit. A revised CAAPP permit may also be necessary for operation of an emission unit after completion of a particular activity if the existing CAAPP permit does not accommodate the new state of the emission unit.)
- 29) Activities at a source associated with the maintenance, repair, or dismantlement of an emission unit or other equipment installed at the source, not including the shutdown of the unit or equipment, including preparation for maintenance, repair or dismantlement, and preparation for subsequent startup, including preparation of a shutdown vessel for entry, replacement of insulation, welding and cutting, and steam purging of a vessel prior to startup.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART K: RECORDS AND REPORTS

**Section 201.302 Reports**

- a) The owner or operator of any emission unit or air pollution control equipment ~~meeting the applicability criteria contained in 35 Ill. Adm. Code 254.102, unless specifically exempted in this Section,~~ shall submit to the Agency, as a minimum, annual reports detailing the nature, specific emission units and total annual quantities of all specified air contaminant emissions; provided, however, that the Agency may require more frequent reports ~~when~~where necessary to accomplish the purposes of the Act and this Chapter.
- b) The Agency may adopt procedures which require that additional reports be submitted, and which set forth the format in which all reports shall be submitted. Such procedures and formats, and revisions thereto, shall not become effective until filed with the Secretary of State as required by the Illinois Administrative Procedure ActAPA.
- c) All emission data received by the Agency, shall be available for public inspection at reasonable times and upon reasonable notice.
- ~~d) Retail gasoline dispensing operations are exempt from the requirements of subsection (a) above unless the source has failed to comply with 35 Ill. Adm. Code 218.586(h) or to obtain a permit under this Part if applicable.~~

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Organic Material Emission Standards and Limitations for the Chicago Area
- 2) Code Citation: 35 Ill. Adm. Code 218
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
218.112	Amend
218.583	Amend
218.586	Amend
- 4) Statutory Authority: Implementing Section 10 of the Environmental Protection Act [415 ILCS 5/10] and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27, 28]
- 5) A Complete Description of the Subjects and Issues Involved: This proposal will phase out the Stage II vapor recovery program applicable in the Chicago nonattainment area. As proposed, beginning January 1, 2014, new gasoline dispensing operations (those operating for the first time on or after January 1, 2014) are not subject to the Stage II vapor recovery equipment requirement of the rules of the Illinois Pollution Control Board (Board). Also, beginning January 1, 2014, existing affected gasoline dispensing operations (those operating at any time prior to January 1, 2014) may begin decommissioning Stage II vapor recovery equipment, but must complete decommissioning of all Stage II vapor recovery equipment no later than December 31, 2016. The proposal requires existing affected gasoline dispensing operations to comply with the Board's Stage II requirement until decommissioning is allowed and commenced in accordance with the rule. The proposal requires decommissioning to be performed in accordance with the Petroleum Equipment Institute's "Recommended Practices for Installation and Testing of Vapor-Recovery Systems at Vehicle-Fueling Sites," PEI/RP300-09, which the Board proposes to incorporate by reference at 35 Ill. Adm. Code 218.112. Also, the proposal requires decommissioning to be performed by contractors licensed/registered by the Office of the State Fire Marshal and the Illinois Department of Agriculture. Further, contractors must possess the appropriate dispenser-manufacturer certifications and training, if any. The proposal clarifies decommissioning testing requirements. Additionally, the proposal requires submission of decommissioning notifications, checklists, and certifications, and establishes recordkeeping requirements.

The Board proposes to repeal the Stage I (storage tank filling at gasoline dispensing operations) (35 Ill. Adm. Code 218.583(e)) registration provision due to overlapping federal notification requirements and State tracking systems for gasoline dispensing

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

operations. The available permit exemptions (currently conditioned upon registration) provided by this Stage I registration provision as well as the Stage II registration provision (35 Ill. Adm. Code 218.586(h)) will be relocated to 35 Ill. Adm. Code 201 and will not require registration. The proposal makes other minor clarifications and clean-ups.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking:

Clean Air Act (42 USC 7401 *et seq.*)

40 CFR 63, Subpart CCCCCC (2012)

77 Fed. Reg. 28772 (May 16, 2012)

"Guidance on Removing Stage II Gasoline Vapor Control Programs from State Implementation Plans and Assessing Comparable Measures" (Aug. 7, 2012) (EPA-457/B12-001)

Petroleum Equipment Institute, "Recommended Practices for Installation and Testing of Vapor-Recovery Systems at Vehicle-Fueling Sites", PEI/RP300-09 (2009)

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

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

John Therriault, Assistant Clerk  
Pollution Control Board  
JRTC  
100 W. Randolph Street, Suite 11-500  
Chicago, IL 60601

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

In addition, two public hearings will be held. The first hearing will take place in Springfield on May 8, 2013. The second hearing will take place in Chicago on June 5, 2013.

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Any small business, small municipality, or not for profit corporation engaged in storage tank filling or fuel dispensing at gasoline dispensing operations located in the Chicago nonattainment area.
- B) Reporting, bookkeeping or other procedures required for compliance: Affected sources will be required to decommission existing Stage II vapor recovery equipment and maintain/submit records relating to decommissioning.
- C) Types of professional skills necessary for compliance: Decommissioning must be performed only by contractors that are licensed/registered through the Office of the State Fire Marshal and the Illinois Department of Agriculture. Contractors must possess the appropriate dispenser-manufacturer certification and training, if any.

14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE B: AIR POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER c: EMISSIONS STANDARDS AND  
LIMITATIONS FOR STATIONARY SOURCESPART 218  
ORGANIC MATERIAL EMISSION STANDARDS AND  
LIMITATIONS FOR THE CHICAGO AREA

## SUBPART A: GENERAL PROVISIONS

Section	
218.100	Introduction
218.101	Savings Clause
218.102	Abbreviations and Conversion Factors
218.103	Applicability
218.104	Definitions
218.105	Test Methods and Procedures
218.106	Compliance Dates
218.107	Operation of Afterburners
218.108	Exemptions, Variations, and Alternative Means of Control or Compliance Determinations
218.109	Vapor Pressure of Volatile Organic Liquids
218.110	Vapor Pressure of Organic Material or Solvent
218.111	Vapor Pressure of Volatile Organic Material
218.112	Incorporations by Reference
218.113	Monitoring for Negligibly-Reactive Compounds
218.114	Compliance with Permit Conditions

SUBPART B: ORGANIC EMISSIONS FROM STORAGE  
AND LOADING OPERATIONS

Section	
218.119	Applicability for VOL
218.120	Control Requirements for Storage Containers of VOL
218.121	Storage Containers of VPL
218.122	Loading Operations
218.123	Petroleum Liquid Storage Tanks

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

218.124	External Floating Roofs
218.125	Compliance Dates
218.126	Compliance Plan (Repealed)
218.127	Testing VOL Operations
218.128	Monitoring VOL Operations
218.129	Recordkeeping and Reporting for VOL Operations

## SUBPART C: ORGANIC EMISSIONS FROM MISCELLANEOUS EQUIPMENT

Section	
218.141	Separation Operations
218.142	Pumps and Compressors
218.143	Vapor Blowdown
218.144	Safety Relief Valves

## SUBPART E: SOLVENT CLEANING

Section	
218.181	Solvent Cleaning Degreasing Operations
218.182	Cold Cleaning
218.183	Open Top Vapor Degreasing
218.184	Conveyorized Degreasing
218.185	Compliance Schedule (Repealed)
218.186	Test Methods
218.187	Other Industrial Solvent Cleaning Operations

## SUBPART F: COATING OPERATIONS

Section	
218.204	Emission Limitations
218.205	Daily-Weighted Average Limitations
218.206	Solids Basis Calculation
218.207	Alternative Emission Limitations
218.208	Exemptions from Emission Limitations
218.209	Exemption from General Rule on Use of Organic Material
218.210	Compliance Schedule
218.211	Recordkeeping and Reporting
218.212	Cross-Line Averaging to Establish Compliance for Coating Lines
218.213	Recordkeeping and Reporting for Cross-Line Averaging Participating Coating

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

## Lines

- 218.214 Changing Compliance Methods
- 218.215 Wood Furniture Coating Averaging Approach
- 218.216 Wood Furniture Coating Add-On Control Use
- 218.217 Wood Furniture Coating and Flat Wood Paneling Coating Work Practice Standards
- 218.218 Work Practice Standards for Paper Coatings, Metal Furniture Coatings, and Large Appliance Coatings
- 218.219 Work Practice Standards for Automobile and Light-Duty Truck Assembly Coatings and Miscellaneous Metal and Plastic Parts Coatings

## SUBPART G: USE OF ORGANIC MATERIAL

## Section

- 218.301 Use of Organic Material
- 218.302 Alternative Standard
- 218.303 Fuel Combustion Emission Units
- 218.304 Operations with Compliance Program

## SUBPART H: PRINTING AND PUBLISHING

## Section

- 218.401 Flexographic and Rotogravure Printing
- 218.402 Applicability
- 218.403 Compliance Schedule
- 218.404 Recordkeeping and Reporting
- 218.405 Lithographic Printing: Applicability
- 218.406 Provisions Applying to Heatset Web Offset Lithographic Printing Prior to March 15, 1996 (Repealed)
- 218.407 Emission Limitations and Control Requirements for Lithographic Printing Lines
- 218.408 Compliance Schedule for Lithographic Printing On and After March 15, 1996 (Repealed)
- 218.409 Testing for Lithographic Printing
- 218.410 Monitoring Requirements for Lithographic Printing
- 218.411 Recordkeeping and Reporting for Lithographic Printing
- 218.412 Letterpress Printing Lines: Applicability
- 218.413 Emission Limitations and Control Requirements for Letterpress Printing Lines
- 218.415 Testing for Letterpress Printing Lines
- 218.416 Monitoring Requirements for Letterpress Printing Lines

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

218.417 Recordkeeping and Reporting for Letterpress Printing Lines

SUBPART Q: SYNTHETIC ORGANIC CHEMICAL  
AND POLYMER MANUFACTURING PLANT

## Section

218.421 General Requirements  
218.422 Inspection Program Plan for Leaks  
218.423 Inspection Program for Leaks  
218.424 Repairing Leaks  
218.425 Recordkeeping for Leaks  
218.426 Report for Leaks  
218.427 Alternative Program for Leaks  
218.428 Open-Ended Valves  
218.429 Standards for Control Devices  
218.430 Compliance Date (Repealed)  
218.431 Applicability  
218.432 Control Requirements  
218.433 Performance and Testing Requirements  
218.434 Monitoring Requirements  
218.435 Recordkeeping and Reporting Requirements  
218.436 Compliance Date

SUBPART R: PETROLEUM REFINING AND  
RELATED INDUSTRIES; ASPHALT MATERIALS

## Section

218.441 Petroleum Refinery Waste Gas Disposal  
218.442 Vacuum Producing Systems  
218.443 Wastewater (Oil/Water) Separator  
218.444 Process Unit Turnarounds  
218.445 Leaks: General Requirements  
218.446 Monitoring Program Plan for Leaks  
218.447 Monitoring Program for Leaks  
218.448 Recordkeeping for Leaks  
218.449 Reporting for Leaks  
218.450 Alternative Program for Leaks  
218.451 Sealing Device Requirements  
218.452 Compliance Schedule for Leaks

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

218.453 Compliance Dates (Repealed)

## SUBPART S: RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS

## Section

218.461 Manufacture of Pneumatic Rubber Tires  
218.462 Green Tire Spraying Operations  
218.463 Alternative Emission Reduction Systems  
218.464 Emission Testing  
218.465 Compliance Dates (Repealed)  
218.466 Compliance Plan (Repealed)

## SUBPART T: PHARMACEUTICAL MANUFACTURING

## Section

218.480 Applicability  
218.481 Control of Reactors, Distillation Units, Crystallizers, Centrifuges and Vacuum Dryers  
218.482 Control of Air Dryers, Production Equipment Exhaust Systems and Filters  
218.483 Material Storage and Transfer  
218.484 In-Process Tanks  
218.485 Leaks  
218.486 Other Emission Units  
218.487 Testing  
218.488 Monitoring for Air Pollution Control Equipment  
218.489 Recordkeeping for Air Pollution Control Equipment

## SUBPART V: BATCH OPERATIONS AND AIR OXIDATION PROCESSES

## Section

218.500 Applicability for Batch Operations  
218.501 Control Requirements for Batch Operations  
218.502 Determination of Uncontrolled Total Annual Mass Emissions and Average Flow Rate Values for Batch Operations  
218.503 Performance and Testing Requirements for Batch Operations  
218.504 Monitoring Requirements for Batch Operations  
218.505 Reporting and Recordkeeping for Batch Operations  
218.506 Compliance Date  
218.520 Emission Limitations for Air Oxidation Processes

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

218.521	Definitions (Repealed)
218.522	Savings Clause
218.523	Compliance
218.524	Determination of Applicability
218.525	Emission Limitations for Air Oxidation Processes
218.526	Testing and Monitoring
218.527	Compliance Date (Repealed)

## SUBPART W: AGRICULTURE

Section	
218.541	Pesticide Exception

## SUBPART X: CONSTRUCTION

Section	
218.561	Architectural Coatings
218.562	Paving Operations
218.563	Cutback Asphalt

## SUBPART Y: GASOLINE DISTRIBUTION

Section	
218.581	Bulk Gasoline Plants
218.582	Bulk Gasoline Terminals
218.583	Gasoline Dispensing Operations – Storage Tank Filling Operations
218.584	Gasoline Delivery Vessels
218.585	Gasoline Volatility Standards (Repealed)
218.586	Gasoline Dispensing Operations – Motor Vehicle Fueling Operations

## SUBPART Z: DRY CLEANERS

Section	
218.601	Perchloroethylene Dry Cleaners (Repealed)
218.602	Applicability (Repealed)
218.603	Leaks (Repealed)
218.604	Compliance Dates (Repealed)
218.605	Compliance Plan (Repealed)
218.606	Exception to Compliance Plan (Repealed)

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

218.607	Standards for Petroleum Solvent Dry Cleaners
218.608	Operating Practices for Petroleum Solvent Dry Cleaners
218.609	Program for Inspection and Repair of Leaks
218.610	Testing and Monitoring
218.611	Applicability for Petroleum Solvent Dry Cleaners
218.612	Compliance Dates (Repealed)
218.613	Compliance Plan (Repealed)

## SUBPART AA: PAINT AND INK MANUFACTURING

Section	
218.620	Applicability
218.621	Exemption for Waterbase Material and Heatset-Offset Ink
218.623	Permit Conditions (Repealed)
218.624	Open-Top Mills, Tanks, Vats or Vessels
218.625	Grinding Mills
218.626	Storage Tanks
218.628	Leaks
218.630	Clean Up
218.636	Compliance Schedule
218.637	Recordkeeping and Reporting

## SUBPART BB: POLYSTYRENE PLANTS

Section	
218.640	Applicability
218.642	Emissions Limitation at Polystyrene Plants
218.644	Emissions Testing

## SUBPART CC: POLYESTER RESIN PRODUCT MANUFACTURING PROCESS

Section	
218.660	Applicability
218.666	Control Requirements
218.667	Compliance Schedule
218.668	Testing
218.670	Recordkeeping and Reporting for Exempt Emission Units
218.672	Recordkeeping and Reporting for Subject Emission Units

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

## SUBPART DD: AEROSOL CAN FILLING

## Section

218.680	Applicability
218.686	Control Requirements
218.688	Testing
218.690	Recordkeeping and Reporting for Exempt Emission Units
218.692	Recordkeeping and Reporting for Subject Emission Units

## SUBPART FF: BAKERY OVENS (REPEALED)

## Section

218.720	Applicability (Repealed)
218.722	Control Requirements (Repealed)
218.726	Testing (Repealed)
218.727	Monitoring (Repealed)
218.728	Recordkeeping and Reporting (Repealed)
218.729	Compliance Date (Repealed)
218.730	Certification (Repealed)

## SUBPART GG: MARINE TERMINALS

## Section

218.760	Applicability
218.762	Control Requirements
218.764	Compliance Certification
218.766	Leaks
218.768	Testing and Monitoring
218.770	Recordkeeping and Reporting

## SUBPART HH: MOTOR VEHICLE REFINISHING

## Section

218.780	Emission Limitations
218.782	Alternative Control Requirements
218.784	Equipment Specifications
218.786	Surface Preparation Materials
218.787	Work Practices
218.788	Testing

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

218.789	Monitoring and Recordkeeping for Control Devices
218.790	General Recordkeeping and Reporting (Repealed)
218.791	Compliance Date
218.792	Registration (Repealed)
218.875	Applicability of Subpart BB (Renumbered)
218.877	Emissions Limitation at Polystyrene Plants (Renumbered)
218.879	Compliance Date (Repealed)
218.881	Compliance Plan (Repealed)
218.883	Special Requirements for Compliance Plan (Repealed)
218.886	Emissions Testing (Renumbered)

## SUBPART II: FIBERGLASS BOAT MANUFACTURING MATERIALS

Section	
218.890	Applicability
218.891	Emission Limitations and Control Requirements
218.892	Testing Requirements
218.894	Recordkeeping and Reporting Requirements

## SUBPART JJ: MISCELLANEOUS INDUSTRIAL ADHESIVES

Section	
218.900	Applicability
218.901	Emission Limitations and Control Requirements
218.902	Testing Requirements
218.903	Monitoring Requirements
218.904	Recordkeeping and Reporting Requirements

SUBPART PP: MISCELLANEOUS FABRICATED PRODUCT  
MANUFACTURING PROCESSES

Section	
218.920	Applicability
218.923	Permit Conditions (Repealed)
218.926	Control Requirements
218.927	Compliance Schedule
218.928	Testing
218.929	Cementable and Dress or Performance Shoe Leather

## SUBPART QQ: MISCELLANEOUS FORMULATION

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

## MANUFACTURING PROCESSES

## Section

218.940	Applicability
218.943	Permit Conditions (Repealed)
218.946	Control Requirements
218.947	Compliance Schedule
218.948	Testing

SUBPART RR: MISCELLANEOUS ORGANIC CHEMICAL  
MANUFACTURING PROCESSES

## Section

218.960	Applicability
218.963	Permit Conditions (Repealed)
218.966	Control Requirements
218.967	Compliance Schedule
218.968	Testing

## SUBPART TT: OTHER EMISSION UNITS

## Section

218.980	Applicability
218.983	Permit Conditions (Repealed)
218.986	Control Requirements
218.987	Compliance Schedule
218.988	Testing

## SUBPART UU: RECORDKEEPING AND REPORTING

## Section

218.990	Exempt Emission Units
218.991	Subject Emission Units

218.APPENDIX A	List of Chemicals Defining Synthetic Organic Chemical and Polymer Manufacturing
218.APPENDIX B	VOM Measurement Techniques for Capture Efficiency (Repealed)
218.APPENDIX C	Reference Methods and Procedures
218.APPENDIX D	Coefficients for the Total Resource Effectiveness Index (TRE) Equation

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

218.APPENDIX E	List of Affected Marine Terminals
218.APPENDIX G	TRE Index Measurements for SOCOMI Reactors and Distillation Units
218.APPENDIX H	Baseline VOM Content Limitations for Subpart F, Section 218.212 Cross-Line Averaging

**AUTHORITY:** Implementing Section 10 and authorized by Sections 27, 28, and 28.5 of the Environmental Protection Act [415 ILCS 5/10, 27, 28, and 28.5].

**SOURCE:** Adopted at R91-7 at 15 Ill. Reg. 12231, effective August 16, 1991; amended in R91-24 at 16 Ill. Reg. 13564, effective August 24, 1992; amended in R91-28 and R91-30 at 16 Ill. Reg. 13864, effective August 24, 1992; amended in R93-9 at 17 Ill. Reg. 16636, effective September 27, 1993; amended in R93-14 at 18 Ill. Reg. 1945, effective January 24, 1994; amended in R94-12 at 18 Ill. Reg. 14973, effective September 21, 1994; amended in R94-15 at 18 Ill. Reg. 16392, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16950, effective November 15, 1994; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6848, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7359, effective May 22, 1995; amended in R96-13 at 20 Ill. Reg. 14428, effective October 17, 1996; amended in R97-24 at 21 Ill. Reg. 7708, effective June 9, 1997; amended in R97-31 at 22 Ill. Reg. 3556, effective February 2, 1998; amended in R98-16 at 22 Ill. Reg. 14282, effective July 16, 1998; amended in R02-20 at 27 Ill. Reg. 7283, effective April 8, 2003; amended in R04-12/20 at 30 Ill. Reg. 9684, effective May 15, 2006; amended in R06-21 at 31 Ill. Reg. 7086, effective April 30, 2007; amended in R08-8 at 32 Ill. Reg. 14874, effective August 26, 2008; amended in R10-10 at 34 Ill. Reg. 5330, effective March 23, 2010; amended in R10-8 at 34 Ill. Reg. 9096, effective June 25, 2010; amended in R10-20 at 34 Ill. Reg. 14174, effective September 14, 2010; amended in R10-8(A) at 35 Ill. Reg. 469, effective December 21, 2010; amended in R11-23 at 35 Ill. Reg. 13473, effective July 27, 2011; amended in R11-23(A) at 35 Ill. Reg. 18813, effective October 25, 2011; amended in R12-24 at 37 Ill. Reg. 1699, effective January 28, 2013; amended in R13-18 at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 218.112 Incorporations by Reference**

The following materials are incorporated by reference and do not contain any subsequent additions or amendments.

- a) American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken PA 19428-9555:

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) ASTM D 2879-86
- 2) ASTM D 323-08
- 3) ASTM D 86-82
- 4) ASTM D 369-69 (1971)
- 5) ASTM D 396-69
- 6) ASTM D 2880-71
- 7) ASTM D 975-68
- 8) ASTM D 3925-81 (1985)
- 9) ASTM E 300-86
- 10) ASTM D 1475-85
- 11) ASTM D 2369-87
- 12) ASTM D 3792-86
- 13) ASTM D 4017-81 (1987)
- 14) ASTM D 4457-85
- 15) ASTM D 2697-86
- 16) ASTM D 3980-87
- 17) ASTM E 180-85
- 18) ASTM D 2372-85
- 19) ASTM D 97-66
- 20) ASTM E 168-67 (1977)

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 21) ASTM E 169-87
  - 22) ASTM E 260-91
  - 23) ASTM D 2504-83
  - 24) ASTM D 2382-83
  - 25) ASTM D 2099-00
- b) Standard Industrial Classification Manual, published by Executive Office of the President, Office of Management and Budget, Washington, D.C., 1987.
  - c) American Petroleum Institute Bulletin 2517, "Evaporation Loss From Floating Roof Tanks", Second ed., February 1980.
  - d) 40 CFR 60 (July 1, 1991) and 40 CFR 60, ~~appendix~~ Appendix A, Method 24 (57 FR 30654, July 10, 1992).
  - e) 40 CFR 61 (July 1, 1991).
  - f) 40 CFR 50 (July 1, 1991).
  - g) 40 CFR 51 (July 1, 1991) and 40 CFR 51, appendix M, Methods 204-204F (July 1, 1999).
  - h) 40 CFR 52 (July 1, 1991).
  - i) "A Guide for Surface Coating Calculation", July 1986, United States Environmental Protection Agency, Washington, D.C., EPA-340/1-86-016.
  - j) "Procedures for Certifying Quantity of Volatile Organic Compounds Emitted by Paint, Ink and Other Coating" (revised June 1986), United States Environmental Protection Agency, Washington, D.C., EPA-450/3-84-019.
  - k) "A Guide for Graphic Arts Calculations", August 1988, United States Environmental Protection Agency, Washington, D.C., EPA-340/1-88-003.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- l) "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations", December 1988, United States Environmental Protection Agency, Washington, D.C., EPA-450/3-88-018.
- m) "Control of Volatile Organic Emissions from Manufacturing of Synthesized Pharmaceutical Products", December 1978, United States Environmental Protection Agency, Washington, D.C., EPA-450/~~22~~-78-029.
- n) "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", December 1978, Appendix B, United States Environmental Protection Agency, Washington, D.C., EPA-450/~~2~~-78-051.
- o) "Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners", September 1982, United States Environmental Protection Agency, Washington, D.C., EPA-450/3-82-009.
- p) "APTI Course SI417 Controlling Volatile Organic Compound Emissions from Leaking Process Equipment", 1982, United States Environmental Protection Agency, Washington, D.C., EPA-450/2-82-015.
- q) "Portable Instrument User's Manual for Monitoring VOC Sources", June 1986, United States Environmental Protection Agency, Washington, D.C., EPA-340/1-86-015.
- r) "Protocols for Generating Unit-Specific Emission Estimates for Equipment Leaks of VOC and VHAP", October 1988, United States Environmental Protection Agency, Washington, D.C., EPA-450/3-88-010.
- s) "Petroleum Refinery Enforcement Manual", March 1980, United States Environmental Protection Agency, Washington, D.C., EPA-340/1-80-008.
- t) "Inspection Manual for Control of Volatile Organic Emissions from Gasoline Marketing Operations: Appendix D", 1980, United States Environmental Protection Agency, Washington, D.C., EPA-340/1-80-012.
- u) "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals: Appendix A", December 1977, United States Environmental Protection Agency, Washington, D.C., EPA-450/2-77-026.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- v) "Technical Guidance – Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities", November 1991, United States Environmental Protection Agency, Washington, D.C., EPA-450/3-91-022b.
- w) California Air Resources Board, Compliance Division. Compliance Assistance Program: Gasoline Marketing and Distribution: Gasoline Facilities Phase I & II (October 1988, rev. November 1993) (CARB Manual).
- x) South Coast Air Quality Management District (SCAQMD), Applied Science & Technology Division, Laboratory Services Branch, SCAQMD Method 309-91, Determination of Static Volatile Emissions (February 1993).
- y) South Coast Air Quality Management District (SCAQMD), Applied Science & Technology Division, Laboratory Services Branch, SCAQMD Method 312-91, Determination of Percent Monomer in Polyester Resins (April 1996).
- z) "Guidelines for Determining Capture Efficiency", January 1995, Office of Air Quality Planning and Standards, United States Environmental Protection Agency, Research Triangle Park NC.
- aa) Memorandum "Revised Capture Efficiency Guidance for Control of Volatile Organic Compound Emissions", February 1995, John S. Seitz, Director, Office of Air Quality Planning and Standards, United States Environmental Protection Agency.
- bb) "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat Operations", September 2008, United States Environmental Protection Agency, Washington, D.C., EPA-453/R-08-002.
- cc) 40 CFR 63, subpart PPPP, appendix A (2008).
- dd) 46 CFR subchapter Q (2007).
- ee) 46 CFR subchapter T (2008).
- ff) [Petroleum Equipment Institute, "Recommended Practices for Installation and Testing of Vapor-Recovery Systems at Vehicle-Fueling Sites", PEI/RP300-09 \(2009\).](#)

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART Y: GASOLINE DISTRIBUTION

**Section 218.583 Gasoline Dispensing Operations – Storage Tank Filling Operations**

- a) Subject to subsection (b)-~~below~~, no person shall cause or allow the transfer of gasoline from any delivery vessel into any stationary storage tank at a gasoline dispensing operation unless:
- 1) The tank is equipped with a submerged loading pipe; and
  - 2) The vapors displaced from the storage tank during filling are processed by a vapor control system that includes one or more of the following:
    - A) A vapor collection system that meets the requirements of subsection (d)(4)-~~below~~; or
    - B) A refrigeration-condensation system or any other system approved by the Agency and approved by the USEPA as a SIP revision, that recovers at least 90 percent by weight of all vaporized organic material from the equipment being controlled; and
    - C) The delivery vessel displays the appropriate sticker pursuant to the requirements of Section 218.584(b) or (d) of this Part; and
  - 3) By March 15, 1995, all tank vent pipes are equipped with pressure/vacuum relief valves with the following design specifications:
    - A) The pressure/vacuum relief valve shall be set to resist a pressure of at least 3.5 inches water column and to resist a vacuum of no less than 6.0 inches water column; or
    - B) The pressure/vacuum relief valve shall meet the requirements of Section 218.586(c) of this Part; and
  - 4) The owner or operator of a gasoline dispensing operation demonstrates compliance with subsection (a)(3) of this Section, by March 15, 1995 or

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

30 days after installation of each pressure/vacuum relief valve, whichever is later, and at least annually thereafter, by measuring and recording the pressure indicated by a pressure/vacuum gauge at each tank vent pipe. The test shall be performed on each tank vent pipe within two hours after product delivery into the respective storage tank. For manifold tank vent systems, observations at any point within the system shall be adequate. The owner or operator shall maintain any records required by this subsection for a period of three years.

- b) The requirements of subsections (a)(2) and (a)(3)-above shall not apply to transfers of gasoline to a stationary storage tank at a gasoline dispensing operation if:
  - 1) The tank is equipped with a floating roof, or other system of equal or better emission control approved by the Agency and approved by the USEPA as a SIP revision;
  - 2) The tank has a capacity of less than 2000 gallons and was in place and operating before January 1, 1979; or
  - 3) The tank has a capacity of less than 575 gallons.
- c) Subject to subsection (b)-above, each owner of a gasoline dispensing operation shall:
  - 1) Install all control systems and make all process modifications required by subsection (a)-above;
  - 2) Provide instructions to the operator of the gasoline dispensing operation describing necessary maintenance operations and procedures for prompt notification of the owner in case of any malfunction of a vapor control system; and
  - 3) Repair, replace or modify any worn out or malfunctioning component or element of design.
- d) Subject to subsection (b)-above, each operator of a gasoline dispensing operation shall:

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Maintain and operate each vapor control system in accordance with the owner's instructions;
  - 2) Promptly notify the owner of any scheduled maintenance or malfunction requiring replacement or repair of a major component of a vapor control system;
  - 3) Maintain gauges, meters or other specified testing devices in proper working order;
  - 4) Operate the vapor collection system and delivery vessel unloading points in a manner that prevents:
    - A) A reading equal to or greater than 100 percent of the lower explosive limit (LEL measured as propane) when tested in accordance with the procedure described in EPA 450/2-78-051 ~~appendix~~ Appendix B incorporated by reference in Section 218.112 of this Part; and
    - B) Avoidable leaks of liquid during the filling of storage tanks; and
  - 5) Within 15 business days after discovery of the leak by the owner, operator, or the Agency, repair and retest a vapor collection system which exceeds the limits of subsection (d)(4)(A) ~~above~~.
- e) ~~Any retail gasoline dispensing operation subject to subsection (a) above, unless subject to Section 218.586 of this Part, shall be exempt from the permit requirements specified under 35 Ill. Adm. Code 201.142, 201.143, and 201.144 provided that:~~
- 1) ~~The owner or operator of the gasoline dispensing operation submits to the Agency a registration which provides, at a minimum, the operation name and address, signature of the owner or operator, the location (including contact person's name, address and telephone number) of records and reports required by this Section, the number of underground tanks, the number of tank pipe vents, and the date of completion of installation of the vapor control system and pressure/vacuum relief valve.~~
  - 2) ~~The registration is submitted to the Agency by March 15, 1995 or 30 days~~

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

~~after installation of a vapor control system or pressure/vacuum relief valve, whichever is later.~~

- ~~3) The registration certification is displayed at the gasoline dispensing operation.~~
- ~~4) Upon modification of an existing vapor control system or pressure/vacuum relief valve, the owner or operator of the gasoline dispensing operation submits to the Agency a registration that details the changes to the information provided in the previous registration and which includes the signature of the owner or operator. The registration must be submitted to the Agency within 30 days after completion of such modification.~~

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 218.586 Gasoline Dispensing Operations – Motor Vehicle Fueling Operations**

- a) Definitions. For the purposes of this Section, the following definitions apply.
  - 1) Average monthly volume means the amount of motor vehicle fuel dispensed per month from a gasoline dispensing operation based upon a monthly average for the 2-year period of November, 1990 through October, 1992 or, if not available, the monthly average for the most recent twelve calendar months. Monthly averages are to include only those months when the operation was operating.
  - 2) Certified means any vapor collection and control system which has been tested and approved by CARB as having a vapor recovery and removal efficiency of at least 95% (by weight) shall constitute a certified vapor collection and control system. CARB testing and approval is pursuant to the CARB manual, incorporated by reference at [Section 218.112](#) of this Part
  - 3) Completion of installation means the successful passing of one or more of the following tests applicable to the installed vapor collection and control system: Dynamic Backpressure Test, Pressure Decay/Leak Test, and Liquid Blockage Test, incorporated by reference at [Section 218.112](#) of this Part.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- ~~4)~~ ~~Constructed means fabricated, erected or installed; refers to any facility, emission source or air pollution control equipment.~~
- ~~45)~~ CARB means California Air Resources Board, P.O. Box 2815, Sacramento, CA 95812.
- ~~56)~~ Employee means any person who performs work for an employer.
- ~~67)~~ Operation means any building, structure, installation, operation or combination thereof located on contiguous properties and under common ownership that provides for the dispensing of motor vehicle fuel.
- ~~78)~~ Gasoline dispensing operation means any operation where motor vehicle fuel is dispensed into motor vehicle fuel tanks or portable containers from a storage tank with a capacity of 2176 liters (575 gallons) or more.
- ~~89)~~ Modification means any change, removal or addition, other than an identical replacement, of any component contained within the vapor collection and control system.
- ~~940)~~ Motor vehicle means any self-propelled vehicle powered by an internal combustion engine including, but not limited to, automobiles and trucks. Specifically excluded from this definition are watercraft and aircraft.
- ~~1044)~~ Motor vehicle fuel means any petroleum distillate having a Reid vapor pressure of more than 27.6 kilopascals (kPa) (four pounds per square inch) and which is used to power motor vehicles.
- ~~1142)~~ Owner or operator means any person who owns, leases, operates, manages, supervises or controls (directly or indirectly) a gasoline dispensing operation.
- ~~1243)~~ Reid vapor pressure for gasoline, shall be measured in accordance with either the method ASTM D323 or a modification of ASTM D323 known as the "dry method" as set forth in 40 CFR 80, ~~appendix~~Appendix E, incorporated by references in ~~Section 35-III. Adm. Code~~ 218.112 of this Part.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

1314) Vapor collection and control system means any system certified by CARB which limits the discharge to the atmosphere of motor vehicle fuel vapors displaced during the dispensing of motor vehicle fuel into motor vehicle fuel tanks.

- b) Applicability. The provisions of subsection (c)~~below~~ shall apply to any gasoline dispensing operation which dispenses an average monthly volume of more than 10,000 gallons of motor vehicle fuel per month. Compliance shall be required and demonstrated in accordance with the schedule provided in subsection (d)~~below~~.
- c) Vapor Collection and Control Systems. No owner or operator of a gasoline dispensing operation subject to the requirements of subsection (b)~~above~~ shall cause or allow the dispensing of motor vehicle fuel at any time from a motor fuel dispenser unless the dispenser is equipped with and utilizes a vapor collection and control system which is properly installed and operated as provided in this subsection (c)~~below~~:
- 1) Any vapor collection and control system installed, used or maintained has been CARB certified.
  - 2) Any vapor collection and control system utilized is maintained in accordance with the manufacturer's specifications and the certification.
  - 3) No elements or components of a vapor collection and control system are modified, removed, replaced or otherwise rendered inoperative in a manner which prevents the system from performing in accordance with its certification and design specifications.
  - 4) A vapor collection and control system has no defective, malfunctioning or missing components.
  - 5) Operators and employees of the gasoline dispensing operation are trained and instructed in the proper operation and maintenance of a vapor collection and control system.
  - 6) Instructions are posted in a conspicuous and visible place within the motor fuel dispensing area and describe the proper method of dispensing motor vehicle fuel with the use of the vapor collection and control system.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- d) Compliance. In conjunction with the compliance provisions of Section 218.105 of this Part, gasoline dispensing operations subject to the requirements of subsection (c) ~~above~~ shall comply and demonstrate compliance according to the following:
- 1) Gasoline dispensing operations that operate at any time prior to January 1, 2014 shall comply with subsection (c) until decommissioning is allowed and commenced in accordance with subsections (i)(1) and (i)(2)(B).
  - 2) The provisions of subsection (c) shall not apply to any new gasoline dispensing operation that commences operating for the first time on or after January 1, 2014.
  - 1) ~~Operations that commenced construction after November 1, 1990, must comply by May 1, 1993.~~
  - 2) ~~Operations that commenced construction before November 1, 1990, and dispense an average monthly volume of more than 100,000 gallons of motor fuel per month must comply by November 1, 1993.~~
  - 3) ~~Operations that commenced construction before November 1, 1990, and dispense an average monthly volume of less than 100,000 gallons of motor fuel per month must comply by November 1, 1994.~~
  - 4) ~~New operations constructed after the adoption of this Section shall comply with the requirements of subsection (c) above upon startup of the operation.~~
  - 5) ~~Existing operations previously exempted from, but which become subject to, the requirements of subsection (c) above after May 1, 1993 shall comply with the requirements of subsection (c) above within six calendar months of the date from which the operation becomes subject.~~
- e) Except as provided in subsection (d), anyAny gasoline dispensing operation that becomes subject to the provisions of subsection (c) ~~above~~ at any time shall remain subject to the provisions of subsection (c) ~~above~~ at all times.
- f) Upon request by the Agency, the owner or operator of a gasoline dispensing

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

operation which claims to be exempt from the requirements of subsection (c) this Section shall submit records to the Agency within 30 calendar days from the date of the request which demonstrate that the gasoline dispensing operation is in fact exempt.

- g) Recordkeeping and Reportingreporting:
- 1) Any gasoline dispensing operation subject to subsection (c)-above shall retain at the operation copies of the registration information required at subsection (h)-below.
  - 2) Except as provided in subsection (g)(4), recordsRecords and reports required pursuant to this subsection (g) shall be made available to the Agency upon request.
  - 3) Records and reports, which shall be maintained by the owner or operator at a-of the gasoline dispensing operation subject to subsection (c), shall clearly demonstrate:
    - A) That a certified vapor collection and control system has been installed and tested to verify its performance according to its specifications.
    - B) That proper maintenance has been conducted in accordance with the manufacturer's specifications and requirements.
    - C) The time period and duration of all malfunctions of the vapor collection and control system.
    - D) The motor vehicle fuel throughput of the operation for each calendar month of the previous year.
    - E) That operators and employees are trained and instructed in the proper operation and maintenance of the vapor collection and control system and informed as to the potential penalties associated with the violation of any provision of this Section.
  - 4) Any and all records relating to decommissioning shall be maintained by the owner or operator of a gasoline dispensing operation for a period of 5

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

years after completion of decommissioning in accordance with subsection (i). For purposes of this subsection (g)(4), "records" include, but are not limited to, any documents, papers, reports, test results, logs, invoices, forms, certifications and receipts that relate to decommissioning. Records relating to decommissioning shall be made available to the Agency or its designee within 30 minutes after the Agency's, or its designee's, request.

- h) Any gasoline dispensing operation subject to subsection (c)-~~above~~ shall comply with the following registration requirements~~be exempt from the permit requirements specified under 35 Ill. Adm. Code 201.142, 201.143 and 201.144 for its vapor collection and control systems, provided that:~~
- 1) Upon the installation of a vapor collection and control system, the owner or operator of the gasoline dispensing operation shall submit~~submits~~ to the Agency a registration which provides at minimum the operation name and address, signature of the owner or operator, the CARB Executive Order Number for the vapor collection and control system to be utilized, the number of nozzles (excluding diesel or kerosene) used for motor vehicle refueling, the monthly average volume of motor vehicle fuel dispensed, the location (including contact person's name, address, and telephone number) of records and reports required by this Section, and the date of completion of installation of the vapor collection and control system.
  - 2) The registration shall be~~is~~ submitted to the Agency within 30 days after~~of~~ completion of the~~sueh~~ installation.
  - 3) A copy of the registration information shall be~~is~~ maintained at the gasoline dispensing operation.
  - 4) Upon the modification of an existing vapor collection and control system, the owner or operator of the gasoline dispensing operation shall submit~~submits~~ to the Agency a registration that details the changes to the information provided in the previous registration of the vapor collection and control system and which includes the signature of the owner or operator. The registration must be submitted to the Agency within 30 days after~~of~~ completion of the~~sueh~~ modification.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- i) Decommissioning. The owner or operator of a gasoline dispensing operation subject at any time to subsection (c) shall decommission vapor collection and control systems in accordance with the provisions of this subsection (i).
- 1) Compliance
- A) Beginning January 1, 2014, an owner or operator of a gasoline dispensing operation may commence decommissioning of vapor collection and control systems. The decommissioning of vapor collection and control systems must be conducted in accordance with all of the provisions specified in subsection (i)(2).
- B) No later than December 31, 2016, an owner or operator of a gasoline dispensing operation shall complete the decommissioning of all vapor collection and control systems in accordance with all of the provisions specified in subsection (i)(2).
- 2) Decommissioning Procedures and Standards. The decommissioning of vapor collection and control systems shall be conducted as follows:
- A) The owner or operator of a gasoline dispensing operation shall complete and submit a notice of intent form, provided by the Agency, notifying the Agency of its intent to decommission. The completed notice of intent form shall be submitted to the Agency at least 10 days prior to commencing decommissioning in accordance with subsection (i)(2)(B);
- B) The owner or operator of a gasoline dispensing operation shall decommission vapor collection and control systems in accordance with all of the procedures specified in Section 14.6, except Section 14.6.14, of the Petroleum Equipment Institute's "Recommended Practices for Installation and Testing of Vapor-Recovery Systems at Vehicle-Fueling Sites". In addition to Section 14.6 of the PEI, the following requirements apply to decommissioning:
- i) All decommissioning procedures, except testing, shall be performed only by a contractor who is both registered with the Illinois Department of Agriculture, Bureau of Weights and Measures, in the 3-A Gasoline Pump Meters Code

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

pursuant to Section 8.1 of the Weights and Measures Act [225 ILCS 470/8.1] and licensed by the Office of the State Fire Marshal (OSFM) in the installation/retrofitting licensure module pursuant to the Petroleum Equipment Contractors Licensing Act [225 ILCS 729] and implementing regulations at 41 Ill. Adm. Code 172. Any such contractor shall also have the appropriate dispenser-manufacturer certification and training, if any. In the event that product piping must be broken or an OSFM permit otherwise required for any component of the work, the contractor shall ensure that the OSFM-permitted work is performed by the appropriate OSFM-licensed contractor and personnel;

- ii) Decommissioning procedures related to testing shall be performed only by a contractor who is licensed by OSFM in the tank tightness testing licensure module pursuant to the Petroleum Equipment Contractors Licensing Act and implementing regulations at 41 Ill. Adm. Code 172; and
- iii) The pressure decay test required by the PEI shall be passed in accordance with Appendix A of the PEI. The tie-tank test required by the PEI shall be conducted and passed in accordance with CARB TP201.3C to ensure that all tanks are properly vented; and

- C) The owner or operator of a gasoline dispensing operation and the contractors that performed the decommissioning shall complete and sign a decommissioning checklist and certification, provided by the Agency, documenting the decommissioning procedures performed. Within 30 days after completion of the decommissioning procedures specified by subsection (i)(2)(B), the owner or operator shall provide the completed checklist and certification and the test results to the Agency.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Organic Material Emission Standards and Limitations for the Metro East Area
- 2) Code Citation: 35 Ill. Adm. Code 219
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
219.105	Amend
219.112	Amend
219.583	Amend
- 4) Statutory Authority: Implementing Section 10 of the Environmental Protection Act [415 ILCS 5/10] and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/27, 28]
- 5) A Complete Description of the Subjects and Issues Involved: This proposal repeals, as a matter of clean-up, State II vapor recovery test methods and a Stage II vapor recovery guidance document because the Stage II vapor recovery rule/program in the Metro-East nonattainment area was repealed in 1994. In addition, this proposal repeals the Stage I vapor recovery registration provision (35 Ill. Adm. Code 219.583(e)) due to overlapping federal notification requirements and other State tracking systems for gasoline dispensing operations. The available permit exemption (currently conditioned upon registration) provided by this Stage I registration provision will be relocated to 35 Ill. Adm. Code 201 and will not require registration.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking:

Clean Air Act (42 USC 7401 *et seq.*)

40 CFR 63, Subpart CCCCCC (2012)
- 7) Will this proposed rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed amendments pending on this Part? No

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments must be filed with the Clerk of the Board. Public comments may be filed at the following address:  
  
John Therriault, Assistant Clerk  
Pollution Control Board  
JRTC  
100 W. Randolph Street, Suite 11-500  
Chicago, IL 60601  
312/819-3620  
  
Public comments may also be filed electronically 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).  
  
In addition, two public hearings will be held. The first hearing will take place in Springfield on May 8, 2013. The second hearing will take place in Chicago on June 5, 2013.
- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: Any small business, small municipality, or not for profit corporation engaged in storage tank filling at gasoline dispensing operations located in the Metro-East nonattainment area.
  - B) Reporting, bookkeeping or other procedures required for compliance: This proposal repeals the Stage I registration provision.
  - C) Types of professional skills necessary for compliance: None.
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE B: AIR POLLUTION  
CHAPTER I: POLLUTION CONTROL BOARD  
SUBCHAPTER c: EMISSIONS STANDARDS AND LIMITATIONS  
FOR STATIONARY SOURCESPART 219  
ORGANIC MATERIAL EMISSION STANDARDS AND LIMITATIONS  
FOR THE METRO EAST AREA

## SUBPART A: GENERAL PROVISIONS

Section	
219.100	Introduction
219.101	Savings Clause
219.102	Abbreviations and Conversion Factors
219.103	Applicability
219.104	Definitions
219.105	Test Methods and Procedures
219.106	Compliance Dates
219.107	Operation of Afterburners
219.108	Exemptions, Variations, and Alternative Means of Control or Compliance Determinations
219.109	Vapor Pressure of Volatile Organic Liquids
219.110	Vapor Pressure of Organic Material or Solvent
219.111	Vapor Pressure of Volatile Organic Material
219.112	Incorporations by Reference
219.113	Monitoring for Negligibly-Reactive Compounds

## SUBPART B: ORGANIC EMISSIONS FROM STORAGE AND LOADING OPERATIONS

Section	
219.119	Applicability for VOL
219.120	Control Requirements for Storage Containers of VOL
219.121	Storage Containers of VPL
219.122	Loading Operations
219.123	Petroleum Liquid Storage Tanks
219.124	External Floating Roofs
219.125	Compliance Dates

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 219.126 Compliance Plan (Repealed)
- 219.127 Testing VOL Operations
- 219.128 Monitoring VOL Operations
- 219.129 Recordkeeping and Reporting for VOL Operations

## SUBPART C: ORGANIC EMISSIONS FROM MISCELLANEOUS EQUIPMENT

## Section

- 219.141 Separation Operations
- 219.142 Pumps and Compressors
- 219.143 Vapor Blowdown
- 219.144 Safety Relief Valves

## SUBPART E: SOLVENT CLEANING

## Section

- 219.181 Solvent Cleaning Degreasing Operations
- 219.182 Cold Cleaning
- 219.183 Open Top Vapor Degreasing
- 219.184 Conveyorized Degreasing
- 219.185 Compliance Schedule (Repealed)
- 219.186 Test Methods
- 219.187 Other Industrial Solvent Cleaning Operations

## SUBPART F: COATING OPERATIONS

## Section

- 219.204 Emission Limitations
- 219.205 Daily-Weighted Average Limitations
- 219.206 Solids Basis Calculation
- 219.207 Alternative Emission Limitations
- 219.208 Exemptions From Emission Limitations
- 219.209 Exemption From General Rule on Use of Organic Material
- 219.210 Compliance Schedule
- 219.211 Recordkeeping and Reporting
- 219.212 Cross-Line Averaging to Establish Compliance for Coating Lines
- 219.213 Recordkeeping and Reporting for Cross-Line Averaging Participating Coating Lines
- 219.214 Changing Compliance Methods

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 219.215 Wood Furniture Coating Averaging Approach
- 219.216 Wood Furniture Coating Add-On Control Use
- 219.217 Wood Furniture Coating and Flat Wood Paneling Coating Work Practice Standards
- 219.218 Work Practice Standards for Paper Coatings, Metal Furniture Coatings, and Large Appliance Coatings
- 219.219 Work Practice Standards for Automobile and Light-Duty Truck Assembly Coatings and Miscellaneous Metal and Plastic Parts Coatings

## SUBPART G: USE OF ORGANIC MATERIAL

- Section
- 219.301 Use of Organic Material
- 219.302 Alternative Standard
- 219.303 Fuel Combustion Emission Units
- 219.304 Operations with Compliance Program

## SUBPART H: PRINTING AND PUBLISHING

- Section
- 219.401 Flexographic and Rotogravure Printing
- 219.402 Applicability
- 219.403 Compliance Schedule
- 219.404 Recordkeeping and Reporting
- 219.405 Lithographic Printing: Applicability
- 219.406 Provisions Applying to Heatset Web Offset Lithographic Printing Prior to March 15, 1996 (Repealed)
- 219.407 Emission Limitations and Control Requirements for Lithographic Printing Lines
- 219.408 Compliance Schedule for Lithographic Printing On and After March 15, 1996 (Repealed)
- 219.409 Testing for Lithographic Printing
- 219.410 Monitoring Requirements for Lithographic Printing
- 219.411 Recordkeeping and Reporting for Lithographic Printing
- 219.412 Letterpress Printing Lines: Applicability
- 219.413 Emission Limitations and Control Requirements for Letterpress Printing Lines
- 219.415 Testing for Letterpress Printing Lines
- 219.416 Monitoring Requirements for Letterpress Printing Lines
- 219.417 Recordkeeping and Reporting for Letterpress Printing Lines

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

SUBPART Q: SYNTHETIC ORGANIC CHEMICAL AND  
POLYMER MANUFACTURING PLANT

Section	
219.421	General Requirements
219.422	Inspection Program Plan for Leaks
219.423	Inspection Program for Leaks
219.424	Repairing Leaks
219.425	Recordkeeping for Leaks
219.426	Report for Leaks
219.427	Alternative Program for Leaks
219.428	Open-Ended Valves
219.429	Standards for Control Devices
219.430	Compliance Date (Repealed)
219.431	Applicability
219.432	Control Requirements
219.433	Performance and Testing Requirements
219.434	Monitoring Requirements
219.435	Recordkeeping and Reporting Requirements
219.436	Compliance Date

SUBPART R: PETROLEUM REFINING AND  
RELATED INDUSTRIES; ASPHALT MATERIALS

Section	
219.441	Petroleum Refinery Waste Gas Disposal
219.442	Vacuum Producing Systems
219.443	Wastewater (Oil/Water) Separator
219.444	Process Unit Turnarounds
219.445	Leaks: General Requirements
219.446	Monitoring Program Plan for Leaks
219.447	Monitoring Program for Leaks
219.448	Recordkeeping for Leaks
219.449	Reporting for Leaks
219.450	Alternative Program for Leaks
219.451	Sealing Device Requirements
219.452	Compliance Schedule for Leaks
219.453	Compliance Dates (Repealed)

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

## SUBPART S: RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS

## Section

219.461	Manufacture of Pneumatic Rubber Tires
219.462	Green Tire Spraying Operations
219.463	Alternative Emission Reduction Systems
219.464	Emission Testing
219.465	Compliance Dates (Repealed)
219.466	Compliance Plan (Repealed)

## SUBPART T: PHARMACEUTICAL MANUFACTURING

## Section

219.480	Applicability
219.481	Control of Reactors, Distillation Units, Crystallizers, Centrifuges and Vacuum Dryers
219.482	Control of Air Dryers, Production Equipment Exhaust Systems and Filters
219.483	Material Storage and Transfer
219.484	In-Process Tanks
219.485	Leaks
219.486	Other Emission Units
219.487	Testing
219.488	Monitoring for Air Pollution Control Equipment
219.489	Recordkeeping for Air Pollution Control Equipment

## SUBPART V: BATCH OPERATIONS AND AIR OXIDATION PROCESSES

## Section

219.500	Applicability for Batch Operations
219.501	Control Requirements for Batch Operations
219.502	Determination of Uncontrolled Total Annual Mass Emissions and Actual Weighted Average Flow Rate Values for Batch Operations
219.503	Performance and Testing Requirements for Batch Operations
219.504	Monitoring Requirements for Batch Operations
219.505	Reporting and Recordkeeping for Batch Operations
219.506	Compliance Date
219.520	Emission Limitations for Air Oxidation Processes
219.521	Definitions (Repealed)
219.522	Savings Clause

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

219.523	Compliance
219.524	Determination of Applicability
219.525	Emission Limitations for Air Oxidation Processes (Renumbered)
219.526	Testing and Monitoring
219.527	Compliance Date (Repealed)

## SUBPART W: AGRICULTURE

Section	
219.541	Pesticide Exception

## SUBPART X: CONSTRUCTION

Section	
219.561	Architectural Coatings
219.562	Paving Operations
219.563	Cutback Asphalt

## SUBPART Y: GASOLINE DISTRIBUTION

Section	
219.581	Bulk Gasoline Plants
219.582	Bulk Gasoline Terminals
219.583	Gasoline Dispensing Operations – Storage Tank Filling Operations
219.584	Gasoline Delivery Vessels
219.585	Gasoline Volatility Standards (Repealed)
219.586	Gasoline Dispensing Operations – Motor Vehicle Fueling Operations (Repealed)

## SUBPART Z: DRY CLEANERS

Section	
219.601	Perchloroethylene Dry Cleaners (Repealed)
219.602	Exemptions (Repealed)
219.603	Leaks (Repealed)
219.604	Compliance Dates (Repealed)
219.605	Compliance Plan (Repealed)
219.606	Exception to Compliance Plan (Repealed)
219.607	Standards for Petroleum Solvent Dry Cleaners
219.608	Operating Practices for Petroleum Solvent Dry Cleaners

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

219.609	Program for Inspection and Repair of Leaks
219.610	Testing and Monitoring
219.611	Exemption for Petroleum Solvent Dry Cleaners
219.612	Compliance Dates (Repealed)
219.613	Compliance Plan (Repealed)

## SUBPART AA: PAINT AND INK MANUFACTURING

Section	
219.620	Applicability
219.621	Exemption for Waterbase Material and Heatset-Offset Ink
219.623	Permit Conditions
219.624	Open-Top Mills, Tanks, Vats or Vessels
219.625	Grinding Mills
219.626	Storage Tanks
219.628	Leaks
219.630	Clean Up
219.636	Compliance Schedule
219.637	Recordkeeping and Reporting

## SUBPART BB: POLYSTYRENE PLANTS

Section	
219.640	Applicability
219.642	Emissions Limitation at Polystyrene Plants
219.644	Emissions Testing

## SUBPART FF: BAKERY OVENS

Section	
219.720	Applicability (Repealed)
219.722	Control Requirements (Repealed)
219.726	Testing (Repealed)
219.727	Monitoring (Repealed)
219.728	Recordkeeping and Reporting (Repealed)
219.729	Compliance Date (Repealed)
219.730	Certification (Repealed)

## SUBPART GG: MARINE TERMINALS

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

Section	
219.760	Applicability
219.762	Control Requirements
219.764	Compliance Certification
219.766	Leaks
219.768	Testing and Monitoring
219.770	Recordkeeping and Reporting

## SUBPART HH: MOTOR VEHICLE REFINISHING

Section	
219.780	Emission Limitations
219.782	Alternative Control Requirements
219.784	Equipment Specifications
219.786	Surface Preparation Materials
219.787	Work Practices
219.788	Testing
219.789	Monitoring and Recordkeeping for Control Devices
219.790	General Recordkeeping and Reporting (Repealed)
219.791	Compliance Date
219.792	Registration (Repealed)
219.875	Applicability of Subpart BB (Renumbered)
219.877	Emissions Limitation at Polystyrene Plants (Renumbered)
219.879	Compliance Date (Repealed)
219.881	Compliance Plan (Repealed)
219.883	Special Requirements for Compliance Plan (Repealed)
219.886	Emissions Testing (Renumbered)

## SUBPART II: FIBERGLASS BOAT MANUFACTURING MATERIALS

Section	
219.890	Applicability
219.891	Emission Limitations and Control Requirements
219.892	Testing and Monitoring Requirements
219.894	Recordkeeping and Reporting Requirements

## SUBPART JJ: MISCELLANEOUS INDUSTRIAL ADHESIVES

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

## Section

219.900	Applicability
219.901	Emission Limitations and Control Requirements
219.902	Testing Requirements
219.903	Monitoring Requirements
219.904	Recordkeeping and Reporting Requirements

SUBPART PP: MISCELLANEOUS FABRICATED PRODUCT  
MANUFACTURING PROCESSES

## Section

219.920	Applicability
219.923	Permit Conditions
219.926	Control Requirements
219.927	Compliance Schedule
219.928	Testing

SUBPART QQ: MISCELLANEOUS FORMULATION  
MANUFACTURING PROCESSES

## Section

219.940	Applicability
219.943	Permit Conditions
219.946	Control Requirements
219.947	Compliance Schedule
219.948	Testing

SUBPART RR: MISCELLANEOUS ORGANIC CHEMICAL  
MANUFACTURING PROCESSES

## Section

219.960	Applicability
219.963	Permit Conditions
219.966	Control Requirements
219.967	Compliance Schedule
219.968	Testing

## SUBPART TT: OTHER EMISSION UNITS

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

Section	
219.980	Applicability
219.983	Permit Conditions
219.986	Control Requirements
219.987	Compliance Schedule
219.988	Testing

## SUBPART UU: RECORDKEEPING AND REPORTING

Section	
219.990	Exempt Emission Units
219.991	Subject Emission Units

219.APPENDIX A	List of Chemicals Defining Synthetic Organic Chemical and Polymer Manufacturing
219.APPENDIX B	VOM Measurement Techniques for Capture Efficiency (Repealed)
219.APPENDIX C	Reference Methods and Procedures
219.APPENDIX D	Coefficients for the Total Resource Effectiveness Index (TRE) Equation
219.APPENDIX E	List of Affected Marine Terminals
219.APPENDIX G	TRE Index Measurements for SOCOMI Reactors and Distillation Units
219.APPENDIX H	Baseline VOM Content Limitations for Subpart F, Section 219.212 Cross-Line Averaging

AUTHORITY: Implementing Section 10 and authorized by Sections 27, 28 and 28.5 of the Environmental Protection Act [415 ILCS 5/10, 27, 28 and 28.5].

SOURCE: Adopted in R91-8 at 15 Ill. Reg. 12491, effective August 16, 1991; amended in R91-24 at 16 Ill. Reg. 13597, effective August 24, 1992; amended in R91-30 at 16 Ill. Reg. 13883, effective August 24, 1992; emergency amendment in R93-12 at 17 Ill. Reg. 8295, effective May 24, 1993, for a maximum of 150 days; amended in R93-9 at 17 Ill. Reg. 16918, effective September 27, 1993 and October 21, 1993; amended in R93-28 at 18 Ill. Reg. 4242, effective March 3, 1994; amended in R94-12 at 18 Ill. Reg. 14987, effective September 21, 1994; amended in R94-15 at 18 Ill. Reg. 16415, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16980, effective November 15, 1994; emergency amendment in R95-10 at 19 Ill. Reg. 3059, effective February 28, 1995, for a maximum of 150 days; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6958, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7385, effective May 22, 1995; amended in R96-2 at 20 Ill. Reg. 3848, effective February 15, 1996; amended in R96-13 at 20 Ill. Reg. 14462, effective October 28, 1996; amended in R97-24 at 21 Ill. Reg. 7721, effective June 9, 1997; amended in R97-31 at 22 Ill. Reg. 3517, effective

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

February 2, 1998; amended in R04-12/20 at 30 Ill. Reg. 9799, effective May 15, 2006; amended in R06-21 at 31 Ill. Reg. 7110, effective April 30, 2007; amended in R10-10 at 34 Ill. Reg. 5392, effective March 23, 2010; amended in R10-8 at 34 Ill. Reg. 9253, effective June 25, 2010; amended in R10-20 at 34 Ill. Reg. 14326, effective September 14, 2010; amended in R10-8(A) at 35 Ill. Reg. 496, effective December 21, 2010; amended in R11-23 at 35 Ill. Reg. 13676, effective July 27, 2011; amended in R11-23(A) at 35 Ill. Reg. 18830, effective October 25, 2011; amended in R12-24 at 37 Ill. Reg. 1722, effective January 28, 2013; amended in R13-18 at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

**Section 219.105 Test Methods and Procedures**

- a) Coatings, Inks and Fountain Solutions  
The following test methods and procedures shall be used to determine compliance of as applied coatings, inks, and fountain solutions with the limitations set forth in this Part.
  - 1) Sampling: Samples collected for analyses shall be one-liter taken into a one-liter container at a location and time such that the sample will be representative of the coating as applied (i.e., the sample shall include any dilution solvent or other VOM added during the manufacturing process). The container must be tightly sealed immediately after the sample is taken. Any solvent or other VOM added after the sample is taken must be measured and accounted for in the calculations in subsection (a)(3) of this Section. For multiple package coatings, separate samples of each component shall be obtained. A mixed sample shall not be obtained as it will cure in the container. Sampling procedures shall follow the guidelines presented in:
    - A) ASTM D 3925-81 (1985) standard practice for sampling liquid paints and related pigment coating. This practice is incorporated by reference in Section 219.112 of this Part.
    - B) ASTM E 300-86 standard practice for sampling industrial chemicals. This practice is incorporated by reference in Section 219.112 of this Part.
  - 2) Analyses: The applicable analytical methods specified below shall be

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

used to determine the composition of coatings, inks, or fountain solutions as applied.

- A) Method 24 of 40 CFR 60, appendix A, incorporated by reference in Section 219.112 of this Part, shall be used to determine the VOM content and density of coatings. If it is demonstrated to the satisfaction of the Agency and the USEPA that plant coating formulation data are equivalent to Method 24 results, formulation data may be used. In the event of any inconsistency between a Method 24 test and a facility's formulation data, the Method 24 test will govern.
- B) Method 24A of 40 CFR 60, appendix ~~Appendix A~~, incorporated by reference in Section 219.112, shall be used to determine the VOM content and density of rotogravure printing inks and related coatings. If it is demonstrated to the satisfaction of the Agency and USEPA that the plant coating formulation data are equivalent to Method 24A results, formulation data may be used. In the event of any inconsistency between a Method 24A test and formulation data, the Method 24A test will govern.
- C) The following ASTM methods are the analytical procedures for determining VOM:
- i) ASTM D 1475-85: Standard test method for density of paint, varnish, lacquer and related products. This test method is incorporated by reference in Section 219.112 of this Part.
  - ii) ASTM D 2369-87: Standard test method for volatile content of a coating. This test method is incorporated by reference in Section 219.112 of this Part.
  - iii) ASTM D 3792-86: Standard test method for water content of water-reducible paints by direct injection into a gas chromatograph. This test method is incorporated by reference in Section 219.112 of this Part.
  - iv) ASTM D 4017-81 (1987): Standard test method for water

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

content in paints and paint materials by the Karl Fischer method. This test method is incorporated by reference in Section 219.112 of this Part.

- v) ASTM D 4457-85: Standard test method for determination of dichloromethane and 1,1,1, trichloroethane in paints and coatings by direct injection into a gas chromatograph. (The procedure delineated above can be used to develop protocols for any compounds specifically exempted from the definition of VOM.) This test method is incorporated by reference in Section 219.112 of this Part.
  - vi) ASTM D 2697-86: Standard test method for volume non-volatile matter in clear or pigmented coatings. This test method is incorporated by reference in Section 219.112 of this Part.
  - vii) ASTM D 3980-87: Standard practice for interlaboratory testing of paint and related materials. This practice is incorporated by reference in Section 219.112 of this Part.
  - viii) ASTM E 180-85: Standard practice for determining the precision of ASTM methods for analysis of and testing of industrial chemicals. This practice is incorporated by reference in Section 219.112 of this Part.
  - ix) ASTM D 2372-85: Standard method of separation of vehicle from solvent-reducible paints. This method is incorporated by reference in Section 219.112 of this Part.
- D) Use of an adaptation to any of the analytical methods specified in subsections (a)(2)(A), (B), and (C) of this Section may not be used unless approved by the Agency and USEPA. An owner or operator must submit sufficient documentation for the Agency and USEPA to find that the analytical methods specified in subsections (a)(2)(A), (B), and (C) of this Section will yield inaccurate results and that the proposed adaptation is appropriate.
- 3) Calculations: Calculations for determining the VOM content, water

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

content and the content of any compounds which are specifically exempted from the definition of VOM of coatings, inks and fountain solutions as applied shall follow the guidance provided in the following documents:

- A) "A Guide for Surface Coating Calculation", EPA-340/1-86-016, incorporated by reference in Section 219.112 of this Part.
  - B) "Procedures for Certifying Quantity of Volatile Organic Compounds Emitted by Paint, Ink and Other Coatings" (revised June 1986), EPA-450/3-84-019, incorporated by reference in Section 219.112 of this Part.
  - C) "A Guide for Graphic Arts Calculations", August 1988, EPA-340/1-88-003, incorporated by reference in Section 219.112 of this Part.
- b) Automobile or Light-Duty Truck Test Protocol
- 1) The protocol for testing, including determining the transfer efficiency of coating applicators, at primer surfacer operations and topcoat operations at an automobile or light-duty truck assembly source shall follow the procedures in the following:
    - A) Prior to May 1, 2012: "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations" ("topcoat protocol"), December 1988, EPA-450/3-88-018, incorporated by reference in Section 219.112 of this Part.
    - B) On and after May 1, 2012: "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat Operations" (topcoat protocol), September 2008, EPA-453/R-08-002, incorporated by reference in Section 219.112 of this Part.
  - 2) Prior to testing pursuant to the applicable topcoat protocol, the owner or operator of a coating operation subject to the topcoat or primer surfacer limit in Section 219.204(a)(1)(B), (a)(1)(C), (a)(2)(B), (a)(2)(C), or

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

(a)(2)(E) shall submit a detailed testing proposal specifying the method by which testing will be conducted and how compliance will be demonstrated consistent with the applicable topcoat protocol. The proposal shall include, at a minimum, a comprehensive plan (including a rationale) for determining the transfer efficiency at each booth through the use of in-plant or pilot testing, the selection of coatings to be tested (for the purpose of determining transfer efficiency) including the rationale for coating groupings, the method for determining the analytic VOM content of as applied coatings and the formulation solvent content of as applied coatings, and a description of the records of coating VOM content as applied and coating's usage that will be kept to demonstrate compliance. Upon approval of the proposal by the Agency and USEPA, the compliance demonstration for a coating line may proceed.

c) Capture System Efficiency Test Protocols

1) Applicability

The requirements of subsection (c)(2) of this Section shall apply to all VOM emitting process emission units employing capture equipment (e.g., hoods, ducts), except those cases noted in this subsection (c)(1).

A) If an emission unit is equipped with (or uses) a permanent total enclosure (PTE) that meets Agency and USEPA specifications, and which directs all VOM to a control device, then the emission unit is exempted from the requirements described in subsection (c)(2) of this Section. The Agency and USEPA specifications to determine whether a structure is considered a PTE are given in Method 204 of appendix M of 40 CFR 51, incorporated by reference in Section 219.112 of this Part. In this instance, the capture efficiency is assumed to be 100 percent and the emission unit is still required to measure control efficiency using appropriate test methods as specified in subsection (d) of this Section.

B) If an emission unit is equipped with (or uses) a control device designed to collect and recover VOM (e.g., carbon adsorber), an explicit measurement of capture efficiency is not necessary provided that the conditions given below are met. The overall control of the system can be determined by directly comparing the input liquid VOM to the recovered liquid VOM. The general

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

procedure for use in this situation is given in 40 CFR 60.433, incorporated by reference in Section 219.112 of this Part, with the following additional restrictions:

- i) The source owner or operator shall obtain data each operating day for the solvent usage and solvent recovery to permit the determination of the solvent recovery efficiency of the system each operating day using a 7-day rolling period. The recovery efficiency for each operating day is computed as the ratio of the total recovered solvent for that day and the most recent prior 6 operating days to the total solvent usage for the same 7-day period used for the recovered solvent, rather than a 30-day weighted average as given in 40 CFR 60.433 incorporated by reference in Section 219.112 of this Part. This ratio shall be expressed as a percentage. The ratio shall be computed within 72 hours following each 7-day period. A source that believes that the 7-day rolling period is not appropriate may use an alternative multi-day rolling period not to exceed 30 days, with the approval of the Agency and USEPA. In addition, the criteria in subsection (c)(1)(B)(ii) or ~~subsection (c)(1)(B)(iii)~~ ~~below~~ must be met.
  - ii) The solvent recovery system (i.e., capture and control system) must be dedicated to a single coating line, printing line, or other discrete activity that by itself is subject to an applicable VOM emission standard, or ~~if it~~ ~~is~~ ~~subject~~ ~~to~~ ~~an~~ ~~applicable~~ ~~VOM~~ ~~emission~~ ~~standard~~, ~~or~~ ~~if~~ ~~the~~ ~~solvent~~ ~~recovery~~ ~~system~~ ~~controls~~ ~~more~~ ~~than~~ ~~one~~ ~~coating~~ ~~line~~, ~~printing~~ ~~line~~ ~~or~~ ~~other~~ ~~discrete~~ ~~activity~~ ~~that~~ ~~by~~ ~~itself~~ ~~is~~ ~~subject~~ ~~to~~ ~~an~~ ~~applicable~~ ~~VOM~~ ~~emission~~ ~~standard~~, the overall control (i.e., the total recovered VOM divided by the sum of liquid VOM input from all lines and other activities venting to the control system) must meet or exceed the most stringent standard applicable to any line or other discrete activity venting to the control system.
- 2) Capture Efficiency Protocols  
The capture efficiency of an emission unit shall be measured using one of the protocols given below. Appropriate test methods to be utilized in each

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

of the capture efficiency protocols are described in appendix M of 40 CFR 51, incorporated by reference in Section 219.112 of this Part. Any error margin associated with a test method or protocol may not be incorporated into the results of a capture efficiency test. If these techniques are not suitable for a particular process, then an alternative capture efficiency protocol may be used, pursuant to the provisions of Section 219.108(b) of this Part.

- A) Gas/gas method using temporary total enclosure (TTE). The Agency and USEPA specifications to determine whether a temporary enclosure is considered a TTE are given in Method 204 of appendix M of 40 CFR 51, incorporated by reference in Section 219.112 of this Part. The capture efficiency equation to be used for this protocol is:

$$CE = \frac{G_w}{G_w + F_w}$$

where:

CE = capture efficiency, decimal fraction;

$G_w$  = mass of VOM captured and delivered to control device using a TTE;

$F_w$  = mass of uncaptured VOM that escapes from a TTE.

Method 204B or 204C contained in appendix M of 40 CFR 51, incorporated by reference in Section 219.112 of this Part, is used to obtain  $G_w$ . Method 204D in appendix M of 40 CFR 51, incorporated by reference in Section 219.112 of this Part, is used to obtain  $F_w$ .

- B) Liquid/gas method using TTE. The Agency and USEPA specifications to determine whether a temporary enclosure is considered a TTE are given in Method 204 of appendix M of 40 CFR 51, incorporated by reference in Section 219.112 of this Part. The capture efficiency equation to be used for this protocol is:

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

$$CE = \frac{L - F_w}{L}$$

where:

CE = capture efficiency, decimal fraction;

L = mass of liquid VOM input to process emission unit;

F<sub>w</sub> = mass of uncaptured VOM that escapes from a TTE.

Method 204A or 204F contained in appendix M of 40 CFR 51, incorporated by reference in Section 219.112 of this Part is used to obtain L. Method 204 in appendix M of 40 CFR 51, incorporated by reference in Section 219.112 of this Part is used to obtain F<sub>w</sub>.

- C) Gas/gas method using the building or room (building or room enclosure), in which the affected coating line, printing line or other emission unit is located, as the enclosure, as determined by Method 204 of appendix M of 40 CFR 51, incorporated by reference in Section 219.112 of this Part, and in which "F<sub>B</sub>" and "G" are measured while operating only the affected line or emission unit. All fans and blowers in the building or room must be operated as they would under normal production. The capture efficiency equation to be used for this protocol is:

$$CE = \frac{G}{G + F_B}$$

where:

CE = capture efficiency, decimal fraction;

G = mass of VOM captured and delivered to control device;

F<sub>B</sub> = mass of uncaptured VOM that escapes from building enclosure.

Method 204B or 204C contained in appendix M of 40 CFR 51,

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

incorporated by reference in Section 219.112 of this Part<sub>2</sub> is used to obtain G. Method 204E in appendix M of 40 CFR 51, incorporated by reference in Section 219.112 of this Part is used to obtain F<sub>B</sub>.

- D) Liquid/gas method using the building or room (building or room enclosure), in which the affected coating line, printing line or other emission unit is located, as the enclosure as determined by Method 204 of appendix M of 40 CFR 51, incorporated by reference in Section 219.112 of this Part<sub>2</sub> and in which "F<sub>B</sub>" and "L" are measured while operating only the affected line emission unit. All fans and blowers in the building or room must be operated as they would under normal production. The capture efficiency equation to be used for this protocol is:

$$CE = \frac{L - F_B}{L}$$

where:

CE = capture efficiency, decimal fraction;

L = mass of liquid VOM input to process emission unit;

F<sub>B</sub> = mass of uncaptured VOM that escapes from building enclosure.

Method 204A or 204F contained in appendix M of 40 CFR 51, incorporated by reference in Section 219.112 of this Part<sub>2</sub> is used to obtain L. Method 204E in appendix M of 40 CFR 51, incorporated by reference in Section 219.112 of this Part<sub>2</sub> is used to obtain F<sub>B</sub>.

- E) Mass balance using Data Quality Objective (DQO) or Lower Confidence Limit (LCL) protocol. For a liquid/gas input where an owner or operator is using the DQO/LCL protocol and not using an enclosure as described in Method 204 of appendix M of 40 CFR 51, incorporated by reference in Section 219.112 of this Part, the VOM content of the liquid input (L) must be determined using Method 204A or 204F in appendix M of 40 CFR 51, incorporated by reference in Section 219.112 of this Part. The VOM content of

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

the captured gas stream (G) to the control device must be determined using Method 204B or 204C in appendix M of 40 CFR 51, incorporated by reference in Section 219.112 of this Part. The results of capture efficiency calculations (G/L) must satisfy the DQO or LCL statistical analysis methodology as described in Section 3 of USEPA's "Guidelines for Determining Capture Efficiency," incorporated by reference at Section 219.112 of this Part. Where capture efficiency testing is done to determine emission reductions for the purpose of establishing emission credits for offsets, shutdowns, and trading, the LCL protocol cannot be used for these applications. In enforcement cases, the LCL protocol cannot confirm non-compliance; capture efficiency must be determined using a protocol under subsection (c)(2)(A), (B), (C) or (D) of this Section, the DQO protocol of this subsection (c)(2)(E), or an alternative protocol pursuant to Section 219.108(b) of this Part.

BOARD NOTE: Where LCL was used in testing emission units that are the subject of later requests for establishing emission credits for offsets, shutdowns, and trading, prior LCL results may not be relied upon to determine the appropriate amount of credits. Instead, to establish the appropriate amount of credits, additional testing may be required that would satisfy the protocol of Section 219.105(c)(2)(A), (B), (C) or (D), the DQO protocol of Section 219.105(c)(2)(E), or an alternative protocol pursuant to Section 219.108(b) of this Part.

- 3) Simultaneous testing of multiple lines or emission units with a common control device. If an owner or operator has multiple lines sharing a common control device, the capture efficiency of the lines may be tested simultaneously, subject to the following provisions:
  - A) Multiple line testing must meet the criteria of Section 4 of USEPA's "Guidelines for Determining Capture Efficiency," incorporated by reference at Section 219.112 of this Part;
  - B) The most stringent capture efficiency required for any individual line or unit must be met by the aggregate of lines or units; and

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- C) Testing of all the lines of emission units must be performed with the same capture efficiency test protocol.
- 4) Recordkeeping and Reporting
- A) All owners or operators affected by this subsection must maintain a copy of the capture efficiency protocol submitted to the Agency and the USEPA on file. All results of the appropriate test methods and capture efficiency protocols must be reported to the Agency within 60 days after the test date. A copy of the results must be kept on file with the source for a period of 3 years.
  - B) If any changes are made to capture or control equipment, then the source is required to notify the Agency and the USEPA of these changes and a new test may be required by the Agency or the USEPA.
  - C) The source must notify the Agency 30 days prior to performing any capture efficiency or control test. At that time, the source must notify the Agency which capture efficiency protocol and control device test methods will be used. Notification of the actual date and expected time of testing must be submitted a minimum of 5 working days prior to the actual date of the test. The Agency may at its discretion accept notification with shorter advance notice provided that such arrangements do not interfere with the Agency's ability to review the protocol and/or observe testing.
  - D) Sources utilizing a PTE must demonstrate that this enclosure meets the requirement given in Method 204 in appendix M of 40 CFR 51, incorporated by reference in Section 219.112 of this Part, for a PTE during any testing of their control device.
  - E) Sources utilizing a TTE must demonstrate that their TTE meets the requirements given in Method 204 in appendix M or 40 CFR 51, incorporated by reference in Section 219.112 of this Part, for a TTE during any testing of their control device. The source must also provide documentation that the quality assurance criteria for a TTE have been achieved.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- F) Any source utilizing the DQO or LCL protocol must submit the following information to the Agency with each test report:
- i) A copy of all test methods, Quality Assurance/Quality Control procedures, and calibration procedures to be used from those described in appendix M of 40 CFR 51, incorporated by reference in Section 219.112 of this Part;
  - ii) A table with information on each sample taken, including the sample identification and the VOM content of the sample;
  - iii) The quantity of material used for each test run;
  - iv) The quantity of captured VOM for each test run;
  - v) The capture efficiency calculations and results for each test run;
  - vi) The DQO and/or LCL calculations and results; and
  - vii) The Quality Assurance/Quality Control results, including how often the instruments were calibrated, the calibration results, and the calibration gases used.
- d) Control Device Efficiency Testing and Monitoring
- 1) The control device efficiency shall be determined by simultaneously measuring the inlet and outlet gas phase VOM concentrations and gas volumetric flow rates in accordance with the gas phase test methods specified in subsection (f) of this Section.
  - 2) An owner or operator:
    - A) That uses an afterburner or carbon adsorber to comply with any Section of [this Part 219](#) shall use Agency and USEPA approved continuous monitoring equipment which is installed, calibrated, maintained, and operated according to vendor specifications at all times the control device is in use except as provided in subsection

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

(d)(3) of this Section. The continuous monitoring equipment must monitor the following parameters:

- i) For each afterburner which does not have a catalyst bed, the combustion chamber temperature of each afterburner.
  - ii) For each afterburner which has a catalyst bed, commonly known as a catalytic afterburner, the temperature rise across each catalytic afterburner bed or VOM concentration of exhaust.
  - iii) For each carbon adsorber, the VOM concentration of each carbon adsorption bed exhaust or the exhaust of the bed next in sequence to be desorbed.
- B) Must install, calibrate, operate and maintain, in accordance with manufacturer's specifications, a continuous recorder on the temperature monitoring device, such as a strip chart, recorder or computer, having an accuracy of  $\pm 1$  percent of the temperature measured, expressed in degrees Celsius or  $\pm 0.5^\circ$  C, whichever is greater.
- C) Of an automobile or light-duty truck primer surfacer operation or topcoat operation subject to subsection (d)(2)(A), shall keep a separate record of the following data for the control devices, unless alternative provisions are set forth in a permit pursuant to Title V of the Clean Air Act:
- i) For thermal afterburners for which combustion chamber temperature is monitored, all 3-hour periods of operation in which the average combustion temperature was more than  $28^\circ$  C ( $50^\circ$  F) below the average combustion temperature measured during the most recent performance test that demonstrated that the operation was in compliance.
  - ii) For catalytic afterburners for which temperature rise is monitored, all 3-hour periods of operation in which the average gas temperature before the catalyst bed is more than  $28^\circ$  C ( $50^\circ$  F) below the average gas temperature

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

immediately before the catalyst bed measured during the most recent performance test that demonstrated that the operation was in compliance.

- iii) For catalytic afterburners and carbon adsorbers for which VOM concentration is monitored, all 3-hour periods of operation during which the average VOM concentration or the reading of organics in the exhaust gases is more than 20 percent greater than the average exhaust gas concentration or reading measured by the organic monitoring device during the most recent determination of the recovery efficiency of a carbon adsorber or performance test for a catalytic afterburner, which determination or test that demonstrated that the operation was in compliance.
- 3) An owner or operator that uses a carbon adsorber to comply with Section 219.401 of this Part may operate the adsorber during periods of monitoring equipment malfunction, provided that:
- A) The owner or operator notifies in writing the Agency and USEPA, within 10 days after the conclusion of any 72 hour period during which the adsorber is operated and the associated monitoring equipment is not operational, of such monitoring equipment failure and provides the duration of the malfunction, a description of the repairs made to the equipment, and the total to date of all hours in the calendar year during which the adsorber was operated and the associated monitoring equipment was not operational;
  - B) During such period of malfunction the adsorber is operated using timed sequences as the basis for periodic regeneration of the adsorber;
  - C) The period of such adsorber operation does not exceed 360 hours in any calendar year without the approval of the Agency and USEPA; and
  - D) The total of all hours in the calendar year during which the adsorber was operated and the associated monitoring equipment was not operational shall be reported, in writing, to the Agency and

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

USEPA by January 31 of the following calendar year.

- e) Overall Efficiency
- 1) The overall efficiency of the emission control system shall be determined as the product of the capture system efficiency and the control device efficiency or by the liquid/liquid test protocol as specified in 40 CFR 60.433, incorporated by reference in Section 219.112 of this Part, (and revised by subsection (c)(1)(B) of this Section) for each solvent recovery system. In those cases in which the overall efficiency is being determined for an entire line, the capture efficiency used to calculate the product of the capture and control efficiency is the total capture efficiency over the entire line.
  - 2) For coating lines which are both chosen by the owner or operator to comply with Section 219.207(a), (d), (e), (f), (g), (l), or (m) of this Part by the alternative in Section 219.207(b)(2) of this Part and meet the criteria allowing them to comply with Section 219.207 instead of Section 219.204 of this Part, the overall efficiency of the capture system and control device, as determined by the test methods and procedures specified in subsections (c), (d) and (e)(1) of this Section, shall be no less than the equivalent overall efficiency which shall be calculated by the following equation:

$$E = \frac{VOM_a - VOM_l}{VOM_a} \times 100$$

where:

E = Equivalent overall efficiency of the capture system and control device as a percentage;

VOM<sub>a</sub> = Actual VOM content of a coating, or the daily-weighted average VOM content of two or more coatings (if more than one coating is used), as applied to the subject coating line as determined by the applicable test methods and procedures specified in subsection (a)(4)(i) of this Part in units of kg VOM/l (lb VOM/gal) of coating solids as

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

applied;

VOM<sub>1</sub> = The VOM emission limit specified in Sections 219.204 or 219.205 of this Part in units of kg VOM/l (lb VOM/gal) of coating solids as applied.

- f) Volatile Organic Material Gas Phase Source Test Methods  
The methods in 40 CFR 60, appendix A, incorporated by reference in Section 219.112 of this Part delineated below shall be used to determine control device efficiencies.
- 1) 40 CFR 60, appendix A, Method 18, 25 or 25A, incorporated by reference in Section 219.112 of this Part as appropriate to the conditions at the site, shall be used to determine VOM concentration. Method selection shall be based on consideration of the diversity of organic species present and their total concentration and on consideration of the potential presence of interfering gases. Except as indicated in subsections (f)(1)(A) and (B) below, the test shall consist of three separate runs, each lasting a minimum of 60 min, unless the Agency and the USEPA determine that process variables dictate shorter sampling times.
    - A) When the method is to be used to determine the efficiency of a carbon adsorption system with a common exhaust stack for all the individual adsorber vessels, the test shall consist of three separate runs, each coinciding with one or more complete sequences through the adsorption cycles of all the individual adsorber vessels.
    - B) When the method is to be used to determine the efficiency of a carbon adsorption system with individual exhaust stacks for each adsorber vessel, each adsorber vessel shall be tested individually. The test for each adsorber vessel shall consist of three separate runs. Each run shall coincide with one or more complete adsorption cycles.
  - 2) 40 CFR 60, appendix A, Method 1 or 1A, incorporated by reference in Section 219.112 of this Part, shall be used for sample and velocity traverses.
  - 3) 40 CFR 60, appendix A, Method 2, 2A, 2C or 2D, incorporated by

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

reference in Section 219.112 of this Part, shall be used for velocity and volumetric flow rates.

- 4) 40 CFR 60, appendix A, Method 3, incorporated by reference in Section 219.112 of this Part, shall be used for gas analysis.
  - 5) 40 CFR 60, appendix A, Method 4, incorporated by reference in Section 219.112 of this Part, shall be used for stack gas moisture.
  - 6) 40 CFR 60, appendix A, Methods 2, 2A, 2C, 2D, 3 and 4, incorporated by reference in Section 219.112 of this Part, shall be performed, as applicable, at least twice during each test run.
  - 7) Use of an adaptation to any of the test methods specified in subsections (f)(1), (2), (3), (4), (5) and (6) of this Section may not be used unless approved by the Agency and the USEPA on a case by case basis. An owner or operator must submit sufficient documentation for the Agency and the USEPA to find that the test methods specified in subsections (f)(1), (2), (3), (4), (5) and (6) of this Section will yield inaccurate results and that the proposed adaptation is appropriate.
- g) Leak Detection Methods for Volatile Organic Material  
Owners or operators required by this Part to carry out a leak detection monitoring program shall comply with the following requirements:
- 1) Leak Detection Monitoring
    - A) Monitoring shall comply with 40 CFR 60, appendix A, Method 21, incorporated by reference in Section 219.112 of this Part.
    - B) The detection instrument shall meet the performance criteria of Method 21.
    - C) The instrument shall be calibrated before use on each day of its use by the methods specified in Method 21.
    - D) Calibration gases shall be:
      - i) Zero air (less than 10 ppm of hydrocarbon in air); and

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- ii) A mixture of methane or n-hexane and air at a concentration of approximately, but no less than, 10,000 ppm methane or n-hexane.
  - E) The instrument probe shall be traversed around all potential leak interfaces as close to the interface as possible as described in Method 21.
- 2) When equipment is tested for compliance with no detectable emissions as required, the test shall comply with the following requirements:
  - A) The requirements of subsections (g)(1)(A) through (g)(1)(E) of this Section shall apply.
  - B) The background level shall be determined as set forth in Method 21.
- 3) Leak detection tests shall be performed consistent with:
  - A) "APTI Course SI 417 controlling Volatile Organic Compound Emissions from Leaking Process Equipment", EPA-450/2-82-015, incorporated by reference in Section 219.112 of this Part.
  - B) "Portable Instrument User's Manual for Monitoring VOM Sources", EPA-340/1-86-015, incorporated by reference in Section 219.112 of this Part.
  - C) "Protocols for Generating Unit-Specific Emission Estimates for Equipment Leaks of VOM and VHAP", EPA-450/3-88-010, incorporated by reference in Section 219.112 of this Part.
  - D) "Petroleum Refinery Enforcement Manual", EPA-340/1-80-008, incorporated by reference in Section 219.112 of this Part.
- h) Bulk Gasoline Delivery System Test Protocol
  - 1) The method for determining the emissions of gasoline from a vapor recovery system are delineated in 40 CFR 60, [subpart](#)~~Subpart~~ XX, section

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

60.503, incorporated by reference in Section 219.112 of this Part.

- 2) Other tests shall be performed consistent with:
  - A) "Inspection Manual for Control of Volatile Organic Emissions from Gasoline Marketing Operations: Appendix D", EPA-340/1-80-012, incorporated by reference in Section 219.112 of this Part.
  - B) "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals: Appendix A", EPA-450/2-77-026, incorporated by reference in Section 219.112 of this Part.

- i) Notwithstanding other requirements of this Part, upon request of the Agency where it is necessary to demonstrate compliance, an owner or operator of an emission unit which is subject to this Part shall, at his own expense, conduct tests in accordance with the applicable test methods and procedures specific in this Part. Nothing in this Section shall limit the authority of the USEPA pursuant to the Clean Air Act, as amended, to require testing.

- j) ~~Stage II Gasoline Vapor Recovery Test Methods~~  
~~The methods for determining the acceptable performance of Stage II Gasoline Vapor Recovery System are delineated in "Technical Guidance Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities," found at EPA 450/3-91-022b and incorporated by reference in Section 219.112 of this Part. Specifically, the test methods are as follows:~~

- 1) ~~Dynamic Backpressure Test is a test procedure used to determine the pressure drop (flow resistance) through balance vapor collection and control systems (including nozzles, vapor hoses, swivels, dispenser piping and underground piping) at prescribed flow rates.~~
- 2) ~~Pressure Decay/Leak Test is a test procedure used to quantify the vapor tightness of a vapor collection and control system installed at gasoline dispensing facilities.~~
- 3) ~~Liquid Blockage Test is a test procedure used to detect low points in any vapor collection and control system where condensate may accumulate.~~

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 219.112 Incorporations by Reference**

The following materials are incorporated by reference and do not contain any subsequent additions or amendments:

- a) American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken PA 19428-9555
  - 1) ASTM D 2879-86
  - 2) ASTM D 323-08
  - 3) ASTM D 86-82
  - 4) ASTM D 369-69 (1971)
  - 5) ASTM D 396-69
  - 6) ASTM D 2880-71
  - 7) ASTM D 975-68
  - 8) ASTM D 3925-81 (1985)
  - 9) ASTM E 300-86
  - 10) ASTM D 1475-85
  - 11) ASTM D 2369-87
  - 12) ASTM D 3792-86
  - 13) ASTM D 4017-81 (1987)
  - 14) ASTM D 4457-85
  - 15) ASTM D 2697-86

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 16) ASTM D 3980-87
  - 17) ASTM E 180-85
  - 18) ASTM D 2372-85
  - 19) ASTM D 97-66
  - 20) ASTM E 168-87 (1977)
  - 21) ASTM E 169-87
  - 22) ASTM E 260-91
  - 23) ASTM D 2504-83
  - 24) ASTM D 2382-83
- b) Standard Industrial Classification Manual, published by Executive Office of the President, Office of Management and Budget, Washington, D.C., 1987.
  - c) American Petroleum Institute Bulletin 2517, "Evaporation Loss From Floating Roof Tanks", Second ed., February 1980.
  - d) 40 CFR 60 (July 1, 1991).
  - e) 40 CFR 61 (July 1, 1991).
  - f) 40 CFR 50 (July 1, 1991).
  - g) 40 CFR 51 (July 1, 1991) and 40 CFR 51, appendix M, Methods 204-204F (July 1, 1999).
  - h) 40 CFR 52 (July 1, 1991).
  - i) "A Guide for Surface Coating Calculation", July 1986, United States Environmental Protection Agency, Washington, D.C., EPA-340/1-86-016.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- j) "Procedures for Certifying Quantity of Volatile Organic Compounds Emitted by Paint, Ink and Other Coating" (revised June 1986), United States Environmental Protection Agency, Washington D.C., EPA-450/3-84-019.
- k) "A Guide for Graphic Arts Calculations", August 1988, United States Environmental Protection Agency, Washington D.C., EPA-340/1-88-003.
- l) "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Topcoat Operations", December 1988, United States Environmental Protection Agency, Washington D.C., EPA-450/3-88-018.
- m) "Control of Volatile Organic Emissions from Manufacturing of Synthesized Pharmaceutical Products", December 1978, United States Environmental Protection Agency, Washington, D.C., EPA-450/2-78-029.
- n) "Control of Volatile Organic Compound Leaks from Gasoline Tank Trucks and Vapor Collection Systems", December 1978, Appendix B, United States Environmental Protection Agency, Washington, D.C., EPA-450/2-78-051.
- o) "Control of Volatile Organic Compound Emissions from Large Petroleum Dry Cleaners", September 1982, United States Environmental Protection Agency, Washington, D.C., EPA-450/3-82-009.
- p) "APTI Course SI417 Controlling Volatile Organic Compound Emissions from Leaking Process Equipment", 1982, United States Environmental Protection Agency, Washington, D.C., EPA-450/2-82-015.
- q) "Portable Instrument User's Manual for Monitoring VOM Sources", June 1986, United States Environmental Protection Agency, Washington, D.C., EPA-340/1-86-015.
- r) "Protocols for Generating Unit-Specific Emission Estimates for Equipment Leaks of VOM and VHAP", October 1988, United States Environmental Protection Agency, Washington, D.C., EPA-450/3-88-010.
- s) "Petroleum Refinery Enforcement Manual", March 1980, United States Environmental Protection Agency, Washington, D.C., EPA-340/1-80-008.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- t) "Inspection Manual for Control of Volatile Organic Emissions from Gasoline Marketing Operations: Appendix D", 1980, United States Environmental Protection Agency, Washington, D.C., EPA-340/1-80-012.
- u) "Control of Hydrocarbons from Tank Truck Gasoline Loading Terminals: Appendix A", December 1977, United States Environmental Protection Agency, Washington, D.C., EPA-450/2-77-026.
- ~~v) "Technical Guidance Stage II Vapor Recovery Systems for Control of Vehicle Refueling Emissions at Gasoline Dispensing Facilities", November 1991, United States Environmental Protection Agency, Washington, D.C., EPA 450/3-91-022b.~~
- ~~v)w)~~ California Air Resources Board, Compliance Division. Compliance Assistance Program: Gasoline Marketing and Distribution: Gasoline Facilities Phase I & II (October 1988, rev. November 1993) (CARB Manual).
- ~~w)x)~~ "Guidelines for Determining Capture Efficiency", January 1995, Office of Air Quality Planning and Standards, United States Environmental Protection Agency, Research Triangle Park NC.
- ~~x)y)~~ Memorandum "Revised Capture Efficiency Guidance for Control of Volatile Organic Compound Emissions", February 1995, John S. Seitz, Director, Office of Air Quality Planning and Standards, United States Environmental Protection Agency.
- ~~y)z)~~ "Protocol for Determining the Daily Volatile Organic Compound Emission Rate of Automobile and Light-Duty Truck Primer-Surfacer and Topcoat Operations", September 2008, United States Environmental Protection Agency, Washington, D.C., EPA-453/R-08-002.
- ~~z)aa)~~ 40 CFR 63 subpart PPPP, appendix A (2008).
- ~~aa)bb)~~ 46 CFR subchapter Q (2007).
- ~~bb)ee)~~ 46 CFR subchapter T (2008).

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART Y: GASOLINE DISTRIBUTION

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

**Section 219.583 Gasoline Dispensing Operations – Storage Tank Filling Operations**

- a) Subject to subsection (b) below, no person shall cause or allow the transfer of gasoline from any delivery vessel into any stationary storage tank at a gasoline dispensing operation unless:
- 1) The tank is equipped with a submerged loading pipe; and
  - 2) The vapors displaced from the storage tank during filling are processed by a vapor control system that includes one or more of the following:
    - A) A vapor collection system that meets the requirements of subsection (d)(4) below; or
    - B) A refrigeration-condensation system or any other system approved by the Agency and approved by the USEPA as a SIP revision, that recovers at least 90 percent by weight of all vaporized organic material from the equipment being controlled; and
    - C) The delivery vessel displays the appropriate sticker pursuant to the requirements of Section 219.584(b) or (d) of this Part; and
  - 3) By March 15, 1995, all tank vent pipes are equipped with pressure/vacuum relief valves with the following design specifications:
    - A) The pressure/vacuum relief valve shall be set to resist a pressure of at least 3.5 inches water column and to resist a vacuum of no less than 6.0 inches water column; or
    - B) The pressure/vacuum relief valve shall meet the requirements of 35 Ill. Adm. Code 218.586(c); and
  - 4) The owner or operator of a gasoline dispensing operation demonstrates compliance with subsection (a)(3) of this Section, by March 15, 1995 or 30 days after installation of each pressure/vacuum relief valve, whichever is later, and at least annually thereafter, by measuring and recording the pressure indicated by a pressure/vacuum gauge at each tank vent pipe. The test shall be performed on each tank vent pipe within two hours after

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

product delivery into the respective storage tank. For manifolded tank vent systems, observations at any point within the system shall be adequate. The owner or operator shall maintain any records required by this subsection for a period of three years.

- b) The requirements of subsections (a)(2) and (a)(3) above shall not apply to transfers of gasoline to a stationary storage tank at a gasoline dispensing operation if:
- 1) The tank is equipped with a floating roof, or other system of equal or better emission control as approved by the Agency and approved by the USEPA as a SIP revision;
  - 2) The tank has a capacity of less than 2000 gallons and was in place and operating before January 1, 1979; or
  - 3) The tank has a capacity of less than 575 gallons.
- c) Subject to subsection (b) above, each owner of a gasoline dispensing operation shall:
- 1) Install all control systems and make all process modifications required by subsection (a) above;
  - 2) Provide instructions to the operator of the gasoline dispensing operation describing necessary maintenance operations and procedures for prompt notification of the owner in case of any malfunction of a vapor control system; and
  - 3) Repair, replace or modify any worn out or malfunctioning component or element of design.
- d) Subject to subsection (b) above, each operator of a gasoline dispensing operation shall:
- 1) Maintain and operate each vapor control system in accordance with the owner's instructions;
  - 2) Promptly notify the owner of any scheduled maintenance or malfunction

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

requiring replacement or repair of a major component of a vapor control system;

- 3) Maintain gauges, meters or other specified testing devices in proper working order;
- 4) Operate the vapor collection system and delivery vessel unloading points in a manner that prevents:
  - A) A reading equal to or greater than 100 percent of the lower explosive limit (LEL measured as propane) when tested in accordance with the procedure described in EPA 450/2-78-051 Appendix B incorporated by reference at Section 219.112 of this Part, and
  - B) Avoidable leaks of liquid during the filling of storage tanks; and
- 5) Within 15 business days after discovery of the leak by the owner, operator, or the Agency, repair and retest a vapor collection system which exceeds the limits of subsection (d)(4)(A) above.

e) ~~Any retail gasoline dispensing operation subject to subsection (a) above shall be exempt from the permit requirements specified under 35 Ill. Adm. Code 201.142, 201.143, and 201.144 provided that:~~

- ~~1) The owner or operator of the gasoline dispensing operation submits to the Agency a registration which provides, at a minimum, the operation name and address, signature of the owner or operator, the location (including contact person's name, address and telephone number) of records and reports required by this Section, the number of underground tanks, the number tank pipe vents, and the date of completion of installation of the vapor control system and pressure/vacuum relief valve.~~
- ~~2) The registration is submitted to the Agency by March 15, 1995 or 30 days after installation of a vapor control system or pressure/vacuum relief valve, whichever is later.~~
- ~~3) The registration certificate is displayed at the gasoline dispensing operation.~~

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 4) ~~Upon modification of an existing vapor control system or pressure/vacuum relief valve, the owner or operator of the gasoline dispensing operation submits to the Agency a registration that details the changes to the information provided in the previous registration and which includes the signature of the owner or operator. The registration must be submitted to the Agency within 30 days after completion of such modification.~~

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Groundwater Quality
- 2) Code Citation: 35 Ill. Adm. Code 620
- 3) Section Number:        Proposed Action:  
620.420                      Amend
- 4) 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]
- 5) A Complete Description of the Subjects and Issues Involved: The Board, on April 18, 2013, issued an opinion and order opening a subdocket B for the R08-18 rulemaking and proposing, for first notice, technical corrections to recently-adopted amendments of the Part 620 groundwater quality standards (GQS). The adopted amendments were published in the *Illinois Register* at 36 Ill. Reg. 15206 (Oct. 19, 2012) and became effective October 5, 2012. The technical corrections proposed in R08-18(B) are needed due to scriveners' errors that occurred during the R08-18 rulemaking.

R08-18(B) was opened solely to make several technical corrections to Section 620.420(b)(1) (35 Ill. Adm. Code 620.420(b)(1)), which lists organic chemicals and corresponding concentrations and provides that the concentrations must not be exceeded in Class II general resource groundwater. The amendments proposed in subdocket B remedy the inadvertent (1) deletion of trichloroethylene and its Class II GQS, (2) modification of the 1,1,2-trichloroethane Class II GQS, and (3) failure to place an asterisk next to the dibenzo(a,h)anthracene Class II GQS to reflect that the chemical is carcinogenic. The Board has already held the public hearings required by the Environmental Protection Act during the R08-18 rulemaking and does not intend to hold any additional hearing for subdocket B unless requested to do so pursuant the Illinois Administrative Procedure Act.

The Class II GQS of 0.025 milligrams per liter (mg/L) for trichloroethylene has been a part of the GQS since their adoption in 1991. The trichloroethylene Class II GQS was not at issue in R08-18, but Section 620.420(b)(1) was amended in that rulemaking. The trichloroethylene Class II GQS in Section 620.420(b)(1) failed to appear in the *Illinois Register* at first notice or final adoption of the R08-18 amendments. *See* 35 Ill. Reg. at 18534 (Nov. 14, 2011); 36 Ill. Reg. at 15236 (Oct. 19, 2012). To correct the inadvertent deletion of the trichloroethylene Class II GQS, the Board's April 18, 2013 opinion and

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

order proposed restoring this carcinogenic chemical and its Class II GQS to Section 620.420(b)(1).

The Class II GQS of 0.05 mg/L for 1,1,2-trichloroethane has been a part of the GQS since the Part 620 amendments of 1994. The 1,1,2-trichloroethane Class II GQS was not at issue in R08-18, but Section 620.420(b)(1) was amended in that rulemaking. The 1,1,2-trichloroethane Class II GQS of 0.05 mg/L in Section 620.420(b)(1) appeared incorrectly as 0.025 mg/L in the *Illinois Register* at first notice and final adoption of the R08-18 amendments. See 35 Ill. Reg. at 18534 (Nov. 14, 2011); 36 Ill. Reg. at 15236 (Oct. 19, 2012). To remedy the inadvertent modification of the 1,1,2-trichloroethane Class II GQS, the Board's April 18, 2013 opinion and order proposed deleting the incorrect concentration of 0.025 mg/L and restoring the concentration of 0.05 mg/L as the Class II GQS for 1,1,2-trichloroethane Section 620.420(b)(1).

In R08-18, Class I potable resource GQS and Class II general resource GQS were added for dibenzo(a,h)anthracene and 38 other chemicals. An asterisk should appear next to dibenzo(a,h)anthracene in the rules to denote that the chemical is a carcinogen. However, the *Illinois Register* at first notice and final adoption of the R08-18 amendments listed dibenzo(a,h)anthracene in the Class II GQS of Section 620.420(b)(1) without an asterisk. See 35 Ill. Reg. at 18527, 18533 (Nov. 14, 2011); 36 Ill. Reg. at 15229, 15235 (Oct. 19, 2012). To correct the inadvertent omission of an asterisk next to the chemical's Class II GQS, the Board's April 18, 2013 opinion and order adding "\*" next to "dibenzo(a,h)anthracene" in Section 620.420(b)(1) to reflect the chemical's carcinogenic nature.

- 6) Published studies or reports and sources of underlying data, used to compose this rulemaking: None. The technical corrections proposed for first notice in R08-18(B) are needed due to scribes' errors that occurred during the R08-18 rulemaking, as described above.
- 7) Will this proposed amendment replace an emergency rule currently in effect? No
- 8) Does this amendment contain an automatic repeal date? No
- 9) Does this proposed amendment contain incorporations by reference? No
- 10) Are there any other proposed amendments pending on this Part? No

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

- 11) Statement of Statewide Policy Objectives: This proposed amendment does not create or enlarge a State mandate as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of 45 days after the date of publication in the *Illinois Register*. Comments should refer to docket R08-18(B) and must be filed with the Clerk of the Board. Comments may be filed at the following address:

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

In addition, public comments may be filed electronically through the Clerk's Office On-Line (COOL) at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

Interested persons may request copies of the Board's opinion and order in R08-18(B) by calling the Clerk's Office at (312) 814-3620, or may download copies from the Board's Web site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). For more information, please contact hearing officer Richard McGill at (312) 814-6983 or [richard.mcgill@illinois.gov](mailto:richard.mcgill@illinois.gov).

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: The technical corrections proposed for first notice in R08-18(B) are needed due to scriveners' errors that occurred during the R08-18 rulemaking, as described above. Accordingly, for any facilities of a small business, small municipality, or not-for-profit corporation that cause, threaten, or allow trichloroethylene, 1,1,2-trichloroethane, or dibenzo(a,h)anthracene contamination of Class II groundwater, the proposed R08-18(B) amendments will ensure that these entities are subject to the correct Class II GQS for these chemicals.
- B) Reporting, bookkeeping or other procedures required for compliance: No additional reporting or bookkeeping will be required for compliance.
- C) Types of Professional skills necessary for compliance: No professional skills will be necessary beyond those currently required by the existing regulations

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

applicable to affected facilities. These may include the services of a licensed professional engineer, a licensed professional geologist, and an attorney.

- 14) Regulatory Agenda in which these amendments were summarized: June 2011

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION  
SUBTITLE F: PUBLIC WATER SUPPLIES  
CHAPTER I: POLLUTION CONTROL BOARD

PART 620  
GROUNDWATER QUALITY

SUBPART A: GENERAL

Section	
620.105	Purpose
620.110	Definitions
620.115	Prohibition
620.125	Incorporations by Reference
620.130	Exemption from General Use Standards and Public and Food Processing Water Supply Standards
620.135	Exclusion for Underground Waters in Certain Man-Made Conduits

SUBPART B: GROUNDWATER CLASSIFICATION

Section	
620.201	Groundwater Designations
620.210	Class I: Potable Resource Groundwater
620.220	Class II: General Resource Groundwater
620.230	Class III: Special Resource Groundwater
620.240	Class IV: Other Groundwater
620.250	Groundwater Management Zone
620.260	Reclassification of Groundwater by Adjusted Standard

SUBPART C: NONDEGRADATION PROVISIONS  
FOR APPROPRIATE GROUNDWATERS

Section	
620.301	General Prohibition Against Use Impairment of Resource Groundwater
620.302	Applicability of Preventive Notification and Preventive Response Activities
620.305	Preventive Notification Procedures
620.310	Preventive Response Activities

SUBPART D: GROUNDWATER QUALITY STANDARDS

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

Section	
620.401	Applicability
620.405	General Prohibitions Against Violations of Groundwater Quality Standards
620.410	Groundwater Quality Standards for Class I: Potable Resource Groundwater
620.420	Groundwater Quality Standards for Class II: General Resource Groundwater
620.430	Groundwater Quality Standards for Class III: Special Resource Groundwater
620.440	Groundwater Quality Standards for Class IV: Other Groundwater
620.450	Alternative Groundwater Quality Standards

## SUBPART E: GROUNDWATER MONITORING AND ANALYTICAL PROCEDURES

Section	
620.505	Compliance Determination
620.510	Monitoring and Analytical Requirements

## SUBPART F: HEALTH ADVISORIES

Section	
620.601	Purpose of a Health Advisory
620.605	Issuance of a Health Advisory
620.610	Publishing Health Advisories
620.615	Additional Health Advice for Mixtures of Similar-Acting Substances
620.APPENDIX A	Procedures for Determining Human Threshold Toxicant Advisory Concentration for Class I: Potable Resource Groundwater
620.APPENDIX B	Procedures for Determining Hazard Indices for Class I: Potable Resource Groundwater for Mixtures of Similar-Acting Substances
620.APPENDIX C	Guidelines for Determining When Dose Addition of Similar-Acting Substances in Class I: Potable Resource Groundwaters is Appropriate
620.APPENDIX D	Confirmation of an Adequate Corrective Action Pursuant to 35 Ill. Adm. Code 620.250(a)(2)

AUTHORITY: Implementing and authorized by Section 8 of the Illinois Groundwater Protection Act [415 ILCS 55/8] and authorized by Section 27 of the Illinois Environmental Protection Act [415 ILCS 5/27].

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

SOURCE: Adopted in R89-14(B) at 15 Ill. Reg. 17614, effective November 25, 1991; amended in R89-14(C) at 16 Ill. Reg. 14667, effective September 11, 1992; amended in R93-27 at 18 Ill. Reg. 14084, effective August 24, 1994; amended in R96-18 at 21 Ill. Reg. 6518, effective May 8, 1997; amended in R97-11 at 21 Ill. Reg. 7869, effective July 1, 1997; amended in R01-14 at 26 Ill. Reg. 2662, effective February 5, 2002; amended in R08-18 at 36 Ill. Reg. 15206, effective October 5, 2012; amended in R08-18(B) at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART D: GROUNDWATER QUALITY STANDARDS

**Section 620.420 Groundwater Quality Standards for Class II: General Resource Groundwater**

a) Inorganic Chemical Constituents

- 1) Except due to natural causes or as provided in Section 620.450 or subsection (a)(3) or (e) of this Section, concentrations of the following chemical constituents must not be exceeded in Class II groundwater:

Constituent	Standard (mg/L)
Antimony	0.024
Arsenic*	0.2
Barium	2.0
Beryllium	0.5
Cadmium	0.05
Chromium	1.0
Cobalt	1.0
Cyanide	0.6
Fluoride	4.0
Lead	0.1
Mercury	0.01
Nitrate as N	100.0
Perchlorate	0.0049
Thallium	0.02
Vanadium	0.1

\*Denotes a carcinogen.

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

- 2) Except as provided in Section 620.450 or subsection (a)(3) or (e) of this Section, concentrations of the following chemical constituents must not be exceeded in Class II groundwater:

Constituent	Standard (mg/L)
Boron	2.0
Chloride	200.0
Copper	0.65
Iron	5.0
Manganese	10.0
Nickel	2.0
Selenium	0.05
Total Dissolved Solids (TDS)	1,200.0
Sulfate	400.0
Zinc	10.0

- 3) The standard for any inorganic chemical constituent listed in subsection (a)(2) of this Section, for barium, or for pH does not apply to groundwater within fill material or within the upper 10 feet of parent material under such fill material on a site not within the rural property class for which:
- A) Prior to November 25, 1991, surficial characteristics have been altered by the placement of such fill material so as to impact the concentration of the parameters listed in subsection (a)(3) of this Section, and any on-site groundwater monitoring of such parameters is available for review by the Agency.
- B) On November 25, 1991, surficial characteristics are in the process of being altered by the placement of such fill material, that proceeds in a reasonably continuous manner to completion, so as to impact the concentration of the parameters listed in subsection (a)(3) of this Section, and any on-site groundwater monitoring of such parameters is available for review by the Agency.
- 4) For purposes of subsection (a)(3) of this Section, the term "fill material" means clean earthen materials, slag, ash, clean demolition debris, or other

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

similar materials.

b) Organic Chemical Constituents

- 1) Except due to natural causes or as provided in Section 620.450 or subsection (b)(2) or (e) of this Section, concentrations of the following organic chemical constituents must not be exceeded in Class II groundwater:

Constituent	Standard (mg/L)
Acenaphthene	2.1
Acetone	6.3
Alachlor*	0.010
Aldicarb	0.015
Anthracene	10.5
Atrazine	0.015
Benzene*	0.025
Benzo(a)anthracene*	0.00065
Benzo(b)fluoranthene*	0.0009
Benzo(k)fluoranthene*	0.006
Benzo(a)pyrene*	0.002
Benzoic acid	28.0
2-Butanone (MEK)	4.2
Carbon Disulfide	3.5
Carbofuran	0.2
Carbon Tetrachloride*	0.025
Chlordane*	0.01
Chloroform*	0.35
Chrysene*	0.06
Dalapon	2.0
Dibenzo(a,h)anthracene*	0.0015
Dicamba	0.21
Dichlorodifluoromethane	7.0
1,1-Dichloroethane	7.0
Dichloromethane*	0.05
Di(2-ethylhexyl)phthalate*	0.06
Diethyl Phthalate	5.6

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

Di-n-butyl Phthalate	3.5
Dinoseb	0.07
Endothall	0.1
Endrin	0.01
Ethylene Dibromide*	0.0005
Fluoranthene	1.4
Fluorene	1.4
Heptachlor*	0.002
Heptachlor Epoxide*	0.001
Hexachlorocyclopentadiene	0.5
Indeno(1,2,3-cd)pyrene*	0.0022
Isopropylbenzene (Cumene)	3.5
Lindane (Gamma-Hexachloro cyclohexane)	0.001
2,4-D	0.35
Ortho-Dichlorobenze	1.5
Para-Dichlorobenzene	0.375
1,2-Dibromo-3-Chloropropane*	0.002
1,2-Dichloroethane*	0.025
1,1-Dichloroethylene	0.035
cis-1,2-Dichloroethylene	0.2
Trans-1,2-Dichloroethylene	0.5
1,2-Dichloropropane*	0.025
Ehylbenzene	1.0
MCPP (Mecoprop)	0.007
Methoxychlor	0.2
2-Methylnaphthalene	0.14
2-Methylphenol	0.35
Methyl Tertiary-Butyl Ether (MTBE)	0.07
Monochlorobenzene	0.5
Naphthalene	0.22
P-Dioxane*	0.0077
Pentachlorophenol*	0.005
Phenols	0.1
Picloram	5.0
Pyrene	1.05
Polychlorinated Biphenyls (PCBs) (as decachloro-biphenyl)*	0.0025
alpha-BHC (alpha-Benzene)	0.00055

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

hexachloride)*	
Simazine	0.04
Styrene	0.5
2,4,5-TP	0.25
Tetrachloroethylene*	0.025
Toluene	2.5
Toxaphene*	0.015
1,1,1-Trichloroethane	1.0
1,2,4-Trichlorobenzene	0.7
1,1,2-Trichloroethane	<del>0.050</del> 0.025
<u>Trichloroethylene*</u>	<u>0.025</u>
Trichlorofluoromethane	10.5
Vinyl Chloride*	0.01
Xylenes	10.0

\* Denotes a carcinogen.

- 2) The standards for pesticide chemical constituents listed in subsection (b)(1) of this Section do not apply to groundwater within 10 feet of the land surface, provided that the concentrations of such constituents result from the application of pesticides in a manner consistent with the requirements of the Federal Insecticide, Fungicide and Rodenticide Act (7 USC 136 et seq.) and the Illinois Pesticide Act [415 ILCS 60].
- c) Explosive Constituents  
Concentrations of the following explosive constituents must not exceed the Class II groundwater standard:

Constituent	Standard (mg/L)
1,3-Dinitrobenzene	0.0007
2,4-Dinitrotoluene*	0.0001
2,6-Dinitrotoluene*	0.00031
HMX (High Melting Explosive, Octogen)	1.4
Nitrobenzene	0.014
RDX (Royal Demolition Explosive, Cyclonite)	0.084

## POLLUTION CONTROL BOARD

## NOTICE OF PROPOSED AMENDMENT

1,3,5-Trinitrobenzene	0.84
2,4,6-Trinitrotoluene (TNT)	0.014

\*Denotes a carcinogen.

- d) Complex Organic Chemical Mixtures  
Concentrations of the following organic chemical constituents of gasoline, diesel fuel, or heating fuel must not be exceeded in Class II groundwater:

Constituent	Standard (mg/L)
Benzene*	0.025
BETX	13.525

\*Denotes a carcinogen

- e) pH  
Except due to natural causes, a pH range of 6.5 - 9.0 units must not be exceeded in Class II groundwater that is within 5 feet of the land surface.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Children's Community-Based Health Care Center Code
- 2) Code Citation: 77 Ill. Adm. Code 260
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
260.1000	Amend
260.1050	Amend
260.1700	Amend
260.1800	Amend
260.1850	New
260.1900	Amend
260.1950	New
260.2000	Amend
260.2100	Amend
260.2200	Amend
260.2300	Amend
260.2400	Amend
260.2500	Amend
- 4) Statutory Authority: Alternative Health Care Delivery Act [210 ILCS 3]
- 5) A Complete Description of the Subjects and Issues Involved: The Children's Community-Based Health Care Center Code regulates admission criteria, children's rights, child care services, medication policies, and the physical plant for children's community-based health care centers. This rulemaking is being undertaken to strengthen and clarify the admission criteria and staff requirements for the different types of children's services that facilities provide, such as respite care, transitional care, medical day care, and weekend camps. Two Sections are being added to, provide minimum standards for medical oversight and strengthen and clarify the minimum requirements for reporting allegations of abuse and neglect.

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

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 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 create a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking:

Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Susan Meister  
Division of Legal Services  
Illinois Department of Public Health  
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- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Children's community-based health care centers
  - B) Reporting, bookkeeping or other procedures required for compliance: Facilities will have to revise their written policies and procedures.
  - C) Types of Professional skills necessary for compliance: Nursing
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2012

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 77: PUBLIC HEALTH

## CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

## SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

## PART 260

## CHILDREN'S COMMUNITY-BASED HEALTH CARE CENTER CODE

## Section

260.1000	Definitions
260.1050	Incorporated and Referenced Materials
260.1100	Demonstration Program Elements
260.1200	Application for and Issuance of a License to Operate a Children's Community-Based Health Care Center Model
260.1300	Obligations and Privileges of Children's Community-Based Health Care Center Models
260.1400	Inspections and Investigations
260.1500	Notice of Violation and Plan of Correction
260.1600	Adverse Licensure Action
260.1700	Policies and Procedures
260.1750	Health Care Worker Background Check
260.1800	Admission and Participation Practices
<a href="#">260.1850</a>	<a href="#">Medical Oversight</a>
260.1900	Child's Rights
<a href="#">260.1950</a>	<a href="#">Reporting Requirements for Allegations of Abuse and Neglect</a>
260.2000	<a href="#">Medical Day Care</a> <del>Child-Care Services</del>
260.2100	Medication Administration
260.2200	Personnel
260.2300	Food Service
260.2400	Physical Plant
260.2500	Quality Assessment and Improvement

AUTHORITY: Implementing and authorized by the Alternative Health Care Delivery Act [210 ILCS 3].

SOURCE: Adopted at 22 Ill. Reg. 3899, effective February 20, 1998; amended at 24 Ill. Reg. 14016, effective August 31, 2000; amended at 26 Ill. Reg. 11974, effective July 31, 2002; emergency amendment at 27 Ill. Reg. 7937, effective April 30, 2003, for a maximum of 150 days; emergency expired September 26, 2003; amended at 27 Ill. Reg. 18070, effective November 12, 2003; amended at 30 Ill. Reg. 883, effective January 9, 2006; amended at 31 Ill.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

Reg. 3008, effective February 2, 2007; amended at 34 Ill. Reg. 2551, effective January 27, 2010; amended at 34 Ill. Reg. 10162, effective June 30, 2010; amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 260.1000 Definitions**

The following terms shall have the meanings ascribed to them here whenever the term is used in this Part.

Abuse – any physical or mental injury or sexual assault inflicted on a [clientpatient](#) other than by accidental means in a [facilitycenter](#). Abuse includes:

Physical abuse refers to the infliction of injury on a [clientpatient](#) that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to [clientspatients](#) or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual assault.

Act – the Alternative Health Care Delivery Act [210 ILCS 3].

Affiliate –

With respect to a partnership, each partner ~~thereof~~;

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

With respect to a corporation, each officer, director and stockholder ~~thereof~~;

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner ~~of the partnership thereof~~ of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder.

Board – *the State Board of Health.* (Section 10 of the Act)

Charitable Care – the intentional provision of free or discounted services to persons who cannot afford to pay.

Children ~~or Child~~ with Special Health Care Needs – those children who have or are at increased risk, ~~or a child who has or is at increased risk~~, for chronic physical ailments and who require health and related services of a type or amount beyond that which children generally require.

~~Child's~~ ~~Children's~~ Representative – a person authorized by law to act on behalf of the child.

Children's Community-Based Health Care Center ~~or Center~~ – *a designated site that provides nursing care, clinical support services, and therapies for a period of one to 14 days for short-term respite care stays and one to 120 days to facilitate transitions to home or other appropriate settings for medically fragile children, technology dependent children, and children with special health care needs who are deemed clinically stable by a physician and are younger than 22 years of age. This care is to be provided in a home-like environment that serves no more than 12 children at a time.* (Section 35(3) of the Act)

Client – a child who has met the admission criteria in Section 260.1800 and who has been admitted to a facility.

Demonstration Program or Program – *a program to license and study alternative health care models authorized under the Act.* (Section 10 of the Act)

Department – *the Illinois Department of Public Health.* (Section 10 of the Act)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

Diagnostic Studies – any analytic tests, including, but not limited to, heart monitoring or sleep tests, used in identifying the nature or cause of an illness, disorder or problem that are typically done in the home and that are conducted in a Children's Community-Based Health Care Center for children with special health care needs.

Dietitian – a person who is a licensed dietitian as provided in the Dietetic and Nutrition Services Practice Act [225 ILCS 30].

Director – the *Director of Public Health* or designee. (Section 10 of the Act)

Facility – same as Children's Community-Based Health Care Center.

Hospital – a facility licensed pursuant to the Hospital Licensing Act [210 ILCS 85].

Inspection – any survey, evaluation or investigation of the Children's Community-Based Health Care Center's compliance with the Act and this Part by the Department or designee.

Licensee – the person or entity licensed to operate the Children's Community-Based Health Care Center ~~Model~~.

Medical Day Care – care provided by a Children's Community-Based Health Care Center for children with special health care needs for no more than 12 in 24 hours, in accordance with Section 260.1800(c) of this Part.

Medically Fragile Children – children who are medically stable but require skilled nursing care, specialized therapy, and specialized medical equipment and supplies to enhance or sustain their lives. "Medically fragile children" may include, but is not limited to, children who have neuro-muscular disease, heart disease, cancer, seizure disorder, spina bifida, chronic lung disease, or other medical conditions that threaten the child's ability to thrive and to survive without proper medical care.

Neglect – a failure in a facilitycenter to provide adequate medical or personal care or maintenance, resulting in physical or mental injury to a clientpatient or in the deterioration of a client'spatient's physical or mental condition. Neglect shall include any situation in which failure to provide adequate medical or personal

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

care or maintenance:

~~failure to provide adequate medical or personal care or maintenance~~ causes injury or deterioration that is ongoing or repetitious; or

~~failure to provide adequate medical or personal care or maintenance~~ results in a ~~client~~patient requiring medical treatment; or

~~failure to provide adequate medical or personal care or maintenance~~ causes a noticeable negative impact on a ~~client's~~patient's health, behavior or activities for more than 24 hours.

Physician – a person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 [225 ILCS 60].

Registered Nurse – a person who is licensed as a registered professional nurse under the Nurse Practice Act [225 ILCS 65].

Respite Care – care for children who are under age 22, are medically complex, have a medical condition that requires care to be delivered by a nurse or a trained parent/caregiver, and who are admitted for no more than 14 days.

Restraint – any manual method, physical or mechanical device, material or equipment that immobilizes or reduces the ability of the child to move his or her arms, legs, body or head freely; or a drug or medication when it is used as a restriction to manage the child's behavior or restrict the child's freedom of movement and is not a standard treatment or dosage for the child's condition. A restraint does not include ~~devices such as~~ orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or ~~other~~ methods that involve ~~physically the physical~~ holding of the child ~~to conduct for the purpose of conducting~~ routine physical examinations or tests, or to protect the child from falling out of the bed, or to permit the child to participate in activities without the risk of physical harm.

Serious Injury – any significant impairment of the physical condition of the child as determined by qualified medical personnel. This includes, but is not limited to, burns, lacerations, bone fractures, substantial hemotoma and injuries to internal organs, whether self-inflicted or inflicted by another person.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

Substantial Compliance – meeting requirements except for variance from the strict and literal performance, which results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 260.1200.

Technology Dependent Children – medically fragile children who require the constant or regular intermittent use of technology to meet their medical needs. This [technology](#) may include, but is not limited to, devices that assist or support breathing, monitor bodily functions, or provide nutrition.

Weekend Camps – a planned program for medically fragile children, technology dependent children, or children with special health care needs that [consists](#) typically [occurs from](#) Friday afternoon through Sunday evening.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 260.1050 Incorporated and Referenced Materials**

- a) The following Illinois statutes and administrative rules of the Department of Public Health are referenced in this Part:
  - 1) State of Illinois Statutes:
    - A) Hospital Licensing Act [210 ILCS 85]
    - B) Illinois Health Facilities Planning Act [20 ILCS 3960]
    - C) Medical Practice Act of 1987 [225 ILCS 60]
    - D) [Nurse](#)~~Nursing and Advanced~~ Practice [Nursing](#)~~Act of 1987~~ [225 ILCS 65]
    - E) Dietetic and Nutrition Services Practice Act [225 ILCS 30]
    - F) Abused and Neglected Child Reporting Act [325 ILCS 5]
  - 2) Department of Public Health Administrative rules:
    - A) [Rules of](#) Practice and Procedure in Administrative Hearings (77 Ill.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

Adm. Code 100)

B) Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

C) Food Service Sanitation Code (77 Ill. Adm. Code 750)

D) Drinking Water Systems Code (77 Ill. Adm. Code 900)

E) Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)

F) Private Sewage Disposal Code (77 Ill. Adm. Code 905)

G) Control of Tuberculosis Code (77 Ill. Adm. Code 696)

H) [Long Term Care Assistants and Aides Training Programs Code \(77 Ill. Adm. Code 395\)](#)

- b) The following private and professional association standards are incorporated in this Part:

National Fire Protection Association (NFPA) standard No. 101: Life Safety Code, 2000 edition, ~~Chapter 32~~~~chapter 23~~, "~~New~~~~Existing~~ Residential Board and Care Occupancies, ~~Impractical~~", which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471.

- c) All incorporations by reference of the standards of nationally recognized organizations refer to the standards on the date specified and do not include any amendments or editions subsequent to the date specified.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 260.1700 Policies and Procedures**

- a) The facility shall have policies and procedures that implement and are consistent with the provisions of this Part.
- b) The facility shall have infection control policies and procedures, which shall include at least the following:

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 1) Compliance with the Department's rules ~~itledentitled"~~ Control of Communicable Diseases Code" (~~77 Ill. Adm. Code 690~~);
  - 2) The use of ~~standard~~universal precautions and isolation techniques;
  - 3) A continuing program of instruction for all personnel on the mode of spread of infections; and
  - 4) Posted ~~hand-washing~~handwashing techniques.
- c) The facility shall provide for the registration and disposition of complaints to the facility and to the Department without threat of discharge or other reprisal against any employee, volunteer, child or child's representative. The facility shall provide forms for the employee, volunteer, child or child's representative to record the day, time and nature of the complaint. For complaints made to the Department, the facility shall provide to an employee, volunteer, child and child's representative a phone and the Department's toll-free complaint hotline telephone number.
- d) The facility shall have policies covering disaster preparedness, including a written plan for staff and children to follow in case of fire, explosion, severe weather or other hazardous circumstance or emergency.
- 1) All personnel shall be trained annually in the proper use of a fire extinguisher, and documentation of the training shall be placed in their employee file.
  - 2) All personnel shall be trained in the evacuation plan, and documentation of the training shall be placed in their employee file.
- e) The facility shall develop, with the approval of the facility's medical director, policies and procedures to be followed during ~~various~~ medical emergencies. The types of medical emergencies addressed should be based on the needs of the children being served and may include, but are not limited to, chokingforeign body aspiration, poisoning, allergic reactions, seizures, diabetic emergencies, and acute respiratory distress such as plugged tracheostomy, reactive airway, or asthmatic emergencies~~asthma, convulsions, insulin shock, and acute respiratory distress.~~

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 260.1800 Admission and Participation Practices**

- a) The facility shall establish admission criteria for respite care ~~short-term stays~~ that provide for:
- 1) The admission of children for no more than 14 days;
  - 2) The admission of children whose plan of treatment ~~service plan~~ can be met by the facility; and
  - 3) Nondiscrimination toward children or their families based on disability, race, religion, sex, source of payment, and any other basis recognized by applicable State and federal laws.
- b) Eligibility for Respite Care Admissions
- 1) The child (under age 22) shall be medically complex, may be technology dependent, or shall have a medical condition that requires care to be delivered by a nurse or trained parent/caregiver.
  - 2) The facility's director of nursing (DON) shall review the child's clinical documentation prior to admission. Documentation shall consist of a physician's signed plan of treatment and any other documentation necessary to provide safety and comfort in the facility environment.
  - 3) The medical plan of treatment provided by the primary care physician and reviewed by the facility's medical director shall include, but not be limited to, the following:
    - A) Diagnosis;
    - B) Food or drug allergies;
    - C) Prescription medications;
    - D) Other medications, including holistic or over-the-counter;

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- E) Scheduled treatments or therapies;
  - F) Feeding and nutritional guidelines;
  - G) Vital sign and transfer parameters;
  - H) Equipment and monitoring parameters;
  - I) Current vaccines;
  - J) Any additional information that will help the child's stay, such as individual child's preferences or habits to assist in the child's care; and
  - K) Any activity restrictions.
- 4) The facility shall employ registered nurses who are trained in cardio-pulmonary resuscitation (CPR), are certified in Pediatric Advanced Life Support, and have additional training on equipment specific to the child, such as ventilator equipment.
- 5) Prior to a child's admission for respite care, the facility shall conduct an assessment of the child, review the home care plan with the parent or the child's representative, and develop a plan of treatment to meet the needs of the child. The facility shall obtain the information that forms the basis for the plan of treatment from the parent or the child's representative. That information shall include, but not be limited to:
- A) A description of the child's usual routine;
  - B) Instructions for the child's personal care;
  - C) Food preferences and feeding schedule;
  - D) Food, drug or other allergies;
  - E) Scheduled treatments or therapies;

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- F) Vaccines and immunizations;
- G) Educational or therapy programming;
- H) Emergency contact information; and
- D) Any additional information that will help the child's stay, such as individual child's preferences or habits to assist in the child's care.

c)b) The facility shall establish admission criteria for transitional care. To facilitate transitions to home or other appropriate settings, the center shall establish admission criteria that provide for:

- 1) The admission of children for no more than 120 days;
- 2) The admission of children whose plan of treatment/service plan can be met by the facility/center; and
- 3) Nondiscrimination toward children or their families based on disability, race, religion, sex, source of payment, and any other basis recognized by applicable State and federal laws.

d) Eligibility Criteria for Transitional Care Admissions

- 1) The child (under age 22) shall be medically complex, may be technology dependent, or shall have a medical condition that requires care to be delivered by a nurse or trained parent/caregiver.
- 2) The facility shall employ Registered Nurses who are current in CPR and are certified in Pediatric Advanced Life Support, and who have additional training on equipment specific to the child, such as ventilator equipment.
- 3) The child shall have an identified parent or representative and place of residence.
- 4) The child shall have an identified primary care physician prior to admission.
- 5) The facility's medical director shall review the child's clinical

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- documentation prior to admission. Documentation shall include, but not be limited to, a plan of treatment, hospital physician progress notes, medical history and a physical examination, and any other documentation that would assist the facility in caring for the child.
- 6) A child being referred from an acute care or intermediate care hospital shall have a complete onsite preadmission assessment by the facility's DON before admission is approved.
  - 7) The child's diagnosis or history shall not include behaviors that would interfere with the safety of the child or others, or that would prevent him or her from being safely cared for in the physical and medical environment provided.
  - 8) The child shall be clinically stable.
  - 9) A child with a new tracheostomy shall be stable and shall have the first tracheostomy change done in the hospital setting prior to transfer.
  - 10) A child transferring from a newborn intensive care unit (NICU) shall be stable on the home ventilator for one month with no setting changes.
  - 11) A child transferring from a pediatric intensive care unit (PICU) shall be stable on a home ventilator for one week with no setting changes.
  - 12) If, at the time of admission, a child currently is being treated for a bacterial infection, the child shall have been on antibiotics and afebrile for 48 hours prior to admission.
  - 13) The child shall tolerate his or her feedings or have an alternative means of nutrition.
  - 14) Vaccines and immunizations shall be current.
  - 15) Durable medical equipment company supplies shall be functional and present 24 hours prior to admission unless the hospital's durable medical equipment company is the admitting facility's durable medical equipment company.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 16) Identified parents/child's representative shall sign or have signed a training agreement within 24 hours after admission.
- e) The child shall be ineligible for admission if he or she requires any of the following:
- 1) Continuous 1:1 nursing supervision or care;
  - 2) Scheduled nebulizer treatment more frequently than every two hours;
  - 3) Scheduled supplemental oxygen greater than 40% FiO<sub>2</sub>;
  - 4) Hyperalimentation requiring daily adjustments;
  - 5) End tracheal intubation; or
  - 6) Pressor medications requiring monitored adjustments.
- f) Within the first eight hours after admission, the child shall undergo a complete assessment, and a nursing narrative shall be completed to ensure that the child meets the admission criteria of this Section.
- g) The facility shall admit and serve only those children for whom it has the trained personnel, equipment and supplies to meet the plan of treatment and to ensure the safety of the child.
- h) A personal physician shall be identified for each child admitted. The plan of treatment shall document the method for contacting the personal physician at any time.
- i) The facility shall ensure that all of a child's home medical equipment has been serviced and tagged by a durable medical equipment company within the 12 months prior to admission to the facility.
- j)e) The ~~facility~~center shall establish participation criteria for medical day care that provide for:
- 1) The participation of children for no more than 12 hours in 24 hours;

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 2) The participation of children whose plans of treatment service plan can be met by the facility center; and
  - 3) Nondiscrimination toward children or their families based on disability, race, religion, sex, source of payment, and any other basis recognized by applicable State and federal laws; ~~and~~.
  - 4) A staff for the medical day care that is separate and distinct from the staff that provides services for children receiving respite care or transitional care.
- k)d) The facility center shall establish participation criteria for weekend camps that provide for:
- 1) The participation of children whose plans of treatment service plan can be met by the facility center; and
  - 2) Nondiscrimination toward children or their families based on disability, race, religion, sex, source of payment, and any other basis recognized by applicable State and federal laws; ~~and~~.
  - 3) A staff for the weekend camps that is separate and distinct from the staff that provides services for children receiving respite care or transitional care.
- l)e) The facility center shall establish criteria for diagnostic studies that provide for:
- 1) Conducting only those diagnostic studies ordered by a physician and that are typically conducted in the home;
  - 2) Meeting all provisions for short-term stays, in accordance with subsection (a), if children are admitted overnight;
  - 3) The participation of children whose plans of treatment service plan can be met by the facility center; and
  - 4) Nondiscrimination toward children or their families based on disability, race, religion, sex, source of payment, and any other basis recognized by applicable State and federal laws.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- f) ~~At the time each child is admitted, the licensee must assure that the center has conducted an assessment and has a service plan to meet the child's needs. A service plan shall consist of at least the following:~~
- 1) ~~Provided by the parent or child's representative:~~
    - A) ~~a description of the child's usual routine;~~
    - B) ~~the child's food preferences;~~
    - C) ~~the child's allergies, if any;~~
    - D) ~~instructions for the child's personal care;~~
    - E) ~~information on the child's educational program, if applicable;~~
    - F) ~~an emergency phone number where the parents, guardian or other responsible person can be contacted during the child's stay, and~~
    - G) ~~any other information that will help the child's stay to be safe and enjoyable.~~
  - 2) ~~Provided by a physician:~~
    - A) ~~medication orders, if any;~~
    - B) ~~treatments, if any;~~
    - C) ~~nursing orders, if any;~~
    - D) ~~any activity restrictions;~~
    - E) ~~documentation of the child's current immunization status, and~~
    - F) ~~any other information that will help the child's stay to be safe and enjoyable.~~
- g) ~~Only those children shall be admitted or served for whom the center has the~~

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

~~trained personnel, equipment, and supplies to meet the service plan.~~

- h) ~~A personal physician shall be identified for each child admitted. The service plan shall document the method for contacting this physician at any time.~~

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 260.1850 Medical Oversight**

- a) The facility's medical director shall be onsite a minimum of two days per week.
- b) The facility's medical director and DON, or their designees, shall be on call 24 hours per day.
- c) Medical Advisory Committee
- 1) The facility shall have a medical advisory committee that consists of multidisciplinary team members, including:
- A) A primary care physician;
- B) A pediatrician;
- C) A pulmonologist or an ear, nose and throat (ENT) physician;
- D) A registered nurse;
- E) A respiratory therapist; and
- F) Representatives from a hospital's emergency department, NICU/PICU, palliative care, rehabilitative services, case management and social work.
- 2) The medical advisory committee shall meet quarterly for quality review, which shall consist, at a minimum, of infection control, emergency transfers, evidence-based and best practice protocols, and family satisfaction surveys.
- 3) The medical advisory committee shall annually review all clinical policies

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

and procedures. Documentation of the annual reviews shall be kept on file at the facility for no less than five years.

- 4) Minutes from the medical advisory committee's meetings shall be kept on file at the facility for no less than five years.

(Source: Added at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 260.1900 Child's Rights**

- a) A child shall not be deprived of any rights, benefits or privileges guaranteed by law based solely on his/her status as a client~~patient~~ of the facility~~center~~.
- b) A child shall be permitted to retain and use or wear his/her personal property in his/her immediate living quarters unless deemed medically inappropriate or socially disruptive by a physician and so documented in the patient's record.
- c) The facility~~center~~ shall make reasonable efforts to prevent loss and theft of children's property. The facility~~center~~ shall develop procedures for investigating complaints concerning theft of children's property and shall promptly investigate each complaint~~all such complaints~~.
- d) Children under 16 years of age who are not facility clients and who are related to employees or volunteers of a facility~~center~~, and who are not themselves employees or volunteers~~employees/volunteers~~ of the facility~~center~~, shall be restricted to areas~~quarters~~ reserved for family or employee use, except during times when these children are part of a group visiting the facility~~center~~ as part of a planned program or similar activity.
- e) A child shall be permitted the free exercise of religion. Upon the child's request, and if necessary at the expense of the parent or the child's representative~~his/her expense~~, the facility~~center~~ management shall make arrangements for a child's attendance at religious services of the child's choice. However, no religious beliefs or practices, or attendance at religious services, may be imposed upon any child.
- f) The facility~~center~~ shall immediately notify the child's parent or child's representative whenever the child suffers from symptoms that require treatment not listed on the child's medical care plan or any acute illness or injury~~a sudden~~

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

~~illness or accident, or if and when unexplained absences occur.~~

- g) A child may not be transferred, discharged, evicted, harassed, ~~dismissed~~ or retaliated against for filing a complaint or providing information concerning a complaint against the facilitycenter.
- h) A child's parent or representative may not be evicted, harassed or retaliated against for filing a complaint or providing information concerning a complaint against the facility.
- i)h) A child's parent or representativechild shall be permitted to retain the services of the child'shis/her own personal physician at the parent's or representative'shis/her own expense, under an individual or group plan of health insurance, or under any public or private assistance program providing such coverage.
- ~~i) No child shall be subjected to experimental research or treatment without first obtaining his/her parent's, or his/her representative's, informed written consent. The experimental research/treatment shall be part of the child's service plan.~~
- j) Every child's parent or child's representative shall be permitted to refuse medical treatment for the child and to know ~~that thisthe consequences of such~~ action may result in further referrals for medical care.
- k) Every child's parent or child's representative shall be permitted to inspect and copy all of the child's clinical and other records concerning the child's care and maintenance kept by the facilitycenter or by the child's physician at the expense of the parent or representative.
- l) All children shall be permitted respect and privacy in their medical and personal care program. Every child's case discussion, consultation, examination and treatment shall be confidential and shall be conducted discreetly. Those persons not directly involved in the child's care ~~shall~~must have the permission of the child's parent or representative to be present at consultations, discussions, examinations and treatments.
- m) Neither physical restraints nor confinements shall be employed for the purpose of punishment or for the convenience of any facilitycenter personnel or volunteer. Orthopedic equipment, highHigh chairs, playpens, cribs or youth beds are not restraints for children less than four4 years old.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- n) Restraints shall be used only for the safety and security of the child upon written order of the attending physician and with the informed consent of the child's parent or child's representative. The physician's written authorization shall specify the precise time periods and conditions in which any restraints ~~or confinements~~ shall be employed. The reasons for ordering and using restraints shall be recorded in the child's ~~treatment~~ ~~service~~ plan. Staff shall be trained and be able to demonstrate, at least annually, competency in the application of restraints and in the monitoring, assessment and provision of care for the client in restraints. The training shall include techniques to identify client behaviors and events that may trigger circumstances that require the use of restraints and the safe application and use of all types of restraints, including:
- 1) Training in how to recognize and respond to signs of physical and psychological distress; and
  - 2) The clinical identification of specific behavioral or medical changes that indicate that the restraint is no longer necessary.
- o) The ~~facility~~ ~~center~~ management shall ensure that children may have private visits at any reasonable hour unless those visits are not medically advisable for the child or are contrary to the directions of the child's parent or child's representative as documented in the child's ~~plan of treatment~~ ~~service plan~~. The ~~facility~~ ~~center~~ shall allow daily visiting. Visiting hours shall be posted in plain view of visitors. The ~~facility~~ ~~center~~ management shall ensure that space for visits is available and that ~~facility~~ ~~center~~ personnel knock, except in an emergency, before entering any child's room.
- p) No visitor shall enter the immediate living area of any child without first identifying himself/herself and then receiving permission from the child to enter. The rights of other children present in the room shall be respected. ~~Facility~~ ~~Center~~ staff may terminate visits or provide other accommodations for the visit if the child requests ~~they are so requested by the child~~, or the visitor is involved in behavior violating other children's rights.
- q) A child shall be voluntarily discharged from a ~~facility~~ ~~center~~ after the child's parent or child's representative gives ~~facility~~ ~~center~~ management, a physician, or a nurse of the ~~facility~~ ~~center~~ written notice of the desire for the child to be discharged. A child shall be discharged upon written consent of the child's parent

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

or child's representative unless there is a court order to the contrary, such as a Department of Children and Family Services (DCFS) safety plan. Upon—In such cases, upon the child's discharge, the facilitycenter is relieved of any responsibility for the child's care, safety or well-being.

- r) The facilitycenter shall establish involuntary discharge procedures in accordance with ~~subsection (s) of~~ this Section, which shall include at least the following:
- 1) Child's behavior that may result in involuntary discharge;
  - 2) Child's decline or improvement in medical condition that may result in involuntary discharge;
  - 3) Child, parent and child's representative counseling that may be provided to avoid involuntary discharge;
  - 4) Notification of child's parent and child's representative concerning involuntary discharge; and
  - 5) Time frames between counseling, notice and involuntary discharge.
- s) A facilitycenter may involuntarily transfer or discharge a child only for one or more of the following reasons:
- 1) The child's medical condition;
  - 2) The child's physical safety; and
  - 3) The child's action that directly impinges on the physical safety of other children, the facilitycenter staff or facilitycenter visitors.
- t) A licensee, facilitycenter manager, employee, volunteer or agent of a facilitycenter shall not abuse or neglect a child.
- ~~u) A center employee, agent or volunteer who becomes aware of abuse or neglect of a child shall immediately report the matter to the center manager or designee.~~
- ~~v) Upon becoming aware of abuse or neglect, the center manager or designee shall immediately report the matter by telephone and in writing to the child's parent or~~

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

~~child's representative and the Department.~~

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 260.1950 Reporting Requirements for Allegations of Abuse and Neglect**

- a) All employees and volunteers shall be considered mandated reporters as defined in the Abused and Neglected Child Reporting Act.
- 1) Reports of suspected child abuse or neglect shall be immediately reported to the DCFS State Central Registry and to local law enforcement.
  - 2) Reports of suspected child abuse or neglect shall be immediately reported to the Department of Public Health's Central Complaint Registry (1-800-252-4343).
- b) A facility employee, agent or volunteer who becomes aware of abuse or neglect of a child shall immediately report the matter to the DCFS hotline, and then to the DON. If the abuse or neglect is alleged to be a result of actions by an employee of the facility, the facility shall immediately remove the alleged perpetrator from direct contact with the children.
- c) Upon becoming aware of abuse or neglect, the DON shall contact the local law enforcement authorities (e.g., telephoning 911 where available) and the Department, and shall confirm that DCFS was notified. The DON shall, immediately after notifying law enforcement authorities and the Department, report the matter by telephone and in writing to the child's parent or child's representative.
- d) The facility shall send, by registered mail, a written report within 24 hours after the completion of the investigation to the Supervisor of Central Office Operations, Division of Health Care Facilities and Programs, at the Illinois Department of Public Health, 525 W. Jefferson St., Springfield, Illinois 62761. The facility shall keep a copy of the report on its premises.

(Source: Added at 37 Ill. Reg. \_\_\_\_\_; effective \_\_\_\_\_)

**Section 260.2000 Medical Day Care~~Child Care Services~~**

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- a) No more than 12 children shall be served at a time.
- b) The facility licensee shall provide services as necessary to implement and support the child's ~~service plan~~ of treatment and overall needs, including provisions for:
  - 1) Case management;
  - 2) Fostering maximum independence of the child; and
  - 3) Protection of the child's rights, privacy and dignity.
- c) The facility licensee shall have one or more transfer agreements with hospitals to provide emergency care to children.
- d) The facility licensee shall provide recreational and leisure activities for children during their stay, two to four hours per day as tolerated by the child.
- e) A written summary of the child's stay shall be sent home with each child. The summary shall contain documentation of any extreme (positive or negative) occurrences and any changes to the plan of treatment~~information that will increase continuity of services~~.
- f) All information related to the child, the child's representative or the child's plan of treatment~~service plan~~ is confidential and shall be accessible only to those individuals who need the information to assure appropriate service delivery.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 260.2100 Medication Administration**

- a) Except for medications allowed in subsection (b) ~~of this Section~~, the only medications allowed in the facility are those for particular individual children. The medication of each child shall be kept and stored in the original container received from the pharmacy.
  - 1) Each ~~multi-dose~~multidose medication container shall indicate the child's name, physician's name, prescription number, name, strength and quantity of drug, administration dose, date this container was last filled, the initials of the pharmacist filling the prescription, the identity of the pharmacy, the

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

refill date and any ~~necessary~~ special instructions.

- 2) Each single unit or unit dose package shall contain the proprietary and nonproprietary name of the drug and the strength of the dose. The name of the child and the physician do not have to be on the label of the package, but they ~~shall~~must be identified with the package ~~in such a manner as~~ to assure that the drug is administered to the correct ~~child~~resident.
- b) A facility may stock a small supply of medications regularly available without prescription at a commercial pharmacy, such as ~~non-controlled~~ ~~;~~ ~~nonecontrolled~~ cough syrups, laxatives, and analgesics. These shall be given to a child only upon the order of a physician.
- c) The facility may stock a small supply of prescription medications (approved by the facility's medical director) to be available for immediate use, such as first dose antibiotics, anti-seizure drugs, or rescue drugs such as albuterol and oral steroids.
- d)~~e)~~ The facility shall have a first aid kit that contains items appropriate to treat minor cuts, burns, abrasions, etc.
- e)~~d)~~ All medications shall be properly stored as directed in a secured location not accessible to unauthorized individuals.
- f)~~e)~~ All medications shall be sent home with the child for whom the medication was prescribed.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 260.2200 Personnel**

- a) Each ~~facility~~center shall develop and maintain written personnel policies that are followed in the operation of the ~~facility~~center.
- b) The ~~facility~~center shall establish policies to screen all current and prospective employees and volunteers, ~~which that~~ shall include at least the following:

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 1) Conduct a check of the ~~Department of Children and Family Services (DCFS)~~ Central Registry ([1-800-25A-BUSE](tel:1-800-25A-BUSE)), in a form and a manner prescribed by DCFS.
  - 2) Conduct a check of the Sex Offender Registry in a form and a manner prescribed by the Illinois State Police (ISP).
  - 3) Maintain records of these checks in the employee's personnel file or the volunteer's file.
- c) The ~~facility~~center shall define in policy ~~that whether~~ individuals with findings on the DCFS Central Registry ~~shall will~~ be ~~ineligible~~eligible for hire or to volunteer ~~and, if so, the Center shall define the level of supervision that will be provided.~~
- d) ~~All employees and volunteers shall be considered mandated reporters as defined in the Abused and Neglected Child Reporting Act.~~
- 1) ~~Reports of suspected child abuse or neglect shall be immediately reported to the DCFS State Central Registry (1-800-25A-BUSE) or local law enforcement.~~
  - 2) ~~Reports of suspected child abuse or neglect shall be immediately reported to the Department of Public Health's Central Complaint Registry (1-800-252-4343).~~
- d)3) The ~~facility~~center shall provide orientation to ~~new~~current staff ~~regarding their responsibilities under the Abused and Neglected Child Reporting Act prior to the first day of employment~~and volunteers ~~within 30 days after September 30, 2006 regarding their responsibilities under the Abused and Neglected Child Reporting Act.~~
- e)4) The ~~facility~~center shall provide orientation to new ~~staff and~~volunteers ~~prior to~~within 14 days after the first day of ~~employment or~~volunteering.
- f)5) ~~Orientation of staff and volunteers~~~~This orientation~~ shall include, at least, definitions of what constitutes abuse and neglect, the individual's responsibility under the Abused and Neglected Child Reporting Act, and the center's policy on reporting abuse and neglect. This information shall be reviewed annually with current staff and volunteers.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- ~~g)e)~~ Each employee shall have an initial health evaluation, which shall be used to ensure that employees are not placed in positions that would pose undue risk of infection to themselves, other employees, children or visitors.
- 1) The initial health evaluation shall be completed no more than 30 days prior to or 30 days after the employee's first day of employment.
  - 2) The initial health evaluation shall include a health inventory from the employee, including an evaluation of the employee's immunization status.
  - 3) The initial health evaluation shall include tuberculin testing in accordance with the Control of Tuberculosis Code ~~(77 Ill. Adm. Code 696)~~.
- ~~h)f)~~ The ~~facility~~ licensee shall provide ~~enough~~ adequate, properly trained and supervised staff to meet each child's ~~plan of treatment~~ service plan.
- ~~i)g)~~ The ~~facility shall have a designated facility~~ licensee shall designate a center manager.
- ~~j)h)~~ The licensee shall have a designated director of nursing (DON). The DON shall be a registered professional nurse who holds at least a bachelor's degree in nursing or has documented experience and relevant continuing education. He or she also shall have qualifications in nursing administration and shall be employed full-time within the facility. All nursing service within the facility shall be under the direction of the DON.
- ~~k)~~ At least two registered nurses shall be ~~There shall be at least one registered nurse~~ at the ~~facility~~ center at all times that a child is present. The minimum staffing ratio for respite and transitional care is one RN to four children. All nursing assistants shall meet training requirements by completing a training program approved under the Long Term Care Assistants and Aides Training Programs Code. At least one other staff person shall be present at the center at all times that a child is present.
- ~~l)i)~~ The ~~facility's medical director shall be~~ center shall have a medical director who is a physician with expertise in chronic diseases of children. The ~~facility's~~ medical director shall ~~review~~ have responsibilities for reviewing medical protocols, ~~resolve~~ resolving issues with children's personal physicians and ~~provide~~ providing

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

medical advice when a child's personal physician is not available.

- m)j) The facilitylicensee shall define, through job descriptions, minimum nursing education and clinical experience requirements for all staff, consultants and contract staff, approved DCFS providers, and all others providing nursing services to the facility. ~~Children's Community-Based Health Care Center Model.~~ All RNs and licensed practical nurses shall be CPR certified prior to employment. All RNs shall be certified in Pediatric Advanced Life Support within three months after employment.
- n)k) The facilitylicensee shall provide an initial orientation and routine, pertinent training to all staff, including training on ventilator equipment for registered nurses within three months after employment. This training may include return demonstration, one-on-one training, small group exercises or lecture. All training shall be documented by a clinical skills checklist that includeswith:
- 1) Datedate;
  - 2) Instructorsinstructors;
  - 3) Shortshort description of content; and
  - 4) Participants'participants' written and printed signatures.
- o)l) Prior to employing any individual in a position that requires a State license, the facilitylicensee shall contact the Illinois Department of Financial and Professional Regulation-Division of Professional Regulation to verify that the individual's license is active. A copy of the verificationlicensee shall be placed in the individual's personnel file.
- p)m) The facilitylicensee shall check the status of all applicants with the Health Care WorkerNurse Aide Registry prior to hiring.
- q) All new clinical employees shall review the clinical policies and procedures manual within 15 days after employment. A letter documenting the review, signed by the facility manager, shall be kept in the employee's file.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- r) All new administrative employees shall review the facility's operation manual within 15 days after employment. A letter documenting the review, signed by the facility manager, shall be kept in the employee's file.
- s) All new employees shall receive fire safety and evacuation training upon hiring. The training shall be reviewed annually for all employees.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 260.2300 Food Service**

- a) All children at the facility shall have a nutrition plan approved by the primary care physician prior to admission. At least three meals a day shall be served. Every effort shall be made to meet dietary patterns that are routine to an individual child as described in the service plan.
- b) The facility's medical director shall review the nutrition plans weekly. Snacks shall be offered between meals and at bedtime.
- c) Nutrition consultants shall be made available at the facility as needed. If a child refuses the food served, reasonable and nutritionally appropriate substitutions shall be served.
- d) The facility's medical director shall include a nutrition summary in the discharge plan of all children at the facility. Menus shall be planned at least one week in advance. All menus, as actually served, shall be kept on file for not less than 30 days.
- e) If a child refuses the food provided by the caregiver, reasonable and nutritionally appropriate substitutions shall be served.
- f)e) Supplies of staple foods for a minimum of one week and of perishable foods for a minimum of two days shall be maintained on the premises.
- g)f) All food served shall be prepared in accordance with the Department's rules titled entitled "Food Service Sanitation Code" (77 Ill. Adm. Code 750).

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

**Section 260.2400 Physical Plant**

- a) Buildings shall meet the requirements established in the National Fire Protection Association (NFPA) Standard 101, Life Safety Code, ~~2000 edition~~, Chapter ~~3223~~, "~~New Existing~~ Residential Board and Care Occupancies, ~~Impractical~~", and other referenced chapter requirements.
- b) When possible, the facility shall be located at grade level. If not at grade level, the facility shall be equipped with ramps or elevators to allow easy access for residents to the street level. Buildings shall be only one story in height, at grade level, or if a building has multiple stories, children shall be served only on the grade level story.
- c) The facility may be located within a mixed-use-occupancy building, subject to the requirements of Section 35(3) of the Act and Section 260.1300(e) of this Part. All occupancies within the building shall fully meet the life safety requirements in NFPA 101 for the occupancy for which they are designated.
- d)e) Children over six years of age occupying the same bedroom shall be of the same gender unless the children are siblings.
- e)d) ~~An individual shall not need to go through a~~ child's bedroom shall not serve as access to reach any other area of the building.
- f)e) The facility~~center~~ shall be kept in a clean, safe, and orderly condition and in good repair.
- 1) Electrical, mechanical, heating/air conditioning, fire protection and sewage disposal systems shall be maintained.
  - 2) Furnishings and furniture shall be maintained in a clean, safe condition.
  - 3) Attics, basements, stairways, and similar areas shall be kept free of ~~accumulation of~~ refuse, newspapers, boxes, and other items.
  - 4) Bathtubs, shower stalls and lavatories shall not be used for janitorial, laundry or storage purposes.
  - 5) All cleaning compounds, insecticides and other potentially hazardous

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

compounds or agents shall be stored in locked cabinets or rooms.

g)f Every facilityeenter shall supplyhave an effective means of supplying clean linen.

- 1) Clean linen shall be protected from contamination during handling, transport and storage.
- 2) Soiled linen shall be handled, transported and stored in a manner that protects individuals and the environment from contamination. Soiled diapers shall be placed in special diaper receptacles immediately after removal from the clientpatient.

h)g Each child shall be provided with a bed that meets his/her developmental needs and size.

i)h The water supply shall comply with all applicable Department rulesState codes and local ordinances. Each facilityeenter shall be served by:

- 1) Water from a municipal water system; or
- 2) A water supply that complies with the Department's rules titled Drinking Water Systems Code (77 Ill. Adm. Code 900); or
- 3) A water supply that complies with the Department's rules titled Public Area Sanitary Practice Code (77 Ill. Adm. Code 895).

j If the facility provides respite care (Section 260.1800(a) and (b)), transitional care (Section 260.1800(c) and (d)), weekend camps (Section 260.1800(k)), or diagnostic studies (Section 260.1800(l)), then bathing facilities, such as an assisted bathing facility, shall be provided. Bathing facilities are not required in facilities that provide only medical day care (Section 260.1800(j)).

k Hot water temperatures in shower, bathing and hand-washing facilities shall not exceed 110 degrees Fahrenheit (43 degrees Celsius).

l)f All sewage and liquid wastes shall be discharged into a public sewage disposal system or shall be collected, treated, and disposed of in a private sewage disposal system that is designed, constructed, maintained and operated in accordance with

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

the Department's rules ~~itledentitled~~ Private Sewage Disposal Code (~~77 Ill. Adm. Code 905~~).

- m) Emergency call stations shall be provided in any toilet room used by a client.
- n) A request for a waiver from the requirements of this Section shall be submitted, in writing, to the Department's Division of Health Care Facilities and Programs. The waiver request shall document that strict enforcement of the life safety requirement in question will result in unreasonable hardship on the facility and a waiver will not adversely affect the health and safety of the clients. The Department will review waiver requests and will grant or deny a waiver based on whether the documentation submitted demonstrates that the hardship imposed on the facility is unreasonable and that a waiver would not adversely affect the health and safety of the clients.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 260.2500 Quality Assessment and Improvement**

- a) The ~~facility~~~~licensee~~ shall develop and implement a quality assessment and improvement program designed to meet at least the following goals:
  - 1) Ongoing monitoring and evaluation of the quality and accessibility of care and services provided at the ~~facility~~~~center~~ or under contract, including but not limited to:
    - A) Admission of children appropriate to the capabilities of the ~~facility~~~~center~~;
    - B) ~~Family~~~~Client~~ satisfaction ~~survey~~;
    - C) Costs for delivery of services;
    - D) Infection control and safety; and
    - E) Medication administration.
  - 2) Identification and analysis of problems.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 3) Identification and implementation of corrective action or changes in response to problems.
- b) The [quality assessment and improvement](#) program shall operate pursuant to a written plan [supported by detailed policies and procedures](#), which shall include, but not be limited to:
- 1) A detailed statement of ~~its~~ [goals and objectives](#);
  - 2) The methodology and criteria that will be used to meet each stated goal;
  - 3) The action plans for addressing problems;
  - 4) Procedures for evaluating the effectiveness of action plans and revising action plans to prevent reoccurrence of problems;
  - 5) Procedures for documenting the activities of the program; and
  - 6) Identification of the persons responsible for administering the program.
- c) The [facilitycenter](#) shall report to the Department, no later than 5 p.m. the next business day, any serious incident or accident involving a child. The report shall include the name of the child, a description of the incident or accident, and the date and time of the incident or accident. Incidents or accidents include, but are not limited to:
- 1) A serious injury to a child, including while in a restraint;
  - ~~2) A child's death while he or she is a resident in the center; or~~
  - ~~2)3) A serious medication error resulting in medical intervention [orand/or](#) hospitalization; [or](#);~~
  - 3) [A child's death while he or she is a resident in the facility.](#)
- d) The [facilitylicensee](#) shall afford the Department and the Board access to any materials or documents generated pursuant to the [facility'scenter's](#) quality assessment and improvement program or that otherwise relate to client demand, utilization and satisfaction; cost effectiveness; financial viability of the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

facilitycenter; and access to services. ~~This information shall be used by the Department and the Board to evaluate and assess the center in relation to the Demonstration Program.~~

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## STATE UNIVERSITIES RETIREMENT SYSTEM

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Universities Retirement
- 2) Code Citation: 80 Ill. Adm. Code 1600
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1600.700	Amendment
1600.710	Amendment
1600.715	Amendment
1600.720	Amendment
1600.745	Amendment
1600.750	Amendment
- 4) Statutory Authority: 40 ILCS 5/15-177
- 5) A Complete Description of the Subjects and Issues Involved: Amend Board Trustee election regulations to address vacancy scenarios and to make various technical corrections and administrative enhancements.
- 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? Yes

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
1600.500	Amendment	37 Ill. Reg. 763, January 25, 2013
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENTS

Michael B. Weinstein, General Counsel  
State Universities Retirement System  
1901 Fox Drive  
Champaign, IL 61820

217-378-8825

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2013

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

## STATE UNIVERSITIES RETIREMENT SYSTEM

## NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES  
SUBTITLE D: RETIREMENT SYSTEMS  
CHAPTER II: STATE UNIVERSITIES RETIREMENT SYSTEMPART 1600  
UNIVERSITIES RETIREMENT

## SUBPART A: GENERAL

Section	
1600.100	Definitions
1600.110	Freedom of Information Act
1600.120	Open Meetings Act
1600.130	Procurement
1600.140	Compliance with the Internal Revenue Code

## SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

Section	
1600.202	Return to Employment
1600.203	Independent Contractors
1600.205	Compensation Subject to Withholding
1600.210	Crediting Interest on Participant Contributions and Other Reserves
1600.220	Election to Make Contributions Covering Leave of Absence at Less Than 50% Pay
1600.230	Election to Pay Contributions Based upon Employment that Preceded Certification as a Participant
1600.240	Election to Make Contributions Covering Periods of Military Leave Protected under USERRA
1600.241	Survivor Benefits for Members Who Die While on Military Leave Protected under USERRA
1600.250	Sick Leave Accrual Schedule
1600.260	Part-time/Concurrent Service Adjustment
1600.270	Employer Contributions for Benefit Increases Resulting from Earnings Increases Exceeding 6%

## SUBPART C: CLAIMS PROCEDURE AND EVIDENTIARY REQUIREMENTS

Section	
1600.300	Effective Beneficiary Designations

## STATE UNIVERSITIES RETIREMENT SYSTEM

## NOTICE OF PROPOSED AMENDMENTS

- 1600.305 Full-Time Student Survivors Insurance Beneficiaries
- 1600.310 Dependency of Beneficiaries
- 1600.320 Disability Claims Procedure

## SUBPART D: BENEFIT CALCULATION AND PAYMENT

## Section

- 1600.400 Determination of Final Rate of Earnings Period
- 1600.410 Twenty Percent Limitation on Final Rate of Earnings Increases
- 1600.420 Making Preliminary Estimated Payments
- 1600.430 Excess Benefit Arrangement
- 1600.431 Indirect Payments to Minors and Legally Disabled Persons
- 1600.432 Indirect Payments to Child Survivors Through the Surviving Spouse
- 1600.440 Voluntary Deductions from Annuity Payments
- 1600.450 Overpayment Recovery

## SUBPART E: ADMINISTRATIVE REVIEW

## Section

- 1600.500 Rules of Practice – Nature and Requirements of Formal Hearings

## SUBPART F: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

## Section

- 1600.600 Definitions
- 1600.605 Requirements for a Valid Qualified Illinois Domestic Relations Order
- 1600.610 Invalid Orders
- 1600.615 Filing a QILDRO with the System
- 1600.620 Modified QILDROs
- 1600.625 Benefits Affected by a QILDRO
- 1600.630 Effect of a Valid QILDRO
- 1600.635 QILDROs Against Persons Who Became Members Prior to July 1, 1999
- 1600.640 Alternate Payee's Address
- 1600.645 Electing Form of Payment
- 1600.650 Automatic Annual Increases
- 1600.655 Expiration of a QILDRO
- 1600.660 Reciprocal Systems QILDRO Policy Statement
- 1600.665 Providing Benefit Information for Divorce Purposes

## STATE UNIVERSITIES RETIREMENT SYSTEM

## NOTICE OF PROPOSED AMENDMENTS

## SUBPART G: BOARD TRUSTEE ELECTION

## Section

1600.700	Nomination of Candidates
1600.705	Election Date/Election Day – Defined
1600.710	Petitions
1600.715	Eligible Voters
1600.720	Election Materials
1600.725	Marking of Ballots
1600.730	Return of Ballots and Ballot Counting Process
1600.735	Certification of Ballot Counting
1600.740	Challenges to Election Results
1600.745	Candidate Informational Communication
1600.750	Filling a Vacancy in the Term of an Elected Trustee

AUTHORITY: Implementing and authorized by Section 15-177 of the Illinois Pension Code [40 ILCS 5/15-177].

SOURCE: Amended September 2, 1977; amended at 2 Ill. Reg. 31, p. 53, effective July 30, 1978; amended at 7 Ill. Reg. 8139, effective June 29, 1983; codified at 8 Ill. Reg. 19683; amended at 11 Ill. Reg. 15656, effective September 9, 1987; amended at 13 Ill. Reg. 18939, effective November 21, 1989; amended at 14 Ill. Reg. 6789, effective April 20, 1990; emergency amendment at 21 Ill. Reg. 4864, effective March 26, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6095, effective May 2, 1997; amended at 21 Ill. Reg. 11962, effective August 13, 1997; amended at 21 Ill. Reg. 12653, effective August 28, 1997; amended at 22 Ill. Reg. 4116, effective February 9, 1998; amended at 23 Ill. Reg. 13667, effective November 1, 1999; amended at 25 Ill. Reg. 10206, effective July 30, 2001; amended at 28 Ill. Reg. 2292, effective January 23, 2004; expedited correction at 28 Ill. Reg. 7575, effective January 23, 2004; amended at 29 Ill. Reg. 2729, effective March 1, 2005; amended at 29 Ill. Reg. 11819, effective July 12, 2005; amended at 29 Ill. Reg. 14060, effective September 1, 2005; amended at 29 Ill. Reg. 14351, effective September 6, 2005; amended at 30 Ill. Reg. 6170, effective March 21, 2006; amended at 30 Ill. Reg. 7778, effective April 5, 2006; amended at 30 Ill. Reg. 9911, effective May 9, 2006; amended at 30 Ill. Reg. 17509, effective October 19, 2006; amended at 31 Ill. Reg. 4267, effective February 22, 2007; amended at 31 Ill. Reg. 4927, effective March 12, 2007; recodified at 31 Ill. Reg. 10194; amended at 32 Ill. Reg. 16515, effective September 25, 2008; emergency amendment at 33 Ill. Reg. 6525, effective April 27, 2009, for a maximum of 150 days; emergency expired September 23, 2009; amended at 33 Ill. Reg. 10757, effective July 1, 2009; amended at 33 Ill. Reg. 16755, effective November 23, 2009; amended at 34 Ill. Reg. 9523, effective June 25, 2010; amended at 35 Ill. Reg. 10952, effective June 22, 2011; amended

## STATE UNIVERSITIES RETIREMENT SYSTEM

## NOTICE OF PROPOSED AMENDMENTS

at 36 Ill. Reg. 3938, effective February 22, 2012; amended at 37 Ill. Reg. 1309, effective January 15, 2013; amended at 37 Ill. Reg. 3866, effective March 15, 2013; amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART G: BOARD TRUSTEE ELECTION

**Section 1600.700 Nomination of Candidates**

- a) The Board Secretary shall determine the number and type of Board positions to be filled at an election. The Secretary shall announce the election by October 1 preceding the next election.
- b) Any candidate for an opena-vacant contributing membership position on the System's Board of Trustees:
  - 1) Shall be, on the date voter eligibility is determined pursuant to Section 1600.715, an employee who has been certified as a SURS covered employee by the employee's employer and an employee for whom employee contributions have been received in the previous 31 days;
  - 2) Shall be nominated by a written petition for a single candidate only, signed by no fewer than 400 individuals who, as of the date of signing, were participants.
- c)b) Any candidate for an opena-vacant annuitant position on the System's Board of Trustees:
  - 1) Must have been an annuitant for at least one full year prior to the Election Date as determined pursuant to Section 1600.705;
  - 2) Shall be nominated by a written petition for a single candidate only, signed by no fewer than 100 individuals who, as of the date of signing, were annuitants.
- d)e) For purposes of determining whether a SURS member is a contributing member, participant, or annuitant pursuant to this Subpart G:
  - 1) A SURS member who is a contributing member or participant in the Self-Managed Plan, described in Section 15-158.2 of the Pension Code, is

## STATE UNIVERSITIES RETIREMENT SYSTEM

## NOTICE OF PROPOSED AMENDMENTS

eligible under the same terms as SURS members who are in the traditional or portable benefit package, described in Sections 15-103.1 and 15-103.2, respectively, of the Pension Code, and a benefit recipient pursuant to an annuity contract purchased under the self-managed plan is an annuitant;

- 2) A SURS member receiving a preliminary estimated payment pursuant to Section 1600.420 is an annuitant;
- 3) A SURS member receiving a disability pursuant to Section 15-150 of the Illinois Pension Code is not an annuitant, but is considered a contributing member for purposes of Board elections.

~~e)d) All candidates must complete an application in the form adopted by the System. Candidate application forms may be obtained from the Board Secretary, upon written or oral request by the candidate, on or after October 1 immediately preceding the Election Date. The completed candidate application form shall be submitted to the Board Secretary by the December 31 immediately preceding the Election Date. Petitions may be circulated for signatures by any individual or entity commencing the November 1 immediately preceding the applicable Election Date and ending on January 31.~~

~~f)e) The Board Secretary shall determine the eligibility of candidates pursuant to the Illinois Pension Code and this Part. If a candidate should become ineligible for the Board position after submission of the candidate application form, but before the election, the Board Secretary shall declare the candidate ineligible and remove that candidate from the ballot. If a candidate should become ineligible for the Board position after the printing of the ballots, the ineligible candidate's votes shall not be counted. An individual eligible to sign a petition nominating a candidate for a vacant contributing membership position on the Board may sign petitions for as many contributing membership position candidates as desired.~~

~~f) An individual eligible to sign a petition nominating a candidate for a vacant annuitant position on the Board may sign petitions for as many annuitant candidates as desired.~~

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

### Section 1600.710 Petitions

## STATE UNIVERSITIES RETIREMENT SYSTEM

## NOTICE OF PROPOSED AMENDMENTS

- a) All petitions shall be in the form adopted by the System. Petition forms may be obtained from the System ~~upon written or oral request of any individual or entity~~, on or after October 1 immediately preceding the Election Date. The petition forms may be photocopied for use by the candidates. ~~All candidates must complete an application in the form adopted by the System and submit it to the System by the December 31 immediately preceding the Election Date. The Board Secretary shall determine the number and type of Board positions to be filled for an election. The Board Secretary shall determine the eligibility of candidates pursuant to the Illinois Pension Code and this Part.~~
- b) A valid petition nominating a candidate for ~~an opena-vacant~~ contributing membership position or ~~an opena-vacant~~ annuitant position on the System's Board of Trustees shall meet the following requirements:
- 1) On page one of the petition the potential candidate must sign the petition as one of the nominating signatories. The signature shall constitute the potential candidate's confirmation that he or she is willing to be a candidate.
  - 2) The petition must bear the requisite number of original signatures of individuals eligible to nominate the candidate, as established by Section 1600.700(~~ba~~) or (~~cb~~). A valid petition may consist of multiple pages and may contain blank signature lines; however, all valid signatures must be original signatures.
  - 3) Each signature of an eligible voter must be accompanied by the signing person's name (printed), home address (street ~~and~~, city, ~~and state~~), ~~and job title (if any)~~, SURS employer (or last SURS employer). ~~Other eligible voter information, including, and~~ the last four digits of ~~the signer's his or her~~ social security number may be included to assist the Board Secretary in verifying petition signing eligibility. Signatures that are not accompanied by at least a partial address will not be accepted. The partial social security number shall remain confidential.
  - 4) Petitions may be circulated for signatures commencing the October 1 immediately preceding the applicable Election Date and ending on January 31.

## STATE UNIVERSITIES RETIREMENT SYSTEM

## NOTICE OF PROPOSED AMENDMENTS

- 5) An individual eligible to sign a petition nominating a candidate for an open contributing membership position on the Board may sign petitions for as many contributing membership position candidates as desired.
- 6) An individual eligible to sign a petition nominating a candidate for an open annuitant position on the Board may sign petitions for as many annuitant candidates as desired.
- 7)4) The petition shall bear the notarized signature of the individual who circulated the petition for signatures, verifying that the signatures contained on the petition were signed in that individual's presence and are genuine, and that, to the best of the circulating individual's knowledge, the persons who signed the petition were eligible to do so under Section 1600.700(ba) or (cb).
- 8)5) Original petitions shall be filed with and must be received by the Board Secretary by the January 31 immediately preceding the Election Day. Petitions received after the prescribed petition-filing period are invalid and will not be counted.
- c) The Board Secretary shall determine the validity of petitions pursuant to the Illinois Pension Code and this Part not less than 75 days prior to the Election Day and notify all candidates in accordance with the election calendar whether their petitions met all petition requirements. Candidates filing conforming petitions will be added to the slate of candidates on the respective ballot.
- d) Any individual may, upon reasonable notice to the System, examine the petitions that have been filed with the System with respect to the election to take place; provided, however, that in order to protect the signing participants' and annuitants' privacy and confidentiality, the examination shall be subject to the following limitations:
- 1) Petitions that are examined will be duplicate copies of the original petitions filed, with any confidential information redacted;
  - 2) Petitions may only be examined at the System's offices after the validity of the petitions has been verified by the Board Secretary as provided in subsection (c); and

## STATE UNIVERSITIES RETIREMENT SYSTEM

## NOTICE OF PROPOSED AMENDMENTS

- 3) Petitions may not be removed from the System's offices, copied, or duplicated by any means.
- e) Challenge to the Petition Validation Process
- 1) The challenger shall submit a written statement identifying the specific aspects of the petition validation process that is being challenged.
  - 2) All challenges shall be submitted to the Board Secretary no later than 7 days after the petition validation notification required in subsection (c). Any challenge submitted more than 7 days after the date of the notification shall not be considered. The Board Secretary shall transmit any challenges to a 3 member committee of the Board, comprised of members of the Board not running in the contested election.
  - 3) The committee shall consider the written statement and proceed to make a final determination with respect to the challenge.
  - 4) A written notice of the final determination shall be sent to the challenger and all candidates within 7 days after making the determination.
  - 5) The determination of the committee shall constitute a final administrative decision for purposes of the Administrative Review Law [305 ILCS 5/Art. III].

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1600.715 Eligible Voters**

- a) An individual is eligible to vote for a contributing membership position on the Board of Trustees of the System if he or she was a contributing member, defined as an employee who has been certified as a SURS covered employee by the employee's employer and an employee for whom employee contributions have been received in the previous 31 days, except as provided for in subsection (e) as of March 1 of the year in which the election is held.
- b) An individual is eligible to vote for ~~an opena-vacant~~ annuitant position on the Board of Trustees of the System if he or she was an annuitant as of March 1 of the year in which the election is held.

## STATE UNIVERSITIES RETIREMENT SYSTEM

## NOTICE OF PROPOSED AMENDMENTS

- c) A person who is eligible to vote for a contributing membership position pursuant to subsection (a) is not eligible to vote for ~~an opena-vacant~~ annuitant position.
- d) A person who is eligible to vote for an annuitant position pursuant to subsection (b) is not eligible to vote for ~~an opena-vacant~~ contributing membership position.
- e) A SURS member receiving a disability pursuant to Section 15-150 of the Illinois Pension Code is not an annuitant but is considered a contributing member for purposes of Board elections.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1600.720 Election Materials**

- a) At least ~~3040~~ business days prior to the Election Day, the System shall mail to the eligible voter's latest address known to the System the following election materials:
  - 1) A preprinted paper ballot listing, in order determined by random, blind lottery conducted by the Board Secretary, either the contributing membership candidates or the annuitant candidates, depending on the basis for the individual's eligible voter status as provided in Section 1600.715~~(a) or (b)~~, using the entire name of each candidate in the System records on the first day nomination petitions can be accepted;
  - 2) Candidate provided biographies in the format and length specified by the Board Secretary;
  - 3) Instructions for voting as specified by the Board Secretary;
  - 4) A preprinted, return envelope.
- b) If an eligible voter has not received any or all of the election materials specified in subsection (a) 5 business days prior to the Election Date, the eligible voter may request that the System send election materials to him or her. If an eligible voter incorrectly marks or spoils his or her paper ballot prior to returning it, the eligible voter may request a new set of election materials from the System at least 5

## STATE UNIVERSITIES RETIREMENT SYSTEM

## NOTICE OF PROPOSED AMENDMENTS

business days prior to the Election Date. Paper ballots already mailed by the eligible voter shall not be replaced.

- c) If previously mailed election materials are returned to the System undelivered at least 5 business days prior to the Election Date and a forwarding address has been provided, the System shall mail election materials to the forwarding address via first class U.S. mail.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1600.745 Candidate Informational Communication**

- a) During any election period commencing the January 1 immediately preceding the Election Date and ending the day after the Election Date, the System will make available address files or e-mail lists of eligible voters for election candidates or other organizations to send additional informational material about the candidate. Organizations must ~~be~~-validly ~~exist~~existing pursuant to law and must provide a mailing address and contact information to the System at the same time that a request is made for address files or e-mail lists.
- b) The address files or e-mail lists will be sent by the System to a third-party service firm hired by the candidate, or other organization, for mailing. The third-party service firm must guarantee security and only use the member contact information for communication of candidate informational materials.
- c) The third-party service firm will limit the use of the address files or e-mail lists to ensure there is only one communication per candidate, per organization.
- d) The System will not incur any of the costs to produce, mail or send the additional candidate information.
- e) The contents of informational materials must be approved by the Board Secretary prior to the mailing.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1600.750 Filling a Vacancy in the Term of an Elected Trustee**

## STATE UNIVERSITIES RETIREMENT SYSTEM

## NOTICE OF PROPOSED AMENDMENTS

- a) A vacancy occurring in the elected membership of the Board shall be filled by the elected trustees as prescribed in Section 15-159(e) of the Pension Code.
- b) The elected trustees shall fill an unexpired term with currently eligible candidates or replacements otherwise satisfying the conditions as provided for in Sections 1600.700**(b)(1) or (c)(1)** and 1600.730**(d)** as follows:
  - 1) If an elected trustee position becomes vacant within the first 3 years of a term, the vacant position shall candidate receiving the next highest number of votes from the last respective election will temporarily be filled fill the open position until the July 15 following the next regularly scheduled Electionelection Date. The remaining 3 years of the term shall be permanently filled at the next available election. However, if a vacancy occurs within 6 months prior to the next election, the remaining elected trustees may choose to leave the position vacant until that election. The vacant position openings and term lengths shall be filled as follows:
    - A) The vacant position shall be temporarily filled by the elected members using the eligibility rules provided in this subsection (b) and the process rules provided in subsection (b)(3).The remaining 3 years of the term will be filled at the next available election.
    - B) If the vacancy occurs prior to the January 1 immediately preceding the next election, the vacant positions shall be filled for the remainder of the term (years 4-6), through the election process, by adding the appropriate number of available positions to the ballot at the next available election.
    - C) If a vacancy occurs prior to the January 1 immediately preceding the next election, and an election is required under Section 15-159(e) of the Pension Code, the term lengths shall be determined with theThe candidatesandidate receiving the greatest number of votes at the election shall be awarded the 6 year termsterm. However, if a vacancy occurs within 6 months prior to the next election, the remaining elected trustees may choose to leave the position vacant until that election.
    - D) If a vacancy occurs prior to the January 1 immediately preceding the next election and an election is not otherwise necessary under

## STATE UNIVERSITIES RETIREMENT SYSTEM

## NOTICE OF PROPOSED AMENDMENTS

Section 15-159(e), term lengths shall be determined by blind random drawing.

- 2) If an elected trustee position becomes vacant within the last 3 years of a term, the vacant position shall be filled for the remainder of the term by the elected members using the eligibility rules provided in this subsection (b) and the process rules provided in subsection (b)(3).~~candidate receiving the next highest number of votes from the last respective election will be appointed to fill the remainder of the term.~~ However, if a vacancy occurs within 6 months prior to the next election, the remaining elected trustees may choose to leave the position vacant until that election.
  
- 3) Unexpired terms will be filled by the elected membership using the process outlined in this subsection (b)(3). The Board Secretary will announce the vacancy via a press release and request nominations be submitted by a certain date in the form adopted by the System. Once the nomination period has ended, the Board Secretary shall determine the eligibility of the candidates pursuant to Section 15-159 of the Pension Code and the eligibility qualifications provided in this subsection (b). The list of eligible nominees will be submitted to all elected members of the Board for consideration of which candidate would best represent the contributing members or annuitants, respectively. Departing elected members shall not be eligible to participate in the replacement process. Majority voting of all elected members will determine the appointee. If the elected members cannot decide on a replacement, the full Board may declare a special election to fill the vacancy.

(Source: Amended at 37 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Distributed Generation Installer Certification
- 2) Code Citation: 83 Ill. Adm. Code 468
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
468.20	New Section
468.30	New Section
468.40	New Section
468.50	New Section
468.60	New Section
468.70	New Section
468.80	New Section
468.90	New Section
468.100	New Section
468.110	New Section
468.120	New Section
468.130	New Section
468.140	New Section
- 4) Statutory Authority: Implementing Section 16-128A of the Public Utilities Act [220 ILCS 5/16-128A] and authorized by Sections 16-128A and 10-101 of the Public Utilities Act [220 ILCS 5/128A and 10-101]
- 5) Effective Date of Rules: April 25, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.
- 9) Notice of Proposal Published in the *Illinois Register*: November 2, 2012; 36 Ill. Reg. 15413
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between Proposal and Final Version: Section 468.20: Delete proposed definition of "Distributed generation facility" and replace with adopted definition.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

Section 468.20: Add definition of "Illinois Community College Board".

Section 468.20: In definition of "Install", delete "on premise". Add "at the point of interconnection between the facility and the utility".

Section 468.20: In definition of "Qualified person", replace "20" with "five". After "installations", delete proposed language and replace with adopted language.

Section 468.20: Change "DOL" to "USDOL". Put definitions involving this term into alphabetical order.

Section 468.30: Delete "the initial compliance date specified in this Part" and replace with "December 31, 2013".

Section 468.60(d)(1): Replace "qualified persons" with "a qualified person".

Section 468.140: Delete "six months after the effective date of this Part" and replace with "December 31, 2013".

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rules: PA 97-616 became effective on October 26, 2011. New subsection 16-128A(a) of the Act states:

Within 18 months of the effective date of this amendatory Act of the 97th General Assembly, the Commission shall adopt rules, including emergency rules, establishing certification requirements ensuring that entities installing distributed generation facilities are in compliance with the requirements of subsection (a) of Section 16-128 of this Act.

These rules establish the requirements mandated by this statute.

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED RULES

Conrad S. Rubinkowski  
Office of General Counsel  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701

217/785-3922

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

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

TITLE 83: PUBLIC UTILITIES  
CHAPTER I: ILLINOIS COMMERCE COMMISSION  
SUBCHAPTER c: ELECTRIC UTILITIESPART 468  
DISTRIBUTED GENERATION INSTALLER CERTIFICATION

Section	
468.20	Definitions
468.30	Applicability
468.40	Application Procedures
468.50	Required Application Information
468.60	Certification Requirements
468.70	Certifications Conditioned Upon Compliance
468.80	Annual Recertification and Reporting
468.90	Complaint Procedures
468.100	Commission Oversight
468.110	Maintenance of Records
468.120	Fees
468.130	Notification Requirements for Retail Customers Seeking Net Metering Service
468.140	Initial Compliance Date

AUTHORITY: Implementing Section 16-128A of the Public Utilities Act [220 ILCS 5/16-128A] and authorized by Sections 16-128A and 10-101 of the Public Utilities Act [220 ILCS 5/128A and 10-101].

SOURCE: Adopted at 37 Ill. Reg. 6184, effective April 25, 2013.

**Section 468.20 Definitions**

Terms defined in Section 16-128A of the Act shall have the same meaning for purposes of this Part as they have under the Act, unless further defined in this Part.

"Act" means the Public Utilities Act [220 ILCS 5].

"Applicant" means a person or entity that files an application with the Illinois Commerce Commission (Commission) requesting certification pursuant to Section 16-128A of the Act to install distribution generation facilities.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

"Certificate holder" means an entity that has received certification pursuant to this Part and that is in good standing with the Commission.

"Directly supervised" means that there is a person on-site who meets the qualifications to perform distributed generation (DG) installations who is available for consultation and review of work performed by apprentices or electrical contractors who may be performing installations.

"Distributed generation facility" means the equipment used by an interconnection customer to generate or store electricity that operates in parallel with the electric distribution system. A distributed generation facility typically includes an electric generator, a prime mover, and the interconnection equipment required to safely interconnect with the electric distribution system or local electric power system.

"Entity" means an organization, institution or individual that has its own existence for legal or tax purposes and is involved in the business of installing distributed generation.

"Illinois Community College Board" is the State coordinating board for community colleges that administers the Public Community College Act [110 ILCS 805] in a manner that maximizes the ability of the community colleges to serve their communities.

"Install" means to complete the electrical wiring and connections necessary to interconnect the distributed generation facility with the electric utility's distribution system at the point of interconnection between the facility and the utility. The meaning of "install" in this Part specifically does not include:

Electrical wiring and connections to interconnect the distributed generation facility performed by utility workers on the electric utility's distribution system;

Electrical wiring and connections internal to the distributed generation facility performed by the manufacturer; or

Tasks not associated with the electrical interconnection of the distributed generation facility and the utility, including those relating to planning and project management performed by individuals such as an inspector,

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

management planner, consultant, project designer, contractor or supervisor for the project.

"NEC" shall mean the National Electric Code adopted by the National Fire Protection Association, Inc, 1 Batterymarch Park, Quincy MA 02169 (NFPA 70E), effective August 25, 2010.

"Qualified person" means a person who performs installations on behalf of the certificate holder and who has either satisfactorily completed at least five installations of a specific distributed generation technology or has completed at least one of the following programs requiring lab or field work and received a certification of satisfactory completion: an apprenticeship as a journeyman electrician from a DOL registered electrical apprenticeship and training program; a North American Board of Certified Energy Practitioners (NABCEP) distributed generation technology certification program; an Underwriters Laboratories (UL) distributed generation technology certification program; an Electronics Technicians Association (ETA) distributed generation technology certification program; or an Associate in Applied Science degree from an Illinois Community College Board approved community college program in the appropriate distributed generation technology. To be considered a "qualified person", the experience and/or training relied upon must be with the same type of distributed generation technology for which the qualification status is sought.

"Retail customer" means the same as that term is defined in Section 16-102 of the Act. For purposes of this Part, a "retail customer" includes that retail customer's employees, officers and agents.

*"Self-installer" means an individual who leases or purchases a cogeneration facility for his or her own personal use and installs such cogeneration or self-generation facility on his or her own premises without the assistance of any other person. [220 ILCS 5/16-128A(a)]*

"USDOL registered electrician apprenticeship program" and "United States Department of Labor registered electrician apprenticeship program" means an electrician apprenticeship training program that is registered with the United States Department of Labor (USDOL).

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

"USDOL certification of satisfactory completion" means that person has received a nationally recognized and portable Certificate of Completion from an electrician apprenticeship program that is registered with USDOL.

**Section 468.30 Applicability**

After December 31, 2013, with the exception of self-installers, all entities that install distributed generation facilities shall be certified by the Commission under this Part prior to installing any distributed generation facilities in the State of Illinois.

**Section 468.40 Application Procedures**

- a) The applicant shall file its application for certification under this Part and provide all information required by this Part.
- b) Contents of documents filed by applicants shall be consistent with Subpart B of the Commission's Rules of Practice (83 Ill. Adm. Code 200).
- c) Applications for certification shall be submitted with the appropriate fee payment.
- d) Applications for certification under this Part shall be filed with the Chief Clerk of the Commission and shall be verified by a corporate officer pursuant to 83 Ill. Adm. Code 200.130 (the Commission's Rules of Practice).

**Section 468.50 Required Application Information**

Applications for certification under this Part shall contain the following information:

- a) The applicant's name (including d/b/a, if any), street address, telephone number, facsimile number and website and email addresses. The applicant shall provide the business name as that name appears on its Illinois Secretary of State's Office registration. The applicant shall provide assumed business names if and only if those names are registered with the Illinois Secretary of State's Office. This information shall be kept current and any change shall be filed with the Chief Clerk of the Commission at the Commission's Springfield office within 15 days after the change occurs;

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- b) Contact information, including names, addresses, telephone numbers, facsimile numbers and e-mail addresses for persons or entities responsible for issues related to processing the application;
- c) Applicant's Federal Employer Identification Number (FEIN) or Taxpayer Identification Number (TIN), as applicable;
- d) A certification that the applicant will comply with informational and reporting requirements established under this Part;
- e) A statement that the Applicant agrees to accept service by electronic means as provided for in 83 Ill. Adm. Code 200.1050 (the Commission's Rules of Practice);
- f) An exhibit (with any confidential personal information such as a Social Security number redacted) containing the following information for each qualified person who will perform or directly supervise installations to satisfy the requirements of this Part:
  - 1) A copy of the certification of satisfactory completion of the relevant training programs; and/or
  - 2) An affidavit by each qualifying person attesting to having satisfactorily completed at least five installations of distributed generation facilities, the affidavit to include the type of each distributed generation facility (wind turbine, fuel cell, natural gas generator, etc.).

**Section 468.60 Certification Requirements**

An applicant shall be certified if its application satisfies the following requirements:

- a) The applicant certifies that it will remain in compliance with all applicable laws and regulations and Commission rules and orders, including, but not limited to, the requirements of Sections 16-128(a) and 16-128A of the Act and this Part.
- b) The applicant certifies that it will ensure that its employees, agents or contractors, or the employees, agents or contractors of any entity, agent or contractor with which it has contracted to perform those functions within the State of Illinois, shall:

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- 1) Comply with applicable building and electrical codes, including those contained in the NEC;
  - 2) Comply with the distributed generation facility manufacturer's installation instructions;
  - 3) Install only distributed generation facilities that meet recognized industry standards; and
  - 4) Ensure that all obligations required under this Part and Sections 16-128(a) and 16-128A of the Act are met prior to placing into, or returning into, use any distributed generation facility that the certificate holder installed.
- c) The applicant certifies that it will comply with applicable licensing and municipal bonding requirements to do business in the State of Illinois.
- d) The applicant certifies that every installation of a distributed generation facility will be performed only by:
- 1) a qualified person; or
  - 2) an electrical contractor who is not a qualified person, provided he/she is directly supervised by a qualified person; or
  - 3) a person who is not a qualified person but is enrolled in a training program that, upon satisfactory completion, will meet the requirement to become a qualified person provided he/she is directly supervised by a qualified person.
- e) The applicant certifies that it is licensed to do business in the State of Illinois.

**Section 468.70 Certifications Conditioned Upon Compliance**

Each certification issued to an applicant is conditioned upon compliance with the provisions of this Part and Sections 16-128(a) and 16-128A of the Act. Violation of this Part or the Act make the certificate holder subject to penalties, including suspension, revocation, fines or a combination of sanctions.

**Section 468.80 Annual Recertification and Reporting**

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- a) A certificate holder shall recertify annually to remain in good standing with the Commission. Recertification involves submitting a recertification report that includes the information required by subsection (c) and, for any late reports, any applicable late fees.
- b) By April 1 of each year, each certificate holder shall submit a recertification report identified with the name of the certificate holder as it appears in the most recent Commission order granting certification under this Part. The report shall be filed with the Chief Clerk of the Commission and shall be verified by a corporate officer pursuant to 83 Ill. Adm. Code 200.130 (the Commission's Rules of Practice).
- c) The recertification report shall contain the following information:
  - 1) A statement certifying that the certificate holder continues to maintain the required qualifications for the service authority granted in its certificate;
  - 2) A list of all qualified persons who installed distributed generation facilities on behalf of the certificate holder during the previous calendar year. For each person, state whether the certificate holder provided the person's qualifications to the Commission with the certificate holder's original application or with a recertification report. If the latter, identify the relevant recertification report for each person by the calendar year that it covered;
  - 3) A list of all qualified persons currently employed by the certificate holder. For each person not listed in response to subsection (c)(2), state when the person began employment and provide for each person proof of the person's qualifications consistent with Section 486.50(f);
  - 4) A statement confirming the certificate holder's continuing compliance with all requirements set forth in this Part and Sections 16-128(a) and 16-128A of the Act; and
  - 5) The number of distributed generation facilities, classified by installed generation capacity and fuel energy source (solar, wind, natural gas, etc.), that the certificate holder installed during the prior calendar year in each electric utility's service area.

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- d) The report shall not contain customer identifying information.
- e) All reports shall provide the name, telephone number and email and mailing addresses of at least one person who is designated by the certificate holder to address questions pertaining to the report.
- f) A certificate holder that does not submit a recertification report within 30 days after the April 1 annual recertification date is subject to late fees as specified in Section 468.120.

**Section 468.90 Complaint Procedures**

Complaints shall be filed in conformance with 83 Ill. Adm. Code 200.160 and 200.170 and 83 Ill. Adm. Code 280.170. The complaint shall comply with the Commission's Rules of Practice (83 Ill. Adm. Code 200).

**Section 468.100 Commission Oversight**

- a) Upon complaint or on the Commission's own motion, the Commission may investigate all activities subject to this Part or Sections 16-128(a) or 16-128A of the Act, including violations of this Part or the statutes.
- b) If, after notice and hearing, the Commission determines that an entity is installing distributed generation facilities without Commission certification, the Commission shall issue penalties for noncompliance.

**Section 468.110 Maintenance of Records**

The applicant shall agree to adopt and follow procedures ensuring that documentation regarding the installation of distributed generation facilities are retained for a period of not less than three calendar years after the calendar year in which they were created. These records shall be made available, upon request, to the Commission or its Staff on a confidential and proprietary basis.

**Section 468.120 Fees**

- a) The following fees shall apply:
  - 1) Application for certification \$50

## ILLINOIS COMMERCE COMMISSION

## NOTICE OF ADOPTED RULES

- |    |  |          |
|----|--|----------|
| 2) | Late filing annual recertification report<br>(minimum \$100) | \$10/day |
| 3) | Returned check fee   | \$25     |
- b) Application and recertification fees are nonrefundable.
- c) All fees under this Part shall be paid by certified check, cashier's check or money order made payable to "Illinois Commerce Commission/DG Certification". Each payment shall be accompanied by documentation identifying what fee is being paid, the entity's name, address and Federal Employer Identification Number (FEIN)/Taxpayer Identification Number (TIN).

**Section 468.130 Notification Requirements for Retail Customers Seeking Net Metering Service**

Electric utilities shall require retail customers who seek net metering service from an electric utility to provide the following information related to the installation of the retail customer's distributed generation facility:

- a) For a distributed generation facility that was self-installed, a statement from the retail customer certifying that the facility was self-installed;
- b) For a distributed generation facility that was not self-installed:
- 1) The business name, address and phone number of the entity that installed the distributed generation facility;
  - 2) The Commission docket number in which the entity obtained a certificate from the Commission; and
  - 3) A copy of the invoice for the installation services or other information demonstrating that the designated entity installed the distributed generation facility.

**Section 468.140 Initial Compliance Date**

The initial date for compliance with this Part is December 31, 2013.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

- 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: April 29, 2013
- 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 the *Illinois Register*: January 4, 2013; 37 Ill. Reg. 18
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences Between Proposal and Final Version: In subsection (d)(7)(a) through (d)(7)(d) of Section 140.462, changed the word "~~RHC~~" to "FQHC" and "~~RHC's~~" to "FQHC's". In subsection (d)(8)(a) through (d)(8)(c) of Section 140.462, changed the word "~~RHC~~" to "FQHC" and "~~RHC's~~" to "FQHC's".
- 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 rulemakings currently in effect? 37 Ill. Reg. 253, effective January 1, 2013, and 37 Ill. Reg. 1774, effective January 28, 2013.
- 14) Are there any other amendments pending on this Part? Yes

<u>Section 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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

140.570	Amendment	36 Ill. Reg. 7757; May 25, 2012
140.400	Amendment	36 Ill. Reg. 8594; June 15, 2012
140.438	Amendment	36 Ill. Reg. 8594; June 15, 2012
140.5	Amendment	36 Ill. Reg. 9650; July 6, 2012
140.642	Amendment	36 Ill. Reg. 9650; July 6, 2012
140.643	Amendment	36 Ill. Reg. 9650; July 6, 2012
140.491	Amendment	36 Ill. Reg. 18105; December 28, 2012
140.462	Amendment	37 Ill. Reg. 18; January 4, 2013
140.2	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.3	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.5	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.11	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.12	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.13	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.14	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.15	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.16	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.18	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.19	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.20	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.30	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.32	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.44	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.45	New	37 Ill. Reg. 1390; February 8, 2013
140.80	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.405	New	37 Ill. Reg. 1390; February 8, 2013
140.413	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.414	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.417	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.420	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.425	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.428	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.440	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.441	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.442	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.443	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.445	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.449	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.457	Amendment	37 Ill. Reg. 1390; February 8, 2013

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

140.458	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.469	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.470	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.471	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.472	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.473	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.474	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.477	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.498	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.523	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.Table D	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.Table F	Amendment	37 Ill. Reg. 1390; February 8, 2013
140.402	Amendment	37 Ill. Reg. 4429; April 12, 2013
140.481	Amendment	37 Ill. Reg. 5243; April 26, 2013

- 15) Summary and Purpose of Amendment: This rulemaking proposes to change the methodology by which Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) are reimbursed for implantable contraceptive devices under the Illinois Medicaid Program. The change is being made in order to maintain access to necessary medical services and allow the State to benefit from 340B pricing on these expensive devices pursuant to SMART Act [305 ILCS 5/5-5.12(1)]. For dates of service on or after July 1, 2012, FQHCs and RHCs may elect to be reimbursed under an alternative payment methodology (APM) for implantable contraceptive devices that the agency prohibits being billed through the Pharmacy System. Reimbursement for the implantable contraceptive devices shall be made at the Center's actual acquisition cost under the 340B Drug Pricing Program or the Department's rate published on the practitioner fee schedule, as applicable. Reimbursement through this APM is separate from any encounter.
- 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

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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

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 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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

- 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)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

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)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

- 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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

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
140.486	Illinois Healthy Women
140.487	Healthy Kids Program Timeliness Standards
140.488	Periodicity Schedules, Immunizations and Diagnostic Laboratory Procedures
140.490	Medical Transportation
140.491	Limitations on Medical Transportation
140.492	Payment for Medical Transportation
140.493	Payment for Helicopter Transportation
140.494	Record Requirements for Medical Transportation Services
140.495	Psychological Services
140.496	Payment for Psychological Services
140.497	Hearing Aids
140.498	Fingerprint-Based Criminal Background Checks

## SUBPART E: GROUP CARE

Section	
140.500	Long Term Care Services
140.502	Cessation of Payment at Federal Direction
140.503	Cessation of Payment for Improper Level of Care
140.504	Cessation of Payment Because of Termination of Facility
140.505	Informal Hearing Process for Denial of Payment for New ICF/MR
140.506	Provider Voluntary Withdrawal
140.507	Continuation of Provider Agreement
140.510	Determination of Need for Group Care
140.511	Long Term Care Services Covered By Department Payment
140.512	Utilization Control
140.513	Notification of Change in Resident Status
140.514	Certifications and Recertifications of Care (Repealed)
140.515	Management of Recipient Funds – Personal Allowance Funds
140.516	Recipient Management of Funds
140.517	Correspondent Management of Funds
140.518	Facility Management of Funds
140.519	Use or Accumulation of Funds

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

140.520	Management of Recipient Funds – Local Office Responsibility
140.521	Room and Board Accounts
140.522	Reconciliation of Recipient Funds
140.523	Bed Reserves
140.524	Cessation of Payment Due to Loss of License
140.525	Quality Incentive Program (QUIP) Payment Levels
140.526	County Contribution to Medicaid Reimbursement (Repealed)
140.527	Quality Incentive Survey (Repealed)
140.528	Payment of Quality Incentive (Repealed)
140.529	Reviews (Repealed)
140.530	Basis of Payment for Long Term Care Services
140.531	General Service Costs
140.532	Health Care Costs
140.533	General Administration Costs
140.534	Ownership Costs
140.535	Costs for Interest, Taxes and Rent
140.536	Organization and Pre-Operating Costs
140.537	Payments to Related Organizations
140.538	Special Costs
140.539	Reimbursement for Basic Nursing Assistant, Developmental Disabilities Aide, Basic Child Care Aide and Habilitation Aide Training and Nursing Assistant Competency Evaluation
140.540	Costs Associated With Nursing Home Care Reform Act and Implementing Regulations
140.541	Salaries Paid to Owners or Related Parties
140.542	Cost Reports – Filing Requirements
140.543	Time Standards for Filing Cost Reports
140.544	Access to Cost Reports (Repealed)
140.545	Penalty for Failure to File Cost Reports
140.550	Update of Operating Costs
140.551	General Service Costs Updates
140.552	Nursing and Program Costs
140.553	General Administrative Costs Updates
140.554	Component Inflation Index (Repealed)
140.555	Minimum Wage
140.560	Components of the Base Rate Determination
140.561	Support Costs Components
140.562	Nursing Costs
140.563	Capital Costs

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

140.565	Kosher Kitchen Reimbursement
140.566	Out-of-State Placement
140.567	Level II Incentive Payments (Repealed)
140.568	Duration of Incentive Payments (Repealed)
140.569	Clients With Exceptional Care Needs
140.570	Capital Rate Component Determination
140.571	Capital Rate Calculation
140.572	Total Capital Rate
140.573	Other Capital Provisions
140.574	Capital Rates for Rented Facilities
140.575	Newly Constructed Facilities (Repealed)
140.576	Renovations (Repealed)
140.577	Capital Costs for Rented Facilities (Renumbered)
140.578	Property Taxes
140.579	Specialized Living Centers
140.580	Mandated Capital Improvements (Repealed)
140.581	Qualifying as Mandated Capital Improvement (Repealed)
140.582	Cost Adjustments
140.583	Campus Facilities
140.584	Illinois Municipal Retirement Fund (IMRF)
140.590	Audit and Record Requirements
140.642	Screening Assessment for Nursing Facility and Alternative Residential Settings and Services
140.643	In-Home Care Program
140.645	Home and Community Based Services Waivers for Medically Fragile, Technology Dependent, Disabled Persons Under Age 21 (Repealed)
140.646	Reimbursement for Developmental Training (DT) Services for Individuals With Developmental Disabilities Who Reside in Long Term Care (ICF and SNF) and Residential (ICF/MR) Facilities
140.647	Description of Developmental Training (DT) Services
140.648	Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
140.649	Effective Dates of Reimbursement for Developmental Training (DT) Programs
140.650	Certification of Developmental Training (DT) Programs
140.651	Decertification of Day Programs
140.652	Terms of Assurances and Contracts
140.680	Effective Date Of Payment Rate
140.700	Discharge of Long Term Care Residents
140.830	Appeals of Rate Determinations

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

140.835 Determination of Cap on Payments for Long Term Care (Repealed)

SUBPART F: FEDERAL CLAIMING FOR STATE AND  
LOCAL GOVERNMENTAL ENTITIES

## Section

- 140.850 Reimbursement of Administrative Expenditures  
140.855 Administrative Claim Review and Reconsideration Procedure  
140.860 County Owned or Operated Nursing Facilities  
140.865 Sponsor Qualifications (Repealed)  
140.870 Sponsor Responsibilities (Repealed)  
140.875 Department Responsibilities (Repealed)  
140.880 Provider Qualifications (Repealed)  
140.885 Provider Responsibilities (Repealed)  
140.890 Payment Methodology (Repealed)  
140.895 Contract Monitoring (Repealed)  
140.896 Reimbursement For Program Costs (Active Treatment) For Clients in Long Term  
Care Facilities For the Developmentally Disabled (Recodified)  
140.900 Reimbursement For Nursing Costs For Geriatric Residents in Group Care  
Facilities (Recodified)  
140.901 Functional Areas of Needs (Recodified)  
140.902 Service Needs (Recodified)  
140.903 Definitions (Recodified)  
140.904 Times and Staff Levels (Repealed)  
140.905 Statewide Rates (Repealed)  
140.906 Reconsiderations (Recodified)  
140.907 Midnight Census Report (Recodified)  
140.908 Times and Staff Levels (Recodified)  
140.909 Statewide Rates (Recodified)  
140.910 Referrals (Recodified)  
140.911 Basic Rehabilitation Aide Training Program (Recodified)  
140.912 Interim Nursing Rates (Recodified)

## SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

## Section

- 140.920 General Description  
140.922 Covered Services  
140.924 Maternal and Child Health Provider Participation Requirements

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

- 140.926 Client Eligibility (Repealed)
- 140.928 Client Enrollment and Program Components (Repealed)
- 140.930 Reimbursement
- 140.932 Payment Authorization for Referrals (Repealed)

SUBPART H: ILLINOIS COMPETITIVE ACCESS AND  
REIMBURSEMENT EQUITY (ICARE) PROGRAM

## Section

- 140.940 Illinois Competitive Access and Reimbursement Equity (ICARE) Program (Recodified)
- 140.942 Definition of Terms (Recodified)
- 140.944 Notification of Negotiations (Recodified)
- 140.946 Hospital Participation in ICARE Program Negotiations (Recodified)
- 140.948 Negotiation Procedures (Recodified)
- 140.950 Factors Considered in Awarding ICARE Contracts (Recodified)
- 140.952 Closing an ICARE Area (Recodified)
- 140.954 Administrative Review (Recodified)
- 140.956 Payments to Contracting Hospitals (Recodified)
- 140.958 Admitting and Clinical Privileges (Recodified)
- 140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
- 140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
- 140.964 Contract Monitoring (Recodified)
- 140.966 Transfer of Recipients (Recodified)
- 140.968 Validity of Contracts (Recodified)
- 140.970 Termination of ICARE Contracts (Recodified)
- 140.972 Hospital Services Procurement Advisory Board (Recodified)
- 140.980 Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)
- 140.982 Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)

## SUBPART I: PRIMARY CARE CASE MANAGEMENT PROGRAM

## Section

- 140.990 Primary Care Case Management Program

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

140.991	Primary Care Provider Participation Requirements
140.992	Populations Eligible to Participate in the Primary Care Case Management Program
140.993	Care Management Fees
140.994	Panel Size and Affiliated Providers
140.995	Mandatory Enrollment
140.996	Access to Health Care Services
140.997	Payment for Services

## SUBPART J: ALTERNATE PAYEE PARTICIPATION

## Section

140.1001	Registration Conditions for Alternate Payees
140.1002	Participation Requirements for Alternate Payees
140.1003	Recovery of Money for Alternate Payees
140.1004	Conditional Registration for Alternate Payees
140.1005	Revocation of an Alternate Payee

## SUBPART K: MANDATORY MCO ENROLLMENT

140.1010	Mandatory Enrollment in MCOs
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## SUBPART L: UNAUTHORIZED USE OF MEDICAL ASSISTANCE

## Section

140.1300	Definitions
140.1310	Recovery of Money
140.1320	Penalties
140.1330	Enforcement
140.TABLE A	Criteria for Non-Emergency Ambulance Transportation
140.TABLE B	Geographic Areas
140.TABLE C	Capital Cost Areas
140.TABLE D	Schedule of Dental Procedures
140.TABLE E	Time Limits for Processing of Prior Approval Requests
140.TABLE F	Podiatry Service Schedule
140.TABLE G	Travel Distance Standards
140.TABLE H	Areas of Major Life Activity
140.TABLE I	Staff Time and Allocation for Training Programs (Recodified)

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

140.TABLE J	HSA Grouping (Repealed)
140.TABLE K	Services Qualifying for 10% Add-On (Repealed)
140.TABLE L	Services Qualifying for 10% Add-On to Surgical Incentive Add-On (Repealed)
140.TABLE M	Enhanced Rates for Maternal and Child Health Provider Services

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

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.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

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;

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

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;

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

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; emergency amendment at 36 Ill. Reg. 11329, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 140.442(e)(4) suspended at 36 Ill. Reg. 13736, effective August 15, 2012; suspension withdrawn from Section 140.442(e)(4) at 36 Ill. Reg. 14529, September 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.442(e)(4) at 36 Ill. Reg. 14820, effective September 21, 2012 through June 30, 2013; emergency amendment to Section 140.491 suspended at 36 Ill. Reg. 13738, effective August 15, 2012; suspension withdrawn by the Joint Committee on Administrative Rules from Section 140.491 at 37 Ill. Reg. 890, January 8, 2013; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.491 at 37 Ill. Reg. 1330, effective January 15, 2013 through June 30, 2013; amended at 36 Ill. Reg. 15361, effective October 15, 2012; emergency amendment at 37 Ill. Reg. 253, effective January 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 846, effective January 9, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 1774, effective January 28, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2348, effective February 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 3831, effective March 13, 2013; emergency amendment at 37 Ill. Reg. 5058, effective April 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5170, effective April 8, 2013 through June 30, 2013; amended at 37 Ill. Reg. 6196, effective April 29, 2013.

## 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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

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 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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

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;
  - 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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

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 with the exception of services identified in subsections (c)(7) and (c)(8).
- 7) Effective July 1, 2012 through June 30, 2013, a physician or APN may submit fee-for-service billings for implantable contraceptive devices administered in an RHC. Reimbursement for the implantable contraceptive devices shall be made in accordance with the following:
  - A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the RHC's actual acquisition cost;
  - B) The RHC must be listed as the payee on the claim;
  - C) Reimbursement shall be made at the RHC 's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;
  - D) This reimbursement shall be separate from any encounter payment the RHC may receive for implanting the device.
- 8) Effective July 1, 2013, an RHC may submit fee-for-service billings for implantable contraceptive devices. Reimbursement for the implantable contraceptive device shall be made in accordance with the following:
  - A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the RHC's actual acquisition cost;
  - B) Reimbursement shall be made at the RHC 's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;
  - C) This reimbursement shall be separate from any encounter payment the RHC may receive for implanting the device.

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

- 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).
  - 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;

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

- 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.
- 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 with the exception of services identified in subsections (d)(7) and (d)(8).
- 7) Effective July 1, 2012 through June 30, 2013, a physician or APN may submit fee-for-service billings for implantable contraceptive devices administered in an FQHC. Reimbursement for the implantable contraceptive devices shall be made in accordance with the following:
- A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the FQHC's actual acquisition cost;
  - B) The FQHC must be listed as the payee on the claim;
  - C) Reimbursement shall be made at the FQHC's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;
  - D) This reimbursement shall be separate from any encounter payment the FQHC may receive for implanting the device.
- 8) Effective July 1, 2013, an FQHC may submit fee-for-service billings for implantable contraceptive devices. Reimbursement for the implantable contraceptive device shall be made in accordance with the following:

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

- A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the FQHC's actual acquisition cost;
- B) Reimbursement shall be made at the FQHC's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;
- C) This reimbursement shall be separate from any encounter payment the FQHC may receive for implanting the device.

## 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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

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, 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

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF ADOPTED AMENDMENT

- 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)  
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 37 Ill. Reg. 6196, effective April 29, 2013)

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Health Facilities Planning Operational Rules

2) Code Citation: 77 Ill. Adm. Code 1130

3) Section Numbers:                      Adopted Action:

1130.110	Amend
1130.120	Amend
1130.130	Amend
1130.140	Amend
1130.150	Amend
1130.210	Amend
1130.215	New
1130.220	Amend
1130.230	Amend
1130.240	Amend
1130.250	New
1130.310	Amend
1130.410	Amend
1130.500	Amend
1130.510	Repeal
1130.520	Amend
1130.531	Amend
1130.540	Amend
1130.541	Repeal
1130.544	Repeal
1130.550	Amend
1130.560	Amend
1130.570	Amend
1130.580	New
1130.590	New
1130.610	Amend
1130.620	Amend
1130.630	Amend
1130.635	Amend
1130.640	Amend
1130.650	Amend
1130.655	Amend
1130.660	Amend
1130.670	Amend

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

1130.680	Amend
1130.710	Amend
1130.720	Amend
1130.730	Amend
1130.740	Amend
1130.750	Amend
1130.760	Amend
1130.770	Amend
1130.775	New
1130.780	Amend
1130.790	Amend
1130.810	Amend
1130.910	Amend
1130.920	Amend
1130.930	Amend
1130.940	Amend
1130.950	Amend
1130.960	Repeal
1130.970	Repeal
1130.990	Amend
1130.995	Amend
1130.1010	Amend
1130.1020	Amend
1130.1030	Amend
1130.1040	Amend
1130.1060	Amend
1130.1080	Amend
1130.1090	Amend
1130.1110	Amend
1130.1120	Amend
1130.1130	Amend
1130.1140	Amend
1130.1150	Amend
1130.1160	Amend
1130.1170	Amend
1130.1180	Amend
1130.1200	Amend
1130.APPENDIX A	New

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960/12]
- 5) Effective Date of Rulemaking: June 1, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Amendments Published in the *Illinois Register*: 36 Ill. Reg. 6210; April 27, 2012
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No

- 11) Differences between Proposal and Final Version: The following changes were made in response to comments received during the first notice or public comment period:

In Section 1130.140, the definition for "Audit" the term "annual audit" was changed to "most recent audit";

In Section 1130, the definition for "Completion" or "Project Completion" was revised to combine requirements for "projects limited to total discontinuation" and "projects related to discontinuation of a category of service";

In Section 1130.140, the definition for "Interdependent Projects" was corrected to reflect the language of the Act.

In Section 1130.140, the language in the definition for "Major Construction Projects" was italicized, since it is statutory language.

In Section 1130.140, the definition for "Substantive Projects" was changed from "over a 3-year period." to "over a 2-year period." to reflect the language of the Act;

In Section 1130.140, the definition for "Relinquishment of a Permit" added the following language: "The inventory will be modified, if affected by the permit relinquishment, to the same status as prior to the permit issuance.";

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

In Section 1130.140, the deleted language in the definition for "Substantially Changes the Scope or Changes the Functional Operation of a Facility" was reinstated;

In Section 1130.140, the definition for "Supplemental Permit" was reinstated;

In Section 1130.140, the definition for "Interdependent Components" was revised to increase the time allowance and to provide for an extension;:

In Section 1130.230(h)(6)(A) – "Fees", the fee for an alteration request was changed to a flat fee of \$1,000;

In Section 1130.230(a) – "Fees", the language was italicized, since it is from the Act;

The language in Section 1130.230(h)(6)(A), (B) and (C) was changed from references to "permit renewals" to "alterations";

In Section 1130.250 – "HFSRB Meetings", subsection (b) was eliminated from the proposed rulemaking;

In subsection 1130.250(a)(5), language was deleted, as follows:

~~"unless the HFSRB Chair or a majority of Board members determine that it is in the best interest of HFSRB to allow a non-applicant or designated party to speak."~~

Language was added to subsection 1130.250(d)(2), allowing an applicant to respond to statements that were made about the applicant's project during the public participation period;

Sections 1130.635(a)(4); 1130.750(d)(1)(C); 1130.760(e); 1130.770(a)(3); 1130.950(c)(2); and 1130.995(e) were revised to allow for submission of information, alterations, reports, notifications, and comments by any recognized overnight courier or personal delivery service;

In Section 1130.410(b), the deleted language regarding exemptions involving "Discontinuation" was reinstated;

Section 1130.540 – "Requirements for Exemptions Involving Discontinuation" was reinstated;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

Section 1130.531 – Exemption – Neonatal Intensive Care Service", the repealed language was reinstated;

Section 1130.590 – "Revocation of an Exemption", the existing language was corrected from "the CON application" to "the Application for Exemption"

Section 1130.620(c)(2) – "Technical Assistance, Classification, Completeness Review, Review Procedures and Review Fees" – The language of this subsection was changed for clarification of application completion requirements;

Section 1130.635(b)(2) – "Additional Information Provided During the Review Process" - The language that allows an applicant to submit additional information in response to an HFSRB request was reinstated;

Section 1130.750 – "Alteration of Post-Permit Projects", subsection (A)(2) was moved to (A)(1), and language was added to subsection (a)(1) for clarification

In Section 1130.750(d)(8), the fee for alteration was changed to a flat fee of \$1,000;

In Section 1130.760 – "Annual Progress Reports", the language was revised, changing "due on the anniversary date "to "due by the anniversary date";

Section 1130.780(b) was revised for clarification:

The following changes were made in response to comments and suggestions of JCAR:

In the Table of Contents, "Repealed" was deleted from "1130.531 Requirements for Exemptions for the Establishment or Expansion of Neonatal Intensive Care Service and Beds (Repealed)" and "1130.540 Requirements for Exemptions Involving Discontinuation (Repealed)";

In the Table of Contents, "Annual Adjustments to Review Thresholds (Repealed)" was changed to "Capital Expenditure Minimums/Review Thresholds";

In Section 1130.110(b) – "Thirty days after the date these amendments are filed" was changed to "After June 1, 2013";

In Section 1130.140, a new definition was added for "Inventory";

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

In Section 1130.240(e), language was changed, as follows:

"Health care facilities and persons that fail to timely or completely comply with the notice and information requirements of HFSRB, including post-permit requirements, shall be considered in violation of the Act. This shall subject the permit holder or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act and HFSRB rules. HFPB are subject to the sanctions and penalties provided by the Act."

A new subsection was added to Section 1130.250(a) – "HFSRB Meetings – General Guidelines", as follows:

"7) Applicants and their representatives are able to respond to all questions and statements made by Board members at the time of Board consideration of the applicant's project. The entire proceedings of every HFSRB meeting are transcribed by a court reporter and this transcription will serve as the administrative record of the HFSRB meeting."

In Section 1130.310(a)(1), the address for RS Means was updated;

In the Section 1130.530 Source Note, "Repealed" was changed to "Amended";

Sections 1130.635(a)(4); 1130.750(d)(1)(C); 1130.760(e); 1130.770(a)(3); 1130.950(c)(2); and 1130.995(e) were changed, as follows:

"by any recognized overnight courier **and** personal delivery service" to "by any overnight courier **or** personal delivery service.";

A new Section 1130.Appendix A was added to provide the capital expenditure minimums, which are used as Certificate of Need review thresholds.

In addition, citations and other references were added, and various typographical grammatical, and form changes were made in response to the comments from 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

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The subject amendments to Part 1130 are proposed to: reflect recent changes to the Health Facilities Planning Act [20 ILCS 3960]; amend language for clarification and in some cases, expansion of operational requirements of the Certificate of Need (CON) process; and repeal Sections that have been deemed outdated or unnecessary.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Claire Burman  
Rules Coordinator  
Health Facilities and Services Review Board  
122 S. Michigan Avenue, Suite 700  
Chicago, IL 60603

312/814-8814  
e-mail: [Claire.Burman@illinois.gov](mailto:Claire.Burman@illinois.gov)

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

HEALTH FACILITIES AND SERVICES REVIEW BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER II: HEALTH FACILITIES AND SERVICES REVIEW ~~PLANNING~~ BOARD  
SUBCHAPTER b: OTHER BOARD RULES

PART 1130

HEALTH FACILITIES AND SERVICES REVIEW ~~OPERATIONAL~~ ~~PLANNING~~  
PROCEDURAL RULES

SUBPART A: AUTHORITY

Section

- 1130.110 Statutory Authority/Applicability
- 1130.120 Introduction
- 1130.130 Purpose
- 1130.140 Definitions
- 1130.150 Referenced and Incorporated Materials

SUBPART B: GENERAL REQUIREMENTS

Section

- 1130.210 Persons and Facilities Subject to the Act
- 1130.215 Health Care Facilities Subject to the Act
- 1130.220 Necessary Parties to the Application for Permit or Exemption
- 1130.230 Fees
- 1130.240 Reporting and Notification Requirements
- 1130.250 HFSRB Meetings

SUBPART C: PROJECTS OR TRANSACTIONS SUBJECT TO THE ACT

Section

- 1130.310 Projects or Transactions Subject to the Act

SUBPART D: PROJECTS OR TRANSACTIONS ELIGIBLE FOR EXEMPTION FROM PERMIT REQUIREMENTS

Section

- 1130.410 Projects or Transactions Exempt from Permit Requirements

SUBPART E: OPERATIONAL ~~PROCEDURAL~~ REQUIREMENTS FOR EXEMPTIONS

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

## Section

- 1130.500 General Requirements for Exemptions  
1130.510 Requirements for Exemptions Involving the Acquisition of Major Medical Equipment ([Repealed](#))  
1130.520 Requirements for Exemptions Involving the Change of Ownership of a Health Care Facility  
1130.530 Requirements for Exemptions Involving Health Maintenance Organizations (Repealed)  
1130.531 Requirements for Exemptions for the Establishment or Expansion of Neonatal Intensive Care Service and Beds  
1130.539 Requirements for Exemptions Involving the Establishment of Positron Emission Tomography (P.E.T.) Service (Repealed)  
1130.540 Requirements for Exemptions Involving Discontinuation  
1130.541 Requirements for Exemptions for Combined Facility Licensure ([Repealed](#))  
1130.542 Requirements for Exemptions for Temporary Use of Beds for Demonstration Programs (Repealed)  
1130.543 Requirements for Exemption for Equipment to be Acquired By or on Behalf of a Health Care Facility (Repealed)  
1130.544 Requirements for Exemption for the Addition of Dialysis Stations ([Repealed](#))  
1130.550 Agency Processing of an Application for Exemption  
1130.560 State Board Action  
1130.570 Validity of an Exemption and Reporting Requirements  
[1130.580 Relinquishment of an Exemption](#)  
[1130.590 Revocation of an Exemption](#)

SUBPART F: [OPERATIONALPROCEDURAL](#) REQUIREMENTS FOR THE REVIEW AND PROCESSING OF APPLICATIONS FOR PERMIT

## Section

- 1130.610 Duration of the Review Period and Time Frames  
1130.620 Technical Assistance, ~~Letter of Intent~~, Classification, Completeness Review, ~~and~~ Review Procedures [and Application Processing Fee](#)  
1130.630 [HFSRB StaffAgency](#) Actions During the Review Period  
1130.635 Additional Information Provided During the Review Period  
1130.640 Extension of the Review Period  
1130.650 Modification of an Application  
1130.655 [HFSRBHFPB](#) Consideration and Action  
1130.660 Approval of an Application

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1130.670 Intent to Deny an Application  
1130.680 Denial of an Application

## SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

## Section

- 1130.710 Validity of Permits  
1130.720 Obligation  
1130.730 Extension of the Obligation Period  
1130.740 [Permit Renewal of a Permit](#)  
1130.750 Alteration of [Post-Permit Projects](#) ~~a Project for which a Permit Has Been Issued~~  
1130.760 Annual Progress Reports  
1130.770 Project Completion, Final Realized Costs and Cost Overruns  
1130.775 [Relinquishment of a Permit](#)  
1130.780 Revocation of a Permit  
1130.790 Penalties, Fines and Sanctions Mandated in the Illinois Health Facilities Planning Act for Non-compliance with the Act and [HFSRB/HFPB's](#) Rules

## SUBPART H: DECLARATORY RULINGS

## Section

- 1130.810 Declaratory Rulings

## SUBPART I: PUBLIC HEARING AND COMMENT PROCEDURES

## Section

- 1130.910 Applicability  
1130.920 Notice of Review and Opportunity for Public Hearing and Comment on Applications for Permit  
1130.930 Notice of Public Hearing on Applications for Permit  
1130.940 Procedures for Public Hearing on Applications for Permit  
1130.950 Written Comments on Applications for Permit  
1130.960 Notice Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition) [\(Repealed\)](#)  
1130.970 Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition) [\(Repealed\)](#)  
1130.980 Procedures Concerning Public Hearing for Certificate of Exemption for Change of Ownership  
1130.990 Procedures for Public Hearing and Comment on Proposed Rules

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

1130.995 Procedures for Public Comment on All Other Matters

## SUBPART J: PRACTICE AND PROCEDURE IN ADMINISTRATIVE HEARINGS

## Section

- 1130.1010 The Right to an Administrative Hearing and Applicable Rules
- 1130.1020 Initiation of a Contested Case (Pleadings)
- 1130.1030 Waiver of Hearing
- 1130.1040 Parties to Hearings
- 1130.1050 Appearance – Right to Counsel
- 1130.1060 Prehearing Conferences
- 1130.1070 Intervention
- 1130.1080 Disqualification of Administrative Law Judge
- 1130.1090 Form of Papers
- 1130.1100 Service
- 1130.1110 Conduct of Hearings
- 1130.1120 Discovery
- 1130.1130 Motions
- 1130.1140 Subpoenas
- 1130.1150 Administrative Law Judge's Report and Final Decision
- 1130.1160 Proposal for Decision
- 1130.1170 Final Decision
- 1130.1180 Records of Proceedings
- 1130.1190 Miscellaneous
- 1130.1200 ~~Number of~~ Copies of Pleadings to be Filed
- 1130.1210 Applicability

1130.APPENDIX A [Capital Expenditure Minimums/Review Thresholds Annual Inflation Adjustments to Review Thresholds \(Repealed\)](#)

AUTHORITY: Authorized by Section 12 of and implementing the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Adopted at 14 Ill. Reg. 7183, effective May 1, 1990; emergency amendment at 15 Ill. Reg. 4787, effective March 18, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 9731, effective June 17, 1991; emergency amendments at 16 Ill. Reg. 13153, effective August 4, 1992, for a maximum of 150 days; emergency expired January 1, 1993; amended at 17 Ill. Reg. 4448, effective March 24, 1993; amended at 17 Ill. Reg. 5882, effective March 26, 1993; amended at 19 Ill. Reg. 2972, effective March 1, 1995; expedited correction at 21 Ill. Reg. 3753, effective

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

March 1, 1995; recodified at 20 Ill. Reg. 2597; emergency amendment at 21 Ill. Reg. 12671, effective September 2, 1997, for a maximum of 150 days; emergency expired January 30, 1998; amended at 23 Ill. Reg. 2911, effective March 15, 1999; emergency amendment at 23 Ill. Reg. 3835, effective March 15, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7752, effective July 9, 1999; amended at 24 Ill. Reg. 6013, effective April 7, 2000; amended at 25 Ill. Reg. 10786, effective August 24, 2001; amended at 27 Ill. Reg. 2976, effective February 21, 2003; amended at 30 Ill. Reg. 14852, effective September 1, 2006; amended at 31 Ill. Reg. 15270, effective November 1, 2007; amended at 32 Ill. Reg. 12355, effective July 18, 2008; amended at 37 Ill. Reg. 6227, effective June 1, 2013.

## SUBPART A: AUTHORITY

**Section 1130.110 Statutory Authority/Applicability**

- a) This Part is promulgated by authority granted to the Illinois Health Facilities and Services Review ~~Planning~~ Board (HFSRB ~~State Board~~) under the Illinois Health Facilities Planning Act (the Act) [20 ILCS 3960].
- b) After June 1, 2013 ~~September 1, 2006~~, all applications in the review process and all projects for which permits or exemptions have been issued but have not been completed shall be subject to the provisions of this Part.
- c) The HFSRB rules in effect on the date of the alleged violation of the Act and/or this Part shall be applicable concerning all considerations and issues of compliance with HFSRB requirements.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.120 Introduction**

Part 1130 establishes the procedures and requirements for processing and review of applications for permit, applications for exemptions, and other matters that are subject to the Act and to determinations by the Illinois Health Facilities and Services Review ~~Planning~~ Board (HFSRB ~~HFPB~~). This Part pertains to, but is not limited to: persons and transactions subject to the Act; the requirements for submission of applications for permit or exemption; the HFSRB ~~IDPH and HFPB~~ review process, public hearing procedures for applications and proposed rules; requirements for maintaining valid permits; declaratory rulings; and administrative hearings.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.130 Purpose**

- a) *The purpose of the Health Facilities Planning Act is to establish a procedure designed to reverse the trends of increasing costs of health care resulting from unnecessary construction of health care facilities. This program is established to:*
- 1) improve the financial ability of the public to obtain necessary health services; ~~and~~*
  - 2) ~~to~~ establish an orderly and comprehensive health care delivery system which will guarantee the availability of quality health care to the general public;*
  - 3) maintain and improve the provision of essential health care services and increase the accessibility of those services to the medically underserved and indigent;*
  - 4) assure that the reduction and closure of health care services or facilities is performed in an orderly and timely manner, and that these actions are deemed to be in the best interests of the public; and*
  - 5) assess the financial burden to patients caused by unnecessary health care construction and modification. [20 ILCS 3960/2].*
- b) Decisions regarding proposed new health services and facilities shall be made for reasons having to do with the community health needs in the various parts of the State. The burden of proof on all issues pertaining to an application shall be on the applicant.
- c) The health facilities ~~and services review~~planning program shall be administered with the goal of maximizing the efficiency of capital investment and the objectives of:
- 1) Promoting development of more effective methods of delivering health care;
  - 2) Improving distribution of health care facilities and services and ensuring

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

access to needed health care services for the general public, the medically indigent and similar underserved populations;

- 3) Controlling the increase of health care costs;
- 4) Promoting planning for health care services at the facility, regional and State levels;
- 5) Maximizing the use of existing health care facilities and services that represent the least costly and most appropriate levels of care; and
- 6) Minimizing the unnecessary duplication of health care facilities and services.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.140 Definitions**

"Act" means the Illinois Health Facilities Planning Act [20 ILCS 3960].

"Administrative Law Judge" means the person appointed to preside at administrative hearings under Subpart J of this Part and pursuant to the Act.

"Administrator" means the chief executive officer of HFSRB, responsible to the HFSRB Chairman and, through the Chairman, responsible to HFSRB for the execution of its policies and procedures.

"Adverse Action" means a disciplinary action taken by IDPH, CMMS, or any other State or federal agency against a person or entity that owns orand/or operates or owns and operates a licensed or Medicare or Medicaid certified healthcare facility in the State of Illinois. These actions include, but are not limited to, all Type "A" and Type "AA" violations. As defined in Section 1-129 of the Nursing Home Care Act [210 ILCS 45], *"Type 'A' violation" means a violation of the Nursing Home Care Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that risk of death or serious mental or physical harm to a resident will result therefrom or has resulted in actual physical or mental harm to a resident. As defined in Section 1-128.5 of the Nursing Home Care Act, a "Type AA violation" means a violation of the Act*

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility that proximately caused a resident's death. [210 ILCS 45/1-129]

"Affirmation" means a statement, declaration, proclamation, pronouncement or notice made by an applicant regarding the information requirements for an application for exemption, with the understanding that there are still consequences to any matters that are non-compliant with the terms of the exemption issued.

"Agency" or "IDPH" means the Illinois Department of Public Health.

"Alteration" means any revision or change to a project as detailed in the application that occurs after HFSRB/HFPB issuance of the permit. A completed project cannot be altered. The site of the proposed project or the persons who are the permit holder cannot be altered.

"Applicant" means a person~~one or more persons~~, as defined in the Act, who applies~~apply~~ for a permit or exemption. See Section 1130.220 to determine what parties are necessary for an application.

"Audit" means the most recent formal examination, correction and official endorsement of financial reports by an independent certified public accountant.

"Authorized Representative" means a person who has authority to act on behalf of the legal entity or person that is the applicant or permit holder. Authorized representatives are: in the case of a corporation, any of its officers or members of its board of directors; in the case of a limited liability company, any of its managers or members (or the sole manager or member when two or more managers or members do not exist); in the case of a partnership, any of its general partners (or the sole general partner when two or more general partners do not exist); in the case of estates and trusts, any of its beneficiaries (or the sole beneficiary when two or more beneficiaries do not exist); and in the case of a sole proprietor, the individual who is the proprietor.

"Capital Expenditure" *means an expenditure made by or on behalf of a health care facility (as such a facility is defined in the Act), which, under generally accepted accounting principles, is not properly chargeable as an expense of operation and maintenance, or is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part*

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

*and which exceeds the capital expenditure minimum. For purposes of this definition, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition, improvement, expansion, or replacement of any plant or equipment with respect to which an expenditure is made shall be included in determining if such expenditure exceeds the capital expenditure minimum. Unless otherwise interdependent or submitted as one project by the applicant, components of construction or modification undertaken by means of a single construction contract or financed through the issuance of a single debt instrument shall not be grouped together as one project. Donations of equipment or facilities to a health care facility which if acquired directly by such facility would be subject to review under the Act shall be considered capital expenditures, and a transfer of equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review. [20 ILCS 3960/3]*

"Capital Expenditure Minimum" means the dollar amount or value which would require a permit for capital projects and major medical equipment. Capital expenditure minimums are ~~adjusted annually~~adjusted to reflect the increase in construction costs due to inflation per Section 1130.310. Current capital expenditure minimums are posted on the HFSRB website ([www.hfsrb.illinois.gov](http://www.hfsrb.illinois.gov)) and Appendix A.

"Censure" means a formal and public reprimand issued by HFSRB.

"CMMS" means the federal Centers for Medicare and Medicaid Services.

"Chairman" means the presiding officer of ~~HFSRB~~HFPB.

"Change in the Bed Count of a Health Care Facility" means a change in a health care facility's authorized bed capacity, including reductions, increases with permit or allowable increases without permit. A permit or exemption shall be obtained prior to the construction or modification of a health care facility that: changes the bed capacity of a health care facility by increasing the total number of beds or by distributing beds among various categories of service or by relocating beds from one physical facility to another by more than 20 beds or 10% of total bed capacity as defined by the State Board in its [Inventory of Health Care Facilities and Services and Need Determinations found on the Board's website at](#)

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

[www.hfsrb.illinois.gov](http://www.hfsrb.illinois.gov), *whichever is less, over a 2-year period.* [20 ILCS 3960/5] (See Section 1130.240(f) for more detail.)

"Change of Ownership" means a change in the person who has operational control of an existing health care facility or *a change in the person who has ownership or control of a health care facility's physical plant and capital assets. A change of ownership is indicated by, but not limited to, the following transactions: sale, transfer, acquisition, leases, change of sponsorship or other means of transferring control.* ~~a change in the person who has ownership or control of a health care facility's physical plant and capital assets. A change of ownership is indicated by, but not limited to, the following transactions: sale, transfer, acquisition, leases, change of sponsorship or other means of transferring control.~~ [20 ILCS 3960/3]

Examples of change of ownership include:

a transfer of stock or assets resulting in a person obtaining majority interest (i.e., over 50%) in the person who is licensed or certified (if the facility is not subject to licensure), or in the person who owns or controls the health care facility's physical plant and capital assets; or

the issuance of a license by IDPH to a person different from the current licensee; or

for facilities not subject to licensing, the issuance of a provider number to a different person by certification agencies that administer Titles XVIII and XIX of the Social Security Act; or

a change in the membership or sponsorship of a not-for-profit corporation; or

a change of 50% or more of the voting members of a not-for-profit corporation's board of directors, during any consecutive 12 month period, that controls a health care facility's operations, license, certification (when the facility is not subject to licensing) or physical plant and capital assets; or

a change in the sponsorship or control of the person who is licensed or certified (when the facility is not subject to licensing) to operate, or who owns the physical plant and capital assets of a governmental health care facility; or

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

any other transaction that results in a person obtaining control of a health care facility's operations or physical plant and capital assets, including leases.

"Charity Care" means care provided by a health care facility for which the provider does not expect to receive payment from the patient or a third party payer. [20 ILCS 3960/3]

"Clinical Service Area" means a department or service that is directly~~department and/or service that is directly~~ related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility [20 ILCS 3960/3]. A clinical service area's physical space shall include those components required under the facility's licensure or Medicare and/or~~and/or~~ Medicaid Certification, and/or~~and/or~~ as outlined by documentation from the facility as to the physical space required for appropriate clinical practice.

"Co-applicant" means a person, as defined in the Act, who, together with other persons, applies for a permit or exemption. (See Section 1130.220 to determine what parties are necessary for an application.)

"Combined Service Area Project" means a project that consists of both clinical service areas and non-clinical service areas.

"Completion" or "Project Completion" means that the project has been brought to a conclusion as evidenced by one or more of the following events ~~concerning~~:

For projects with no cost that are limited to total discontinuation of a facility or for discontinuation of a category of service, of a category of service, ~~when~~ the date the last patient is discharged or the date the permit for discontinuation is issued, whichever comes later; or

For projects with no cost that are limited to a substantial change in beds in licensed long-term care facilities, the date IDPH issues a revised license; or

For projects with no cost that are limited to a substantial change in beds in licensed hospitals or in State-operated facilities, the date the first patient is treated; or

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

For projects limited to the establishment of a category of service, the date the first patient is treated; or

For projects limited to the establishment of a health care facility, the date the health care facility is licensed or, if licensure is not required, the date the facility receives Medicare/Medicaid certification; or

For projects limited to the acquisition of major medical equipment, the date the equipment is utilized to treat the first patient; or

For projects limited to the addition of end-stage renal dialysis stations and for projects, with a cost, that are limited to the addition of beds, the date the first patient is treated; or

For all other projects, including modernization of existing facilities, project completion occurs when all components of the project are fulfilled as stated in the application for permit or exemption; or

For projects with permits~~if the permit was~~ issued with conditions, the date HFSRB staff~~project completion occurs when HFPB~~ deems the conditions have been met.

"Completion Date" or "Project Completion Date" means the date established by the applicant~~HFPB~~ for the completion of the project in the approval of the permit or subsequent renewal, as evidenced by one or more of the events cited in the definition for "Completion".

"Construction" or "Modification" *means the establishment, erection, building, alteration, reconstruction, modernization, improvement, extension, discontinuation, change of ownership of or by a health care facility, or the purchase or acquisition by or through a health care facility of equipment or service for diagnostic or therapeutic purposes or for facility administration or operation or any capital expenditure made by or on behalf of a health care facility which exceeds the capital expenditure minimum; however, any capital expenditures made by or on behalf of a health care facility for the construction or modification of a facility licensed under the Assisted Living and Shared Housing Act or a conversion project undertaken in accordance with Section 30 of the Older Adult Services Act shall be excluded from any obligations under the Act.*

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

[20 ILCS 3960/3]

"Contested Case" is defined in Section 1-30 of the IAPA [5 ILCS 100/1-30].

"Control" means [that](#) a person possesses any of the following discretionary and non-ministerial rights or powers:

In the case of an entity, the ability to direct the management and policies of the entity, whether through the voting of securities, corporate membership, contract, or otherwise. Examples of such control include, without limitation:

holding 50% or more of the outstanding voting securities of an issue;

in the case of an entity that has no outstanding voting securities, having the right to 50% or more of the profits or, in the event of dissolution, the right to 50% or more of the assets of the entity;

having the power to appoint or remove 50% or more of the governing board members of an entity;

having the power to require or approve the use of funds or assets of the entity; or

[having](#) the power to approve, amend or modify the entity's bylaws or other governance documents.

In the case of capital assets or real property, the power to direct or cause the direction of the personal property, real property or capital assets that are components of the project (i.e., fixed equipment, mobile equipment, buildings and portions of buildings). Examples of such control include, without limitation:

ownership of 50% or more in the property or asset;

serving as lessee or sublessee.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

"Conversion" means a change in the control of an existing health care facility's physical plant, assets, or operations by such methods as, but not limited to, a change in ownership, acquisition, merger, consolidation, lease, stock transfer, or change in sponsorship. Types of conversion include:

change of ownership;

consolidation by combining two or more existing health care facilities into a new health care facility, terminating the existence of the existing or original facilities ( $A + B = C$ ). Consolidation results in the establishment of a health care facility within the meaning of the Act and in the discontinuation of the existing facilities, resulting in termination of license for facilities subject to licensing or the loss of certification for facilities not subject to licensing;

merger by the absorption of one or more existing health care facilities into another existing health care facility. The result of the absorption is that only one facility survives ( $A + B = B$ ). Merger results in the modification (e.g., expansion of beds or services) of the survivor facility and the discontinuation of the facility being absorbed.

"Date" means, for purposes of 77 Ill. Adm. Code 1130, a time period starting at 12:00:01 a.m. of a specified day and ending at 12:00:01 a.m. the following day.

"Director" means ~~the Director of the Department of Public Health~~ the Director of the Department of Public Health. [20 ILCS 3960/3]

"Discontinuation" means to cease operation of an entire health care facility or category of service on a voluntary or involuntary basis. A permit ~~or exemption~~ is required prior to discontinuation. A facility or category of service that has ceased operation or has interrupted service on a temporary basis due to unanticipated or unforeseen circumstances (such as the lack of appropriate staff, or a natural or unnatural disaster) may be determined to not have discontinued, provided that the facility has exercised appropriate efforts to maintain operation and has provided documentation of the circumstances and anticipated date of restoration to ~~HFSRB~~ ~~HFPB~~ within 30 days after the temporary interruption of the service. Discontinuation also includes a determination by ~~HFSRB~~ ~~HFPB~~ that:

a category of service approved after January 1, 1992 is not operating at

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

utilization standards/target occupancy rates specified in 77 Ill. Adm. Code 1100 (Narrative and Planning Policies), for that category of service, by the end of the second year of operation after project completion and on average for any two-year period thereafter (based upon data reported by the facility to [HFSRB staff](#)~~DPH~~ pursuant to Section 13 of the Act), and that need no longer exists in the planning area based upon the existence of such factors as, but not limited to, access to other services in the planning area, excess service capacity in the planning area, and the facility's ability to adequately staff the existing service; or

an existing category of service is not operating at utilization standards/target occupancy rates specified in 77 Ill. Adm. Code 1100, for that category of service, on average for any two-year period commencing on January 1, 1995 and thereafter (based upon data reported by the facility to [HFSRB staff](#)~~DPH~~ pursuant to Section 13 of the Act), and that need no longer exists in the planning area based upon the existence of such factors as, but not limited to, access to other services in the planning area, excess service capacity in the planning area, and the facility's ability to adequately staff the existing service.

~~HFSRB~~**BOARD** NOTE: ~~HFSRB~~**HFPB** may determine that discontinuation has not occurred when a facility has complied with the requirements of this definition. Failure to obtain a permit prior to discontinuation may result in the imposition of sanctions or penalties as provided by the Act.

"Due Diligence" means to take such actions toward the completion of a project for which a permit has been issued with that diligence and foresight that persons of ordinary prudence and care commonly exercise under like circumstances. An accidental or unavoidable cause that cannot be avoided by the exercise of due diligence is a cause that reasonable prudent and careful persons, under like circumstances, do not and would not ordinarily anticipate, and whose effects under similar circumstances they do not and would not ordinarily avoid.

"Emergency Projects" means projects that are emergent in nature and must be undertaken immediately to prevent or correct structural deficiencies or hazardous conditions that may harm or injure persons using the facility, as defined at 77 Ill. Adm. Code 1110.40(a). [20 ILCS 3960/12(9)]

"Entity" means any corporation, company, partnership, joint venture, association,

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

trust, foundation, fund or other legally recognized organization, public body or municipality.

"Establish" or "Establishment" means the construction of a new health care facility, the licensing of unlicensed buildings or structures as a health care facility, the replacement of an existing health care facility on another site, or the initiation of a category of service as defined by the Board. [20 ILCS 3960/3]the development, licensing, or certification (if licensing is not applicable) of a category of service.

"Estimated Project Cost" or "Project Costs" means the sum of all costs, including the fair market value of any equipment or other real property (whether acquired by lease, donation, or gift) necessary to complete a project, including:

- preplanning costs;
- site survey and soil investigation fees;
- site preparation costs;
- off-site work;
- construction contracts and contingencies (including demolition);
- capital equipment included in construction contracts;
- architectural and engineering fees;
- consultants and other professional fees that are related to the project;
- capital equipment not in construction contracts;
- bond issuance expenses;
- net interest expense during construction; and
- all other costs that are to be capitalized.

"Executive Secretary" means the chief executive officer of HFPPB, responsible to

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

~~the chairman and, through the Chairman, responsible to HFPPB for the execution of its policies and procedures.~~

"Exemption" means the classification of projects that are exempt from the Certificate of Need permit review process, but are reviewed under the procedures and requirements of HFSRB regarding issuance of exemptions. (See Subpart E.) An exemption shall be approved when information required by the Board, in accordance with Subpart E, is submitted. [20 ILCS 3960/6(b)]

"Existing Health Care Facility" means any health care facility subject to the Act that:

has a license issued by IDPH and has provided services within the past 12 months, unless the failure to provide such service is the result of pending license revocation procedures, and has not surrendered or abandoned its license or had its license revoked or voided or otherwise deemed invalid by IDPH; or

is certified under Titles XVIII or XIX of the Social Security Act (42 USC 1395); or

is a facility operated by the State of Illinois.

HFSRBOARD NOTE: Projects approved by HFSRBHFPPB for establishment of a health care facility that have not been deemed complete in accordance with the provisions of this Part shall not be considered existing facilities, but the approved number of beds or services shall be recorded in the Inventory of Health Care Facilities and shall be counted against any applicable need estimate.

"Ex Parte Communication" means a communication between a person who is not a State Board member or employee that reflects on the substance of a formally filed State Board proceeding and that takes place outside the record of the proceeding. Communications regarding matters of procedure and practice, such as the format of a pleading, number of copies required, manner of service, and status of proceedings, are not considered ex parte communications. Technical Assistance with respect to an application, not intended to influence any decision on the application, may be provided by employees to the applicant. Once an application is filed and deemed complete, a written record of any communication

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

*between staff and an applicant shall be prepared by staff and made part of the public record, using a prescribed, standardized format, and shall be included in the application file. [20 ILCS 3960/4.2]*

"Fair Market Value" means the dollar value of a project or any component of a project that is accomplished by lease, donation, gifts or any other means that would have been required for purchase, construction, or acquisition. Fair market value is documented as follows:

for equipment that is to be leased, statements from the manufacturers as to the purchase price of the equipment;

for equipment or other real property that will be a gift or donated, a statement from the donor attesting to the dollar value reported to the Internal Revenue Service pursuant to IRS Document 170;

for existing property (other than equipment) that is to be leased or otherwise acquired, copies of an appraisal performed by a certified appraiser or copies of financial statements detailing actual construction costs if the property is less than three years old; or

for property (other than equipment) that is being or will be constructed and then leased, a statement from the lessor as to the anticipated costs of construction.

"Final Decision" or "Final Administrative Decision" or "Final Determination" means:

the decision by [HFSRBHFPB](#) to approve or deny an application for permit. Action taken by [HFSRBHFPB](#) to deny an application for permit is subsequent to an administrative hearing or to the waiver of such hearing; or

the decision by [HFSRBHFPB](#) on all matters other than the issuance of a permit.

[HFSRBBOARD](#) NOTE: The decision is final at the close of business of the [HFSRBHFPB](#) meeting at which the action is taken.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

"Final Realized Costs" means all costs that are normally capitalized under generally accepted accounting principles that have been incurred to complete a project for which a permit or exemption was issued. These costs include all expenditures and the dollar or fair market value of any component of the project, whether acquired through lease, donation or gift.

~~"HFPB" or "the State Board" means the Illinois Health Facilities Planning Board.~~

"Hearing Officer" means the person with authority to conduct public hearings and to take all necessary steps to assure the proper completion of public hearings and to assure compliance with requirements of the Act. Responsibilities include: determining the order and time allotment for public ~~testimony~~testimonies; maintaining order; setting and announcing new hearing dates, times and places, as necessary; determining the conclusion of the hearing and assuring that all documents, exhibits and other written materials presented or requested at the hearing are in the hearing officer's custody; and preparing a report ~~to IDPH~~ for submittal to HFSRB~~HFPB~~.

"HFSRB " or "State Board" or "Board" means the Illinois Health Facilities and Services Review Board.

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

~~"Impending" means, with respect to an application for permit or exemption, that a letter of intent to file an application has been received in accordance with Sections 1130.500 and 1130.620 of this Part.~~

"Intent to Deny" means the negative decision of HFSRB, following its initial consideration of an application for permit that failed to receive the number of affirmative votes required by the Act. (See Section 1130.670.)

"Interdependent Components" means components of construction or modification that are architecturally or programmatically interrelated to the extent that undertaking one or more of the components compels the other components to be undertaken. Unless otherwise interdependent, or submitted as one project by the applicant, components of construction or modification undertaken by means of a single construction contract or financed through the issuance of a single debt instrument shall not be grouped together as one project.[20 ILCS 3960/3]

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

"Inventory" means the HFSRB Inventory of Health Care Facilities and Need Determination created pursuant to Section 12(4) of the Act and found on the Board's website at [www.hfsrb.illinois.gov](http://www.hfsrb.illinois.gov).

"Major Construction Project" means:

*Projects for the construction of new buildings;*

*Additions to existing facilities; ~~and~~*

*Modernization projects whose cost is in excess of \$1,000,000 or 10% of the facility's operating revenue, whichever is less; ~~and-~~*

*Such projects as the State Board shall define and prescribe (see Section 1130.310) pursuant to the Act.* [20 ILCS 3960/5]

"Major Medical Equipment" means medical equipment ~~that~~ is used for the provision of medical and other health services and ~~that~~ costs in excess of the capital expenditure minimum, except ~~that this~~ term does not include medical equipment acquired by or on behalf of a clinical laboratory to provide clinical laboratory services if the clinical laboratory is independent of a physician's office and a hospital and it has been determined under Title XVIII of the Social Security Act (42 USCA 1395x) to meet the requirements of paragraphs (10) and (11) of section 1861(S) of the ~~Social Security~~ social security Act. In determining whether medical equipment has a value in excess of the capital expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included. [20 ILCS 3906/3]

"Medicaid Certified" or "Medicare Certified" or "Medicaid Certification" or "Medicare Certification" means approval for a facility to receive reimbursement under Title XVIII (Medicare) and/or XIX (Medicaid) of the Social Security Act (42 USC 1395).

"Modification of an Application" or "Modification" means any change to an application during the review period (i.e., prior to a final ~~HFSRB~~ HFPB action). ~~These~~ Such changes include, but are not limited to: changing the proposed project's physical size or gross square feet, the site within a planning area, the operating entity when the operating entity is not the applicant, the number of

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

proposed beds, the categories of service to be provided, the cost, the method of financing, proposed project completion date, the configuration of space within the building, or any change in the person who is the applicant, including the addition or deletion of one or more persons as co-applicants.

HFSRBBOARD NOTE: A change of site to a site outside the planning area originally identified in the application is not considered a modification and invalidates the application.

"Moral Turpitude" means conduct that has an inherent quality of baseness, vileness or depravity with respect to another person or society in general, contrary to the accepted and customary rule of right and duty. Examples include rape, forgery, robbery, arson, counterfeiting and wrongful solicitation.

"Newspaper of General Circulation" means newspapers other than those intended to serve a particular, defined population, such as the publications of professional and trade associations.

"Newspaper of Limited Circulation" is defined in Section 8.5 of the Act.

"Non-clinical Service Area" *means an area for the benefit of the patients, visitors, staff or employees of a health care facility and not directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility. "Non-clinical service areas" include, but are not limited to, chapels; gift shops; news stands; computer systems; tunnels, walkways, and elevators; telephone systems; projects to comply with life safety codes; educational facilities; student housing; patient, employee, staff, and visitor dining areas; administration and volunteer offices; modernization of structural components (such as roof replacement and masonry work); boiler repair or replacement; vehicle maintenance and storage facilities; parking facilities; mechanical systems for heating, ventilation, and air conditioning; loading docks; and repair or replacement of carpeting, tile, wall coverings, window coverings or treatments, or furniture. Solely for the purpose of this definition, "non-clinical service area" does not include health and fitness centers. [20 ILCS 3960/3]*

"Non-substantive Projects" means certain projects that have been defined in 77 Ill. Adm. Code 1110.40, with a review period of 60 days.

"Notification of HFSRBState Board Action" means the transmittal of

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

[HFSRB](#)~~State Board~~ decisions to the applicant or permit or exemption holder. Notification shall be given to the applicant's or permit holder's designated contact person, legal representative or chief executive officer.

"Obligation" means the commitment of at least 33% of total funds assigned to cover total project cost, that occurs by:

The actual expenditure of 33% or more of the total project cost; ~~or~~and/or

The commitment to expend 33% or more of the total project cost by signed contracts or other legal means.

"Operational" means that a permit holder is providing the services approved by [HFSRB](#)~~HFPB~~ and, for a new health care facility or a new category of service, licensure or Medicare and/or Medicaid certification has been obtained and residents/patients are utilizing the facility or equipment or are receiving service.

"Out-of-state Facility" *means a person that is both licensed as a hospital or as an ambulatory surgery center under the laws of another state or that qualifies as a hospital or an ambulatory surgery center under regulations adopted pursuant to the Social Security Act and not licensed under the Ambulatory Surgical Treatment Center Act, the Hospital Licensing Act, or the Nursing Home Care Act. Affiliates of out-of-state facilities shall be considered out-of-state facilities. Affiliates of Illinois licensed health care facilities 100% owned by an Illinois licensed health care facility or its parent, or Illinois physicians licensed to practice medicine in all its branches, shall not be considered out-of-state facilities. Nothing in this definition shall be construed to include an office or any part of an office of a physician licensed to practice medicine in all its branches in Illinois that is not required to be licensed under the Ambulatory Surgical Treatment Center Act. [20 ILCS 3960/3]*

"Permit" means authorization to execute and complete a project related to a health care facility, as reviewed and approved by [HFSRB](#)~~HFPB~~ and as specified in the Act.

"Permit Acceptance Agreement" means a written HFSRB communication to the permit holder, specifying and consolidating all post-permit requirements necessary to maintain the permit.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

"Person" means any one or more natural persons, legal entities, governmental bodies other than federal, or any combination thereof. [20 ILCS 3960/3]

"Project Obligation Date" means the date on which the permit holder expended or committed to expend by contract or other legal means at least 33% ~~or more~~ of the total project cost.

"Proposal" or "Project" means any proposed construction or modification of a health care facility or any proposed acquisition of equipment to be undertaken by an applicant.

"Related Person" means any person that~~any person that~~:

is at least 50% owned, directly or indirectly, by either the health care facility or a person owning, directly or indirectly, at least 50% of the health care facility;~~is at least 50% owned, directly or indirectly, by either the health care facility or a person owning, directly or indirectly, at least 50% of the health care facility;~~ or

owns, directly or indirectly, at least 50% of the health care facility~~owns, directly or indirectly, at least 50% of the health care facility;~~ or [20 ILCS 3960/3]

is otherwise controlled or managed by one or more health care facilities or controls or manages the health care facility; or

otherwise controls or manages the health care facility; or

is otherwise, directly or indirectly, under common management or control with one or more health care facilities.

"Relinquishment of a Permit" means a voluntary and knowing abandonment of a permit or exemption, forsaking all rights associated with that permit or exemption. Once relinquishment is granted by HFSRB, a relinquished permit or exemption is considered null and void. The inventory will be modified, if affected by the permit relinquishment, to the same status as prior to the permit issuance.

"Review Period" means the time from the date an application for permit or

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

exemption is [received by HFSRB at its principal office \(Springfield office\)](#) deemed complete until [HFSRB/HFPB](#) renders its final decision.

"Site" means the physical location of a proposed project and is identified by address or legal property description.

"Square Feet" or "SF" or "Square Footage" means a unit of measure of physical service areas or buildings considered by [HFSRB/HFPB](#). Departmental Gross Square Feet (DGSF) means the designation of physical areas for departments ~~and/or~~ services. It consists of the ~~entire~~entirety of space dedicated to the use of that department or service, including walls, shafts and circulation. Building Gross Square Feet (BGSF) means the designation of physical area of an entire building. It includes all exterior walls and space within those walls.

"Substantially Changes the Scope or Changes the Functional Operation of the Facility" means:

the addition or discontinuation of a category of service as defined in [77 Ill. Adm. Code 1110.40\(c\) and Section 1130.140](#)~~HFPB rules~~;

discontinuation as defined in this Part;

a change of a material representation made by the applicant in an application for permit or exemption subsequent to receipt of a permit that is relied upon by [HFSRB/HFPB](#) in making its decision. Material representations are those that provide a factual basis for issuance of a permit or exemption and include:

withdrawal or non-participation in the Medicare and/or Medicaid programs;

charge information;

requirements of variances pursuant to 77 Ill. Adm. Code 1110;

other representations made to [HFSRB/HFPB](#) as stipulated or agreed upon in the public record and specified in the application or the permit or exemption approval letter;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

the addition of a ~~surgical~~-specialty not previously approved by ~~HFSRB/HFPB~~ for an ambulatory surgical treatment center (ASTC) that has not been classified as a multi-specialty ASTC by ~~HFSRB/HFPB~~ in accordance with the provisions of 77 Ill. Adm. Code 1110.1540;

an increase of more than three dialysis stations or more than 10% of the facility's total number of dialysis stations, whichever is less, over a two-year period. The two-year period begins on the date the facility's additional stations are certified. When a permit is issued for additional stations or for the establishment of an additional facility/service, the facility may not add any more dialysis stations for two years from the date that such stations approved in the permit are certified without obtaining an additional permit; or

the acquisition, construction, or leasing of space, buildings, or structures for the purpose of providing outpatient surgical services on a site or location that is not within the licensed premises of the health care facility. Outpatient surgical services are those surgical procedures that are routinely performed in such settings as a hospital or ambulatory surgical treatment center, or in any room or area that is designed, equipped, and used for surgery, such as, but not limited to, a surgical suite or special procedures room. Outpatient surgical services do not include those procedures performed as part of a physician's private practice in examination or non-surgical treatment rooms.

"Substantially Complete" means that the application for permit has been determined ready for review, with the understanding that additional information may be needed for clarification during the course of the review period.

"Substantive Projects" means types of projects that are defined in the Act and classified as substantive. Substantive projects shall include no more than the following:

Projects to construct a new or replacement facility located on a new site; or a replacement facility located on the same site as the original facility and the costs of the replacement facility exceed the capital expenditure minimum.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

*Projects proposing a new service or discontinuation of a service, which shall be reviewed by the Board within 60 days.*

*Projects proposing a change in the bed capacity of a health care facility by an increase in the total number of beds or by a redistribution of beds among various categories of service or by a relocation of beds from one facility to another by more than 20 beds or more than 10% of total bed capacity, as defined by the State Board in the Inventory, whichever is less, over a 2-year period. [20 ILCS 3960/12]*

"Supplemental Permit" means an approved application for permit that augments or enhances an existing permit. The initial permit must be obligated, but not yet completed. Applications for permits intended to be supplemental permits shall include the basic details of the existing permit, including its status, and shall explain the inter-relationship between the two projects. The application for a supplemental permit is a distinct application for permit that is to be reviewed and considered based upon its conformance with this Part. A permit holder may need to request an alteration to an existing permit if an alteration is needed to accommodate the supplemental project. The completion date of the permit being supplemented will be extended as needed, based upon approval of the supplemental application. Failure for a supplemental permit application to be approved will not affect the validity of the underlying existing permit.

"Technical Assistance" means help provided by an employee of ~~HFSRB/HFPB~~ or ~~IDPH~~ to a person, a health care facility or ~~the HFSRB/HFPB~~, and is not considered ex parte communication as defined in Section 4.2 of the Act. Technical Assistance may be provided to any person regarding pre-application conferences, the filing of ~~ana letter of intent, impending or pending~~ application, or other request to ~~HFSRB/HFPB~~ provided that the communication is *not intended to influence any decision on the application. Any assistance shall be documented in writing by the applicant and employees within 10 business days after the assistance is provided. [20 ILCS 3960/4.2]* Technical Assistance may be provided for the benefit of ~~HFSRB/HFPB~~ to clarify issues relevant to an application or other business of ~~HFSRB/HFPB~~. The assistance may be in the form of written correspondences, conversations, site visits, meetings, and/or consultations with independent experts. *Once an application or exemption is filed and deemed complete, a written record of any communication between staff and an applicant shall be prepared by staff and made part of the public record, using a prescribed, standardized format, and shall be included in the application file,*

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

~~within 10 business days after the assistance is provided. [20 ILCS 3960/4.2] All communications and responses pertaining to an application to HFPB must be documented in writing by the employee within 10 business days after occurrence and made a part of the application or project record.~~

"Temporary Suspension of Facility or Category of Service" means a facility that has ceased operation or that has ceased to provide a category of service (see 77 Ill. Adm. Code 1100.220 for definition) for a period not to exceed one year, due to unanticipated or unforeseen circumstances (such as the loss of appropriate staff or a natural or unnatural disaster). The time period may be extended upon finding that the project has proceeded with due diligence and HFSRB approval of the requested extension. The facility administrator shall ~~may~~ file notice to ~~HFSRB/HFPB~~ of a temporary suspension of service, in compliance with the requirements described in. See Section 1130.240(d).

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.150 Referenced and Incorporated Materials**

- a) The following rules, standards and statutes are referenced in this Part:
  - 1) Federal Statutes:  
Public Health and Welfare (42 USC).
  - 2) State of Illinois Statutes:
    - A) Illinois Health Facilities Planning Act [20 ILCS 3960];
    - B) Hospital Licensing Act [210 ILCS 85];
    - C) Ambulatory Surgical Treatment Center Act [210 ILCS 5];
    - D) Nursing Home Care Act [210 ILCS 45];
    - E) Illinois Administrative Procedure Act [5 ILCS 100];
    - F) Alternative Health Care Delivery Act [210 ILCS 3];

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- G) End Stage Renal Disease Facility Act [210 ILCS 62];
- H) Administrative Review Law [735 ILCS 5/Art. III];
- I) Illinois State Agency Historic Resources Preservation Act [20 ILCS 3420];
- J) Code of Civil Procedure [735 ILCS 5];
- [K\) Assisted Living and Shared Housing Act \[210 ILCS 9\];](#)
- [L\) Older Adult Services Act \[320 ILCS 42\];](#)
- [M\) Open Meetings Act \[5 ILCS 120\].](#)

## 3) State of Illinois Rules:

- A) Narrative and Planning Policies (77 Ill. Adm. Code 1100) (See Section 1100.220);
- B) Financial and Economic Feasibility Review (77 Ill. Adm. Code 1120);
- C) Processing, Classification Policies and Review Criteria (77 Ill. Adm. Code 1110);
- D) Illinois Health and Hazardous Substances Registry (77 Ill. Adm. Code 840).

## 4) Other referenced materials:

- [A\) Illinois Executive Order #2006-5](#)~~Executive Order 1979-4~~;
- B) Rules of the Illinois Supreme Court.

## b) Incorporations by Reference

The following materials are incorporated by reference in this Part. All ~~incorporations~~[incorporations](#) are as of the date specified and no later editions or amendments are included.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

American Institute of Architects  
1735 New York Avenue, N.W.  
Washington D.C. 20006

AIA Document G702, Application and Certificate for Payment  
(1992)

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

## SUBPART B: GENERAL REQUIREMENTS

**Section 1130.210 Persons and Facilities Subject to the Act**

Any person who proposes to establish, construct, or modify a health care facility, and any person who proposes to acquire major medical equipment, is subject to the Act. In addition, health care facilities are subject to certain provisions of the Act, such as, but not limited to, submission of an annual report of capital expenditures and providing information, reports, and data necessary to carry out the purposes of the Act. The Act applies to private and public (including State-operated) hospitals, ambulatory surgical treatment centers, long-term care facilities, end stage renal disease facilities, [birth centers](#), [freestanding emergency centers](#), and facilities used for outpatient surgical procedures that are leased, owned, or operated by or on behalf of an out-of-state facility.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.215 Health Care Facilities Subject to the Act**

Health care facilities and organizations that are subject to the Act and HFSRB rules include:

- a) *An ambulatory surgical treatment center required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act;*
- b) *An institution, place, building, or agency required to be licensed pursuant to the Hospital Licensing Act;*
- c) *Skilled and intermediate long term care facilities licensed under the Nursing Home Care Act;*

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- d) Hospitals, nursing homes, ambulatory surgical treatment centers, or kidney disease treatment centers maintained by the State or any department or agency of this State;
- e) Kidney disease treatment centers, including a free-standing hemodialysis unit required to be licensed under the End Stage Renal Disease Facility Act;
- f) An institution, place, building, or room used for performance of outpatient surgical procedures that is leased, owned, or operated by or on behalf of an out-of-state facility;
- g) An institution, place, building, or room used for provision of a health care category of service as defined by the Board at 77 Ill. Adm. Code 1100.220, including, but not limited to, cardiac catheterization and open heart surgery; and
- h) An institution, place, building, or room used for provision of major medical equipment used in the direct clinical diagnosis or treatment of patients, and whose project cost is in excess of the capital expenditure minimum. [20 ILCS 3960/2]

(Source: Added at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.220 Necessary Parties to the Application for Permit or Exemption**

A permit or exemption shall be obtained prior to the acquisition of major medical equipment or to the construction or modification of a health care facility [20 ILCS 3960/5]. The following persons ~~shall~~must be the applicants for permit or exemption, as applicable:

- a) For construction or modification projects (including projects to establish or change the ownership of health care facilities and including projects to acquire major medical equipment by or on behalf of health care facilities) of one or more existing or proposed health care facilities:
  - 1) the person who will hold and who currently (as applicable) holds the license (or Medicare and/or Medicaid certification if licensing is not applicable) for each facility;
  - 2) the person who has final control of the person who will hold or who currently holds (as applicable) the license (or Medicare and/or Medicaid

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

certification if applicable) for each facility;

- 3) any related person who is or will be financially responsible for guaranteeing or making payments on any debt related to the project; and
  - 4) any other person who actively will be involved in the operation or provision of care and who controls the use of equipment or other capital assets that are components of the project, such as, but not limited to, fixed equipment, mobile equipment, ~~buildings~~building or portions of buildings, structures such as parking garages, etc.
- b) For projects to acquire major medical equipment that is not located in a health care facility and that is not being acquired by or on behalf of a health care facility, the applicant must be:
- 1) the person who is acquiring the equipment; and
  - 2) the person who will be responsible for operation of the proposed equipment; and
  - 3) the person who has final control of the person who is acquiring the equipment or the person who will be responsible for operation of the equipment; and
  - 4) any other person who controls the use of equipment or other capital assets that are components of the project, such as, but not limited to, fixed equipment, mobile equipment, buildings or portions of buildings, structures such as parking garages, etc.

~~HFSRBOARD~~ NOTE: A person or entity that participates in the management of a health care facility or category of service is not an applicant unless that person or entity possesses the rights or powers specified in the definition of "control" contained in Section 1130.140.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.230 Fees**

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- a) HFSRB staff~~IDPH~~ shall charge and collect an amount determined by HFSRB and its staff~~HFPB~~ to be reasonable ~~application~~ fees for ~~the~~ processing of the applications by HFSRB, HFPB, IDPH and appropriate recognized areawide health planning organizations. HFSRB~~HFPB~~ shall set amounts by rule (see subsection (h)). Application fees for continuing care retirement communities and other health care models that include regulated and unregulated components shall apply only to those components subject to regulation under the Act. All fees and fines collected under the Act shall be deposited into the Illinois Health Facilities Planning Fund to be used for the expenses of administering the Act. [20 ILCS 3960/12.2]
- b) A fee shall be assessed on all matters requiring an application processing fee (as detailed in other Sections of this Part), except for the following:
- 1) projects classified as emergency; or
  - 2) projects that are not subject to a fee in accordance with the provisions of Subpart E.
- c) Fee payment shall be by check or money order made payable to the Illinois Department of Public Health.
- d) Any matter requiring an application processing fee shall be declared null and void if payment of the total fee has not been received by HFSRB staff~~IDPH~~ within 30 days after notice of the amount due has been received by an applicant or person requesting action from HFSRB~~HFPB~~.
- e) No action shall be taken by HFSRB~~HFPB~~ on any matter requiring an application processing fee for which the total required fee has not been received.
- f) Fee payments are not refundable and may be recovered in full or in part only by petitioning the Illinois Court of Claims for recovery.
- g) Appeal ~~of~~ any required fee amount is to be made to HFSRB~~HFPB~~, pursuant to Section 1130.810.
- h) Types of Fees
- 1) Exemption Application Processing Fee

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

The exemption application processing fee shall be \$2,500.

2) CON Permit Application Processing Fee

A) All applicants, except those with projects that are not subject to a fee, are required to submit an application processing fee. An initial fee deposit of \$2,500 shall accompany each application for permit submitted to HFSRB. When an application is deemed complete, the full amount of the fee shall be determined.

B) HFSRB staff shall charge and collect an amount determined by the State Board and the staff to be reasonable fees for the processing of applications by the State Board. Application fees for continuing care retirement communities and other health care models that include regulated and unregulated components shall apply only to those components subject to regulation under the Act. [20 ILCS 3960/12.2]

C) Following the determination of estimated total project costs, the CON application processing fees are calculated as follows. For each project having a total estimated project cost of:

i) less than \$1,250,000, the application fee shall be \$2,500;

ii) above \$1,250,000, the application fee shall be 0.22% of the assigned costs.

D) The maximum application fee shall not exceed \$100,000.

E) Once an application is deemed complete, written notice for any additional fee balance due will be sent to the applicant. Applications shall be declared null and void if the total application fee has not been paid within 30 days after receipt of notice.

3) Modification of an Application for Permit

A) If a modification of an application for permit results in an increase in the total estimated project cost, the application processing fee shall be recalculated on the basis of the revised estimated project

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

cost. This Section is applicable with respect to any additional fees required for a modified application.

B) If a modification results in the need for an additional notification of opportunity for public hearing, then an additional fee of \$2,000 will be assessed.

4) Request for Extension of Obligation

A) A request for extension shall be assessed a \$500 application processing fee and is subject to the requirements of this subsection (h).

B) A request for extension that is received less than 45 days prior to the permit obligation date shall be subject to an additional \$500 late application processing fee.

C) If payment has not been received within 30 days after receipt of written notice for payment, the request for extension shall be considered withdrawn.

5) Permit Renewal

A permit renewal request shall be assessed a \$500 application processing fee and is subject to the requirements of this subsection (h). Permit renewal requests that are not received at least 45 days prior to the expiration date of the permit shall be subject to an additional \$500 late application processing fee. If payment has not been received within 30 days after receipt of written notice from HFSRB, the request for renewal shall be considered withdrawn. Any renewal request received after the completion date is subject to the fines provided in the Act.

6) Post-Permit Alterations

A) An alteration request shall be assessed an application processing fee of \$1,000 and is subject to the requirements of this Section.

B) Alteration requests that are not received at least 45 days prior to the expiration date of the permit shall be subject to an additional \$500 late application processing fee.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

C) If payment has not been received within 30 days after receipt of written notice from HFSRB, the request for alteration shall be considered withdrawn. Any alteration request received after the completion date is subject to the fines provided in the Act.

8) Relinquishment of a Permit or Exemption

A) Any relinquishment undertaken without prior HFSRB approval shall be considered a violation of the Act and shall be subject to the sanctions and penalties in the Act and in Section 1130.790.

B) A request for relinquishment shall be assessed an application processing fee of \$1,000.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

### Section 1130.240 Reporting and Notification Requirements

HFSRB/HFPB shall require health care facilities to provide periodic reports, data, and information as needed to carry out the purposes and provisions of the Act [20 ILCS 3960/13].

Information required to be submitted to HFSRB/HFPB includes, but is not limited to, reports on capital expenditures, facility and service utilization data, facility bed capacity information, staffing levels, notices of hospital reductions in services, and any temporary suspension of service.

- a) Annual Report of Capital Expenditures  
Each HFPB shall require each health care facility shall to submit an annual report of capital expenditures as part of the annual health care facility questionnaires issued by HFSRB, in accordance with the provisions of the Act. (See Section 5.3 of the Act.)
- b) Health Planning Information  
HFSRB/HFPB, in conjunction with IDPH, shall require all health care facilities operating in the State to provide information for the purpose of fulfilling the purposes, provisions and planning responsibilities specified in the Act. (See Section 13 of the Act.) These Such reports may be on an annual or other basis.
- c) Notice of Hospital Reduction of 50% or More in Health Care Services

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

~~Each hospital is required to notify the State Board, the Illinois Department of Public Health~~~~Each hospital is required to notify HFPPB, IDPH, and the State Senator and 2 State Representatives representing the legislative district in which the hospital is located,~~ of a reduction in services of 50% or more, within 30 days after that reduction~~of a reduction in services of 50% or more, within 30 days after that reduction~~ [20 ILCS 3960/12.4]. Reporting shall include the identification of the service, reasons for reduction and anticipated duration (permanent or temporary). Reduction of 50% or more is determined by the following:

- 1) If the reduction is in a bed category of service, reduction is determined by the number of physically available beds as compared to the authorized number of beds stated in the Inventory of Health Care Facilities as updated, or the number of staffed beds reported in the Annual Hospital Questionnaire;
  - 2) If the reduction is in a non-bed category of service (i.e., cardiac surgery, cardiac catheterization, organ transplantation, etc.), reduction is determined when the physical number of procedure rooms, stations or equipment necessary to provide that service is reduced by 50% or more, or the number of clinical staff and/or hours of operation is reduced by 50% or more.
    - A) If reduction does not reduce the number of procedures by 50% or more, ~~then~~ the notification is ~~only~~ required only to ~~HFSRB~~~~HFPPB~~, certifying that the reduction will not reduce the number of procedures performed by 50% or more.
    - B) If the reduction is temporary for the purpose of maintenance or equipment repair, ~~then~~ notification is required to ~~HFSRB~~~~HFPPB~~ only, with a timetable to restore the service.
- d) **Temporary Suspension of Facility or Category of Service**  
A facility that has ceased operation or that has ceased to provide a category of service due to unanticipated or unforeseen circumstances (such as the loss of appropriate staff or a natural or unnatural disaster) ~~shall~~may file notice to ~~HFSRB~~~~HFPPB~~ of a temporary suspension of service that is anticipated to exceed 30 days. The notice shall be filed within 30 days after the suspension of the service, and ~~shall~~must include a detailed explanation of the reasons for the suspension, as well as the efforts being made to correct the circumstance and a

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

timetable to reopen the service. Reports documenting the progress of corrections must be filed every 30 days thereafter until services are reopened.

- e) Failure to Provide Required or Requested Information  
Health care facilities and persons that fail to timely or completely comply with the notice and information requirements of HFSRB, including post-permit requirements, shall be considered in violation of the Act (see 20 ILCS 3960/13 and 14.1). This shall subject the permit or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act and this Part.HFPB are subject to the sanctions and penalties provided by the Act. (See 20 ILCS 3960/13 and 14.1.)
- f) Changes in a Health Care Facility's Bed Capacity
- 1) "Change in the Bed Count of a Health Care Facility" means a change in a health care facility's authorized bed capacity, including reductions, increases with permit or allowable increases without permit. A permit or exemption shall be obtained prior to the construction or modification of a health care facility which changes the bed capacity of a health care facility by:
    - A) increasing the total number of beds; or
    - B) distributing beds among various categories of service; or
    - C) relocating beds from one physical facility to another by more than 20 beds or 10% of total bed capacity as defined by the State Board Inventory, whichever is less, over a 2-year period. [20 ILCS 3960/5]
  - 2) Projects proposing the establishment or discontinuation of a bed category of service are classified as substantive projects, with a 60-day review period. (See Section 1110.40(c).)
  - 3) A health care facility that reduces bed capacity, or adds bed capacity without a permit, as specified by the Act, shall~~must~~ notify HFSRB~~HFPB~~ and IDPH of that change. Such a change is limited to once every two years beginning and that two-year period begins on the date when the additional beds become operational. If the facility has already changed its

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

bed capacity through a permit process, then the facility may not add any more beds in those services affected by the permit for two years from the date that those beds established by permit become operational without obtaining an additional permit from [HFSRB/HFPB](#).

4) [Emergency Preparedness Response Report](#)

[A\) A health care facility that temporarily increases bed capacity to accommodate extraordinary needs in the service population due to pandemic events and other disasters shall submit written notification of the increase to HFSRB within 30 days after the bed increase decision. The notification shall include:](#)

- [i\) the number of beds increased;](#)
- [ii\) a detailed description of conditions necessitating the bed capacity increase;](#)
- [iii\) the impact on normal admission activity;](#)
- [iv\) the anticipated length of time the increase is needed, indicating the prospective date when beds will be taken out of circulation; and](#)
- [v\) the signature of a senior representative of the health care facility, verifying the information in the report.](#)

[B\) The facility shall submit written notification to HFSRB, indicating the date that the temporary bed capacity has been taken out of circulation. This notification shall be received by HFSRB within 30 days after the date that the facility's normal bed capacity was resumed.](#)

g) [Change](#)~~Changes~~ in Name [or Change in](#)~~and/or~~ Legal Status

A change in a facility's legal name or a facility's legal status (i.e., a corporate reorganization) that does not constitute a change of ownership, as defined in Section 1130.140, is to be reported to [HFSRB/HFPB](#) within 90 days after occurrence.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.250 HFSRB Meetings****a) General Guidelines**

- 1) This Section pertains to formal HFSRB meetings and does not apply to other HFSRB-sponsored meetings, including public hearings or rules development meetings.
- 2) HFSRB meetings can be held anywhere throughout Illinois, as determined by the HFSRB Chair or a majority of HFSRB members.
- 3) Special HFSRB meetings that are not previously scheduled and are publically known can be held only if the HFSRB Chair or a majority of HFSRB members determines that a special HFSRB meeting should be scheduled.
- 4) All HFSRB meetings shall comply with the Open Meetings Act and be conducted using Roberts Rules of Order.
- 5) Only permit or exemption applicants and their staff, attorneys or consultants can testify at an HFSRB meeting during the time that their application is being considered by the Board. Other individuals attempting to be heard at an HFSRB meeting outside the public participation period will be declared out of order.
- 6) All HFSRB meetings will be conducted as efficiently as possible. Extraneous or irrelevant discussions occurring during an HFSRB meeting will be avoided. The HFSRB Chair or a majority of Board members can designate time limits on any or all of HFSRB meeting agenda items.
- 7) Applicants and their representatives are able to respond to all questions and statements made by Board members at the time of Board consideration of the applicant's project. The entire proceedings of every HFSRB meeting are transcribed by a court reporter and this transcript will serve as the administrative record of the HFSRB meeting.

**b) Validity of Comments**

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) Written comments filed with HFSRB or oral statements made under oath to HFSRB under any HFSRB matter that are subsequently found to be false or inaccurate will serve as a basis for an HFSRB investigation of the matter.
- 2) HFSRB may require the person who made the false or inaccurate comments or statements to appear before the Board. HFSRB may censure that person. Further, HFSRB may determine that person to be ineligible to provide written comments or oral statements concerning any future Board considerations.

c) Presentation of New Information

- 1) HFSRB will not accept any new information presented by applicants or any of their representatives concerning an application during the HFSRB meeting at which the application is being considered by the Board.
- 2) Submission of new information is acceptable under the following conditions:
  - A) An application is deferred by the applicant or HFSRB (see Section 1130.650).
  - B) An application receives an Intent to Deny following HFSRB consideration and action (see Section 1130.670).
  - C) An applicant is responding to statements made during the public participation period of the HFSRB meeting at which the applicant's project is being considered.
- 3) Any new information that is pertinent to an application and allowable shall be submitted in writing to HFSRB staff within the allowable time frames provided for additional information (see Sections 1130.650 and 1130.670).
- 4) All allowable new information shall be submitted to HFSRB in writing, on 8½ by 11" paper.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 5) [All new information shall be submitted within the allowable time frames established in the rules, and shall be sent only by any recognized overnight carrier or personal delivery service.](#)
- 6) [New information submitted by email or fax will not be accepted.](#)

(Source: Added at 37 Ill. Reg. 6227, effective June 1, 2013)

## SUBPART C: PROJECTS OR TRANSACTIONS SUBJECT TO THE ACT

**Section 1130.310 Projects or Transactions Subject to the Act**

- a) Projects or Transactions that Require a Permit

A permit shall be obtained prior to the establishment, construction or modification of a health care facility and prior to the acquisition of major medical equipment unless an exemption from the requirement ~~to obtain~~[of obtaining](#) a permit has been issued in accordance with the provisions of Subpart D and Subpart E. A project or transaction that is not exempt is subject to review and requires a permit if the project or transaction:

  - 1) requires a total capital expenditure in excess of the capital expenditure minimum. In determining the total capital expenditure, all costs (including the fair market value of assets acquired by lease or other means) that under generally accepted accounting principles are not properly chargeable as expenses of operation and maintenance, must be included even if any of such costs are not capitalized for reimbursement or other purposes. All capital expenditure minimums shall be annually adjusted upon the date established by the Act to reflect the increase in construction costs due to inflation. The basis for such adjustment for major medical equipment shall be the latest annual inflation rate as reflected in the [Means Cost Data \(RSMeans Company, Inc., 700 Longwater Drive, Norwell MA 02061\)](#)~~Producer's Price Index as calculated in the DRI/McGraw-Hill Health Care Cost Review section on Special Machinery and Equipment (DRI/McGraw-Hill, 1200 G Street, N.W., Suite 1000, Washington, D.C. 20005)~~. The basis for the adjustment to capital expenditures other than major medical equipment shall be the latest annual inflation rate as reflected in the medical construction component of the Means Cost Data ~~(R.S. Means Company Inc., 100 Construction Plaza, P.O. Box 800, Kingston MA 02364-0800)~~. The revised minimums shall

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

be published on ~~HFSRB's~~[HFPPB's](#) internet site;

- 2) substantially changes the scope or changes the functional operation of the facility as defined in Section 1130.140;
- 3) results in the establishment of a health care facility as defined in Section 1130.140;
- 4) changes the bed capacity of a health care facility as specified in the Act [and Section 1130.240\(f\)](#);
- 5) involves a change of ownership, unless an exemption has been issued in accordance with the provisions of Subpart D and Subpart E;
- 6) results in the discontinuation of an entire health care facility or category of service (see Section 1130.140); or
- 7) involves the acquisition of major medical equipment, ~~unless an exemption has been issued in accordance with the provisions of Subpart D and Subpart E.~~

b) Components of a Project or Transaction

In determining the elements of a transaction or a project subject to the Act, the following factors apply:

- 1) Components of construction or modification that are interdependent must be grouped together. Interdependence occurs when components of construction or modification are architecturally and/or programmatically interrelated to the extent that undertaking one or more of the components compels the other components to be undertaken.
- 2) *Unless otherwise interdependent, or submitted as one project by the applicant, components of construction or modification undertaken by means of a single construction contract or financed through the issuance of a single debt instrument shall not be grouped together as one project.* ~~[20 ILCS 3960/3] Components of construction or modification that are to be undertaken by means of a single construction contract or are to be financed through the issuance of a single debt instrument, such as, but not limited to, a mortgage, bonds, or lease, must be grouped together.~~

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 3) Projects involving acquisition of equipment that are linked with construction for the provision of a service cannot be segmented. A health service linkage exists when all components must be present for a service to be operational, or when financing is obtained at one time for a series of related components.
  - 4) Components under an application for permit ~~shall~~ **must** be for a single health care facility unless the components are interdependent among multiple facilities.
- c) Prohibition on Splitting or Separating Components of a Project or Transaction
- 1) No health care facility or other person proposing a project or transaction that is subject to the Act shall split what should properly be considered a single capital expenditure into discrete components undertaken during a fiscal year ~~period~~ to evade the capital expenditure review threshold.
  - 2) No health care facility or other person proposing a project or transaction that is subject to the Act shall separate portions of a single project into components, including, but not limited to, site, facility, and equipment, to evade the capital expenditure review threshold or other requirements of the Act or ~~HFSRB~~ **HFPB** rules.
- d) Examples of Projects or Transactions Subject to the Act  
Examples of projects that constitute construction or modification of a health care facility subject to the Act include:
- 1) Projects located within a licensed or certified health care facility;
  - 2) Projects that result in a health care facility:
    - A) Billing for services provided by the proposed project,
    - B) Capitalizing any portion of the proposed project,
    - C) Receiving reimbursement for services provided by the proposed project, or

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- D) Receiving recognition as the provider of the proposed service by third party payors;
- 3) Projects that are staffed or operated by the health care facility;
- 4) Projects that are otherwise of, by, through or on behalf of a health care facility;
- 5) Projects that provide a category of service as defined in 77 Ill. Adm. Code 1100 that are offered or made available on a regular basis to inpatients or outpatients of a health care facility.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

## SUBPART D: PROJECTS OR TRANSACTIONS ELIGIBLE FOR EXEMPTION FROM PERMIT REQUIREMENTS

**Section 1130.410 Projects or Transactions Exempt from Permit Requirement**

The following proposed projects and transactions are not subject to the [requirement to obtain requirements of obtaining](#) a permit, provided that an application for exemption is submitted that meets the requirements of this Subpart and Subpart E and an exemption is issued by [HFSRB/HFPB](#):

- a) ~~the acquisition of major medical equipment that will not be owned by, operated on behalf of, or located in a health care facility or be used to provide services to an inpatient of a health care facility.~~ b) the change of ownership of an existing health care facility. *[This is not applicable to a healthcare facility that is licensed under the Nursing Home Care Act \(with the exceptions of facilities operated by a county or Illinois Veterans Home\) \[20 ILCS 3960/3\].](#)*
- [be](#)) the discontinuation of an existing health care facility or of a category of service when that discontinuation is the result of:
  - 1) revocation of or denial of license renewal by a State or local regulatory agency;
  - 2) for facilities not subject to licensure, the loss of Medicare and/or Medicaid certification;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 3) discontinuation action taken by ~~HFSRB~~[HFSPB](#);
- 4) the voluntary surrender of a suspended license.

~~c)~~[d\)](#) the combination of two or more existing health care facilities into a single licensed health care facility, when:

- 1) the existing facilities are located on the same site or on sites adjacent to one another;
- 2) the licensed person for the existing facilities is the same;
- 3) the combination is for the sole purpose of operating the existing facilities under a single license; [and](#)
- 4) the combination does not involve any cost, any change in scope of services provided, or any change in bed capacity.

~~d)~~[e\)](#) a proposed project for the addition of dialysis stations to existing facilities located in planning areas where the Inventory indicates a need for additional stations, provided that the number of stations to be added does not exceed the planning area's need for additional stations, as calculated in the Inventory, and also provided that the number of stations, to be added does not exceed the lesser of 10 stations or 50% of the facility's certified station capacity.

~~e)~~[f\)](#) a proposed project limited to the establishment or expansion of a neonatal intensive care service or beds as specified in Subpart E.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

SUBPART E: ~~OPERATIONAL PROCEDURAL~~ REQUIREMENTS FOR EXEMPTIONS

**Section 1130.500 General Requirements for Exemptions**

Only those projects specified in Section 1130.410 are eligible for exemption from permit requirements. Persons that have initiated or completed such projects without obtaining an exemption are in violation of the provisions of the Act and are subject to the penalties and sanctions of the Act.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

a) ~~Letter of Intent~~

- 1) ~~Prior to submission of an application for exemption, a letter of intent must be filed with HFPB. The letter of intent must be received by HFPB at least 30 days prior to receipt of an application for exemption.~~
- 2) ~~A letter of intent shall be valid for a period of one year from the date of receipt by HFPB.~~
- 3) ~~A letter of intent must contain the following information:~~
  - A) ~~the name of the applicant;~~
  - B) ~~the name and location of the facility;~~
  - C) ~~the type of exemption that is being sought (e.g., change of ownership, the addition of dialysis stations);~~
  - D) ~~a brief description of the project or transaction, including number of beds or stations involved, categories of service involved, the estimated maximum project cost, and the date the project or transaction is to be initiated;~~

~~a)b)~~ Application for Exemption

Any persons proposing a project for an exemption to permit requirements ~~shall~~ must submit to ~~HFSRBHFPB (no sooner than 30 days following receipt of a letter of intent)~~ an application for exemption containing the information required by this Subpart, submit an application fee (if a fee is required), and receive approval from ~~HFSRBHFPB~~.

~~b)e)~~ General Information Requirements

The application for exemption shall include the following information and any additional information specified in this Subpart:

- 1) the name and address of the applicant ~~and co-applicant~~ (see Section 1130.220);

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 2) the name and address of the health care facility ~~or, if the proposed project is for the acquisition of major medical equipment, the address of the premises where the equipment will be installed or used;~~
- 3) a description of the project, e.g., change of ownership, increase in dialysis stations;
- 4) documentation from the Illinois Secretary of State that the applicant is registered to conduct business in Illinois and is in good standing or, if the applicant is not required to be registered to conduct business in Illinois, evidence of authorization to conduct business in other states;
- 5) a description of the applicant's organization structure, including a listing of controlling or subsidiary persons;
- 6) the estimated project cost, including the fair market value of any component and the sources and uses of funds;
- 7) ~~the anticipated project obligation date and~~ the anticipated project completion date;
- 8) verification that the applicant has fulfilled all compliance requirements with all existing permits that have been approved by ~~HFSRB~~~~HFPB~~; and
- 9) the application processing fee.

c) Application Processing Fee

The application processing fee shall be \$2,500 (see Section 1130.230(b)(2)).

d) Completion Requirements

A project that has received an exemption shall be completed in accordance with all applicable requirements no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.

~~HFSRB~~~~BOARD~~ NOTE: Projects are eligible for exemptions to a full permit process providing that they can meet all of the requirements delineated in this Subpart. If a person or project cannot meet the requirements of exemption, then an application for permit may be filed.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.510 Requirements for Exemptions Involving the Acquisition of Major Medical Equipment (Repealed)**

- a) ~~Application for Exemption~~  
The application for exemption is subject to approval under Section 1130.560 and shall include the information required by Section 1130.500 and the following information:
- 1) ~~Identification of the equipment to be acquired, including model number, manufacturer and equipment specifications;~~
  - 2) ~~A description of the premises, which includes a gross square footage space allocation for the equipment and for any other functions contained in the space, such as, but not limited to, diagnostic or treatment areas, administrative space, doctors offices, waiting rooms, etc., and whether any common space is shared or utilized by persons other than the applicant;~~
  - 3) ~~Copies of any existing or proposed lease or purchase agreements or a proof of ownership regarding the premises where the equipment will be installed;~~
  - 4) ~~Verification that the equipment will not be used to provide services to inpatients of any health care facility;~~
  - 5) ~~Verification that use of the proposed equipment will not result in the inpatient admission of patients to a health care facility following outpatient treatment except in emergency conditions;~~
  - 6) ~~Verification that there is or will be a quality assurance plan for the proposed equipment addressing the following:~~
    - A) ~~how regular objective evaluation of all audits and medical care will be performed;~~
    - B) ~~how patient interviews and complaint evaluation will be performed;~~

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- ~~C) infection control measures;~~
- ~~D) incident reporting;~~
- ~~E) allied health professional credentialing;~~
- ~~F) evaluation of external surveys affecting quality of care;~~
- ~~G) safety committee concerns;~~
- ~~H) problem resolution; and~~
- ~~I) confidentiality concerns;~~
- 7) ~~Verification that failure to complete the project in accordance with the applicable provisions of Section 1130.570 no later than 12 months from the date of exemption approval (or by a later date established by HFPPB upon a finding that the project has proceeded with due diligence) will invalidate the exemption.~~
- b) ~~Completion Requirements~~  
~~A project that has received an exemption for acquisition of major medical equipment must be complete in accordance with the applicable provisions of Section 1130.570 no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.~~
- e) ~~Application Processing Fee~~  
~~The application processing fee shall be .1% of the total estimated project cost (see Section 1130.230).~~

~~BOARD NOTE: A permit is required for the acquisition of major medical equipment that will be owned by, located in, or utilized to serve inpatients of a health care facility. Equipment acquired by exemption cannot be used to treat patients who are directly admitted into an inpatient unit of a health care facility except in the case of a medical emergency that threatens the life of the patient. A physician licensed to practice medicine in all of its branches must verify that such inpatient admission was caused by a medical emergency.~~

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

(Source: Repealed at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.520 Requirements for Exemptions Involving the Change of Ownership of a Health Care Facility**

- a) Submission of Application for Exemption  
Prior to any person acquiring or entering into a contract to acquire an existing health care facility, the person ~~shall~~must submit an application for exemption to ~~HFSRB~~HFPB, submit the required application processing fee (see Section 1130.230) and receive approval from ~~HFSRB~~HFPB.
- b) Application for Exemption  
The application for exemption is subject to approval under Section 1130.560 and shall include the information required by Section 1130.500 and the following information:
- 1) ~~affirmation~~verification that the categories of service and number of beds as reflected in the Inventory of Health Care Facilities will not substantially change for at least 12 months following the project's completion date;
  - 2) ~~complete transaction documents~~documents, such as letters of intent, options to purchase, or lease or sale agreements, that have been signed by both the applicant and the existing owner that contain a provision that execution is subject to ~~HFSRB~~HFPB issuance of an exemption and that contain the conditions and terms of the change of ownership;
  - 3) proof that the applicant is fit, willing, and able and *has the qualifications, background and character to adequately provide a proper standard of health service for the community* [20 ILCS 3960/6] by certifying that no adverse action has been taken against the applicant by the federal government, licensing or certifying bodies, or any other agency of the State of Illinois against any health care facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application;
  - 4) proof that the applicant has sufficient funds to finance the acquisition and to operate the facility for a period of 36 months by providing evidence of a bond rating of "A" or better (that must be less than two years old) from Fitch's, Moody's, or Standard and Poor's rating agencies; A3 or better from

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

Moody's (the rating shall be affirmed within the latest 18-month period prior to submittal of the application); or evidence of compliance with ~~HFSRB/HFPB~~ financial viability review criteria applicable to the type of facility to be acquired as specified in 77 Ill. Adm. Code 1120;

- 5) ~~affirmation~~verification that the applicant intends to maintain ownership and control of the facility for a minimum of three years;
- 6) ~~affirmation~~verification that any projects for which permits have been issued have been completed or will be completed or altered in accordance with the provisions of this Section;
- 7) ~~if~~ the ownership change is for a hospital, affirmation that the facility will not adopt a more restrictive charity care policy than the policy that was in effect one year prior to the transaction. The hospital must provide ~~affirmation~~certification that the compliant charity care policy will remain in effect for a two-year period, following the change of ownership transaction; and
- 8) ~~affirmation~~verification that failure to complete the project in accordance with the applicable provisions of ~~Section 1130.500(d)~~Section 1130.570 no later than ~~24~~12 months from the date of exemption approval (or by a later date established by ~~HFSRB/HFPB~~ upon a finding that the project has proceeded with due diligence) and failure to comply with the material change requirements of this Section will invalidate the exemption.

## c) Opportunity for Public Hearing

Upon a finding by HFSRB staff that an application for a change of ownership is complete, HFSRB staff shall publish a legal notice on three consecutive days in a newspaper of general circulation in the area or community to be affected and afford the public an opportunity to request a hearing. If the application is for a facility located in a Metropolitan Statistical Area, an additional legal notice shall be published in a newspaper of limited circulation, if one exists, in the area in which the facility is located. If the newspaper of limited circulation is published on a daily basis, the additional legal notice shall be published on three consecutive days. The legal notice shall also be posted on HFSRB's web site and sent to the State Representative and State Senator of the district in which the health care facility is located.~~Upon a finding by the Department of Public Health that an application for a change of ownership is complete, the Department shall publish a~~

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

~~legal notice on 3 consecutive days in a newspaper of general circulation in the area or community to be affected and afford the public an opportunity to request a hearing. If the application is for a facility located in a Metropolitan Statistical Area, an additional legal notice shall be published in a newspaper of limited circulation, if one exists, in the area in which the facility is located. If the newspaper of limited circulation is published on a daily basis, the additional legal notice shall be published on 3 consecutive days. The legal notice shall also be posted on HFPB's web site and sent to the State Representative and State Senator of the district in which the health care facility is located. [20 ILCS 3960]~~ This legal notice ~~shall~~must provide the following:

- 1) the name and address of the facility for which the exemption is sought;
  - 2) the name and address of the applicant entity requesting the exemption;
  - 3) the nature of the transaction (e.g., the purchase, lease, or transfer of stock of the licensed entity);
  - 4) when the entity that will be assuming ownership of the facility is a wholly owned subsidiary of another corporation, the name and address of the parent firm; and
  - 5) ~~affirmationa certification~~ that the categories of service and number of beds as reflected in the Inventory of Health Care Facilities maintained by ~~HFSRB~~HFSRB~~DPH~~ will not substantially change (per the definition in Section 1130.140) for at least 12 months following the exemption's completion date.
- d) **Public Hearing Requirements**  
If a public hearing is requested in accordance with the requirements of the Act, the applicant shall be notified by ~~HFSRB staff~~HFSRB~~DPH~~ of the hearing and the applicant shall provide a summary of the proposed change of ownership for distribution at the public hearing [20 ILCS 3960/8.5]. The summary shall contain at least the following:
- 1) a statement as to the anticipated benefits of the proposed changes in ownership to the community;
  - 2) the anticipated or potential cost savings, if any, that will result for the

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

community and the facility as a result of the change in ownership;

- 3) a description of the [facility's quality improvement program](#) mechanism that will be utilized to assure quality control;
  - 4) a description of the applicant's organizational structure, including a listing of controlling or subsidiary persons;
  - 5) a description of the selection process that the acquiring entity will [use to select](#) ~~utilize in selecting~~ the facility's [governing body](#) ~~board of directors~~;
  - 6) a statement that the applicant has prepared a written response addressing the review criteria contained in 77 Ill. Adm. Code 1110.240 and that the response is available for public review on the premises of the health care facility; and
  - 7) a description or summary of any proposed changes to the scope of services or levels of care currently provided at the facility that are anticipated to occur within 24 months after acquisition.
- e) **Application Processing Fee**  
The application processing fee is \$2,500.
- f) **Completion of Projects with Outstanding Permits**  
A permit or exemption cannot be transferred.
- 1) For purposes of change of ownership exemptions, outstanding permits will not be considered transferred if the following conditions are met:
    - A) the existing permit is not for the establishment or discontinuation of a new facility or category of service;
    - B) the existing permit is not a substantial change in scope as defined in Section [1130.1401130](#);
    - C) [for permits establishing a new facility or a new category of service](#), the existing permit has been obligated and is being carried out with due diligence; [\(see 20 ILCS 3960/6\(b\)\)](#):-

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

D) [the existing permit is being carried out with due diligence.](#)

- 2) If the requirements of this subsection (f) are not met, any outstanding permit will be considered a transfer of the permit and results in the permit being null and void.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.531 Requirements for Exemptions for the Establishment or Expansion of Neonatal Intensive Care Service and Beds**

- a) Application for Exemption  
The application for exemption is subject to approval under Section 1130.560 and shall include the information required pursuant to Section 1130.500 and the following information:
  - 1) a description of the project that identifies the location of the neonatal intensive care unit and the number of neonatal intensive care beds proposed;
  - 2) a copy of a signed letter of support for the proposed project from the Regionalized Perinatal Advisory Committee (77 Ill. Adm. Code 640);
  - 3) a verification that a final cost report will be submitted to the Agency no later than 60 days following the anticipated project completion date;
  - 4) a verification that failure to complete the project by the anticipated project completion date or no later than 12 months from the date of exemption approval, whichever is later (or by a later date established by [HFSRB/HFPB](#) upon a finding that the project has proceeded with due diligence), will invalidate the exemption.
- b) Application Processing Fee  
The application processing fee shall be the greater of \$1,000 or .1% of the total estimated project cost, with a maximum application processing fee of \$20,000 for projects with \$20,000,000 or more estimated project cost.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

**Section 1130.540 Requirements for Exemptions Involving Discontinuation**

Discontinuation of a facility or category of service as specified in Section 1130.410 is exempt from the requirement of obtaining a permit. No letter of intent, exemption application, or fee is required for discontinuation. [HFSRBHFPB](#) shall take action to confirm the discontinuation and determine the date of discontinuation and adjust the Inventory of Health Care Facilities and Services and Need Determinations accordingly.

[HFSRBHFPB](#) NOTE: A permit is required for all discontinuation that is not exempt pursuant to the provisions of Section 1130.410. Discontinuation that has occurred without a permit is in violation of the Act and will be subject to the imposition of sanctions.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.541 Requirements for Exemptions for Combined Facility Licensure****(Repealed)**

~~A person proposing to combine two or more existing health care facilities into a single licensed health care facility must submit an application for exemption to HFPB, submit the required application processing fee and receive approval from HFPB.~~

- a) ~~Application for Exemption~~  
~~The application for exemption shall consist of a written notice, notarized and attested to by an authorized representative of the applicant, that contains the following:~~
- ~~1) the name and address of the applicant proposing the combination;~~
  - ~~2) documentation that the requirements of Section 1130.410 pertaining to the transaction will be met;~~
  - ~~3) proof of publication of a legal notice in a newspaper of general circulation in the community in which the facilities are located. The notice shall provide the name and address of the applicant and the facilities to be combined, a description of the transaction addressing the applicable requirements of Section 1130.410, and the name, title, address and phone number of an individual from whom interested parties may obtain information on the proposed transaction;~~

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 4) ~~certification that the transaction has not yet been entered into or executed.~~
- b) ~~Completion Requirements~~  
~~A project that has received an exemption for combining facility licenses must be complete in accordance with the applicable provisions of Section 1130.570 no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.~~

(Source: Repealed at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.544 Requirements for Exemption for the Addition of Dialysis Stations**  
**(Repealed)**

- a) ~~Application for Exemption~~  
~~The application for exemption shall be subject to approval pursuant to Section 1130.560 and shall include the information required pursuant to Section 1130.500 and the following information:~~
- 1) ~~the number of dialysis stations to be added~~
  - 2) ~~documentation that, for the most recent 12-month period, the existing facility has operated at or in excess of the minimum utilization rate specified at 77 Ill. Adm. Code 1100.630;~~
  - 3) ~~a certification that a final cost report will be submitted to IIDPH no later than 60 days following the project completion date;~~
  - 4) ~~confirmatory evidence that the project has not yet been entered into or executed; and~~
  - 5) ~~confirmation that failure to comply with the material change and completion requirements of this Section will invalidate the exemption.~~
- b) ~~Legal Notice Requirements~~  
~~Any person requesting an exemption for a proposed addition of dialysis stations must publish a legal notice in a newspaper of general circulation in the community in which the facility is located that provides the following:~~
- 1) ~~the name and address of the facility for which the exemption is sought;~~

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 2) ~~the number of dialysis stations to be added and the proposed project costs;~~
  - 3) ~~a name, title, address and phone number of an individual from whom interested parties may obtain information on the proposed transaction.~~
- e) Application Processing Fee  
~~The application processing fee shall be the greater of \$1,000 or .01% of the total estimated project cost (see Section 1130.230) assessed in accordance with the fee assessment provisions for Applications for Exemption of Major Medical Equipment (see Section 1130.510).~~

(Source: Repealed at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.550 Agency Processing of an Application for Exemption**

- a) Application for Exemption Form  
~~Applicants for an exemption are required to submit a completed exemption application form, which is available from the HFSRB website ([www.hfsrb.illinois.gov](http://www.hfsrb.illinois.gov)). Once completed, the form shall be submitted to the HFSRB principal office, located at 525 W. Jefferson Street, 2<sup>nd</sup> Floor, Springfield IL 62761. Requests for exemptions must be made on an application for exemption form that may be obtained from IDPH and are to be submitted to HFPB. No application for exemption shall be received by HFPB before a required letter of intent pertaining to the project has been received and has been on file for at least the minimum number of days specified in this Subpart.~~
- b) Completeness  
~~HFSRB staff~~IDPH shall review an application for exemption to determine whether all required information and the required application processing fee have been submitted. Applications that do not contain the required information, documentation, or fee shall be deemed incomplete. If ~~HFSRB staff deem~~IDPH ~~deems~~ the application incomplete, ~~they#~~ shall notify the applicant of the reasons within 30 days after receipt. The required information or fee must be received by ~~HFSRB~~IDPH within 30 days after receipt of notification. Failure to submit the requested additional information shall result in the application for exemption being voided with the loss of all fees paid.

~~HFSRBOARD~~ NOTE: Persons who have initiated or completed projects

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

eligible for exemption without obtaining an exemption are in violation of the Act and are subject to the penalties and sanctions of the Act.

- c) Submission to Chairman ~~of~~ [HFSRB/HFPB](#)  
[Following HFSRB staff review, applications \(including related documentation\) that comply with all HFSRB requirements and are unopposed shall be forwarded to the Chairman for review and action. IDPH shall forward all complete applications for review and action to the Chairman or HFPB, as applicable.](#)

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.560 [HFSRB](#) ~~State Board~~ Action**

- a) Action by Chairman  
 The Chairman, acting on behalf of [HFSRB/HFPB](#), shall review all applications for exemption and approve, deny, or refer the ~~application~~[applications](#) or material change to [HFSRB/HFPB](#) for review and action. *The Chairman may approve any unopposed application that meets all of the review criteria or refer it to the full Board for review and action [20 ILCS 3960/12]* An exemption application for a change of ownership of a health care facility between related persons shall be acted upon the Chairman no later than 60 days after being declared complete by [HFSRB staff](#)~~IDPH~~ or 60 days after receipt of all public hearing comments and transcripts, whichever is later.
- b) Action by [HFSRB/HFPB](#)  
[HFSRB/HFPB](#) shall evaluate each application for exemption referred by the Chairman and either issue an exemption or advise the applicant or exemption holder in writing that the application is denied and is not in conformance with exemption requirements. The number of affirmative votes for approval of an application for exemption is specified in the Act. [HFSRB/HFPB](#) shall approve an application for exemption that it determines to be in compliance with the requirements. Exemptions will not be issued for projects that have failed to meet the applicable requirements of this Subpart.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.570 Validity of an Exemption and Reporting Requirements**

- a) A project that has received an exemption ~~shall~~[must](#) be completed [on or before the](#)

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

~~completion date approved by HFSRB or mandated by the Act and this Part within the time frames specified in the applicable Sections of this Subpart.~~ An exemption shall be valid through completion provided the requirements of this Section are met.

- b) For purposes of this Section, "completion" occurs on the following date ~~that~~:
- 1) ~~for major medical equipment, the equipment is in operation;~~ 2) for change of ownership of a health care facility, the date that a new license has been issued (or, if licensing is not applicable, Medicare and/or Medicaid certification has been obtained), or a stock transfer has been accomplished, or a majority change in voting membership or sponsorship of a not-for-profit corporation has been accomplished, or the transfer of assets has occurred, or the merger or consolidation has been accomplished, whichever is applicable;
  - 2)3) for all other projects, the date that construction has been completed and patients or residents are receiving service.
- c) The exemption holder shall provide written notice and related documentation to ~~HFSRB~~HFPB of the following:
- 1) Each exemption holder ~~shall~~must notify ~~HFSRB~~HFPB of project completion no later than 30 days following the project completion date; and
  - 2) Where required under other Sections of this Part, a final cost report and all other required documentation shall be submitted to ~~HFSRB~~HFPB no later than ~~90~~60 days following the project completion date, as identified by the exemption holder.
- d) An exemption for a change of ownership of a health care facility shall be invalid if the health care facility ceases to be an existing health care facility.
- e) Other events causing an exemption to become invalid include:
- 1) Change of permit (see Section 1130.710(c)):

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 2) [Failure to submit the Expenditure Commitment or Obligation Report, which should be included with the annual progress reports;](#)
  - 3) [Failure to submit annual progress reports to HFSRB;](#)
  - 4) [Failure to submit Final Cost Reports to HFSRB;](#)
  - 5) [Implementation of a prohibited alteration \(see Section 1130.750\(c\)\); and](#)
  - 6) [Relinquishment of an exemption without Board approval.](#)
- f)e) [\*The State Board may approve the transfer of an existing permit without regard to whether the permit to be transferred has yet been obligated, except for permits establishing a new facility or a new category of service. \[20 ILCS 3960/6\(b\)\]\*](#)~~An exemption is not transferable or assignable and cannot be bought or sold on its own or as part of any other transaction. However, an exemption for a project that has been initiated and is in compliance with the provisions of this Section will not be considered transferred in the case of an existing health care facility change of ownership that has met the exemption requirements of this Part.~~
- g)f) Failure to comply with the requirements of this Section within the specified [time frames](#)~~timeframes~~ shall subject the exemption holder to the sanctions and penalties provided by the Act ([see 20 ILCS 3960/14.1](#)) and [Section 1130.790](#).

~~HFSRBOARD~~ NOTE: See Section 1130.520 regarding changes of ownership for facilities with outstanding permits.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

### [Section 1130.580 Relinquishment of an Exemption](#)

[The holder of an HFSRB exemption may request to withdraw or abandon that exemption. The relinquishment request requires an application to and approval by HFSRB for relinquishment. Upon approval of relinquishment by HFSRB, the exemption is considered null and void. Requests for relinquishment shall be considered only for exemptions that are current and valid. Requests shall be filed with HFSRB prior to the completion date of the exemption.](#)

- a) [Relinquishment Procedure](#)

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

The permit holder shall notify HFSRB in writing, prior to the execution of the withdrawal of a project. The notice shall include:

- 1) A description of the exemption and related costs;
  - 2) A detailed explanation of the reasons for relinquishment; and
  - 3) If the approval of the permit or exemption was based upon need, an explanation of how that need will be met in absence of the project.
- b) HFSRB staff shall review the request for relinquishment and prepare a report of its findings. HFSRB staff findings and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFSRB, shall approve the request or refer it to the full Board for action. The approval or denial of a request for relinquishment constitutes HFSRB's final administrative decision.
- c) Upon approval of a request for relinquishment, HFSRB staff shall adjust all inventories accordingly.
- d) Decisions on requests for relinquishment shall be transmitted in writing to the exemption holder.
- e) Any relinquishment undertaken without prior HFSRB approval shall be considered a violation of the Act and shall be subject to the sanctions and penalties in the Act (see 20 ILCS 3960/14.1) and in Section 1130.790.
- f) A request for relinquishment shall be assessed an application processing fee of \$1,000 (see Section 1130.230(h)(8)(B)).

(Source: Added at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.590 Revocation of an Exemption**

- a) HFSRB shall revoke an exemption upon a determination that an exemption holder has failed to comply with the requirements of the Act and this Part. This HFSRB determination to revoke an exemption may be based upon, but not limited by, any of the following reasons:

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) The project for which the exemption was granted has been altered without the required notice and approval of HFSRB;
  - 2) The exemption holder has failed to complete the project on or before the completion date;
  - 3) The exemption holder or applicant materially changed information or details submitted in the exemption application or in any written materials submitted to HFSRB;
  - 4) The permit holder or applicant submitted false information in the Application for Exemption or in any written materials submitted to HFSRB;
  - 5) The permit holder or applicant misrepresented information presented at an HFSRB meeting, at an HFSRB public hearing, or in response to HFSRB or HFSRB staff inquiries;
  - 6) The exemption holder or applicant has been convicted of any of the following crimes during the previous five years. The convictions shall be verified by a certified copy of the court of conviction.
    - A) A felony;
    - B) Two or more misdemeanors involving moral turpitude;
  - 7) The exemption holder, applicant, or health care facility representative has refused to allow an inspection or survey of the health care facility by HFSRB representatives (i.e., IDPH surveyors);
  - 8) The facility has insufficient financial or other resources to operate the facility in accordance with the exemption application or with any other information submitted to HFSRB;
  - 9) The facility's license has been revoked by IDPH.
- b) If HFSRB intends to revoke an exemption, the exemption holder shall be provided with written notification of the intent to revoke and notice of allegations. The exemption holder shall be afforded an opportunity for a hearing before an

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

[administrative law judge. HFSRB may also impose other sanctions or penalties mandated in the Act \(see 20 ILCS 3960/14.1\) and Section 1130.790, including fines, in addition to the revocation determination.](#)

(Source: Added at 37 Ill. Reg. 6227, effective June 1, 2013)

SUBPART F: ~~OPERATIONAL PROCEDURAL~~ REQUIREMENTS FOR THE REVIEW AND PROCESSING OF APPLICATIONS FOR PERMIT

**Section 1130.610 Duration of the Review Period and Time Frames**

- a) Emergency Applications  
Initial application for emergency projects (as defined in 77 Ill. Adm. Code 1110.40) may be made ~~verbally~~[orally](#) or in writing or by electronic means to the ~~Administrator~~[Executive Secretary](#). The ~~Administrator~~[Executive Secretary](#), upon receiving the concurrence of the Chairman (or in the absence of the Chairman, the Vice-Chairman) that the situation is emergent in nature in accordance with the provisions of 77 Ill. Adm. Code 1110.40, is authorized to give ~~verbal~~[oral](#) approval. Any such communications shall be followed by a written application and written approval. *This procedure is exempt from the public hearing requirements of the Act [20 ILCS 3960/12]*~~and any and all letter of intent requirements~~. The written application ~~shall~~[must](#) identify the applicant and ~~shall~~[must](#) summarize the nature of the problem the emergency project will correct and the anticipated cost of the project.
- b) Substantive and Non-substantive Applications  
The review period for ~~HFSRB staff~~[IDPH](#) shall be a minimum of 30 days following the application's completeness date and shall not exceed 60 days for non-substantive projects and 120 days for substantive projects, [with the exception of projects proposing to establish or discontinue a category of service, which shall be reviewed by the Board within 60 days \[20 ILCS 3960/12\]](#). ~~The~~[unless the](#) review period ~~can be~~[is](#) extended pursuant to the provisions of this Subpart. All applications other than emergency applications shall be acted upon by ~~HFSRB~~[HFPB](#) at the next regularly scheduled meeting that is at least 10 business days following the completion of the ~~HFSRB staff~~[IDPH](#) review.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.620 Technical Assistance, ~~Letter of Intent~~, Classification, Completeness**

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

**Review, ~~and~~ Review Procedures and Application Processing Fee**

- a) Technical Assistance
- 1) The application ~~shall~~must be completed in accordance with the requirements of this Part that are applicable to the individual project. An applicant may request technical assistance or a pre-application conference from HFSRB staff~~DPH~~ regarding completion of the application and the applicability of the requirements of this Part~~HFPB rules~~.
  - 2) Technical assistance may be provided to any person regarding pre-application conferences, the filing of ana letter of intent, impending or pending application, or other request to HFSRB~~HFPB~~, provided that the communication is *not intended to influence any decision on the application. Once an application is filed and deemed complete, a written record of any communication between staff and an applicant shall be prepared by staff and made part of the public record, using a prescribed format, and shall be included in the public record. Any assistance shall be documented in writing by the applicant and employees within 10 business days after the assistance is provided.* [20 ILCS 3960/4.2]
  - 3) Nothing in the Act shall prohibit staff members from providing technical assistance to applicants. Nothing in the Act shall prohibit staff from verifying or clarifying an applicant's information as they prepare the Board's staff report. [20 ILCS 3960/4.2(a)]
  - 4)3) Technical assistance may be provided for the benefit of HFSRB~~HFPB~~ to clarify issues relevant to an application or other business of HFSRB~~HFPB~~. The assistance may be in the form of written correspondences, conversations, site visits, meetings, and/or consultations with independent experts. HFSRB staff shall prepare a written record of any technical assistance provided after an application is deemed complete, for inclusion in the application file. All such communications and responses pertaining to an application to HFPB must be documented in writing by the employee within 10 business days after occurrence and made a part of the application or project record.
- b) Letter of Intent

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) ~~Prior to submission of an application for permit, a letter of intent must be filed with HFPB. The letter of intent must be received by HFPB at least 60 days prior to receipt of an application for permit.~~
- 2) ~~A letter of intent shall be valid for a period of one year from the date of receipt by HFPB.~~
- 3) ~~A letter of intent must contain the following information:~~
  - A) ~~the name of the applicant;~~
  - B) ~~the site of the proposed project and the name of the existing or proposed health care facility that is being established, constructed, or modified;~~
  - C) ~~a brief description of the project or transaction, including number of beds or stations involved, categories of service involved, the estimated maximum project cost, the approximate gross square footage being added or modernized, and the date the application is to be submitted; and~~
  - D) ~~if the project involves discontinuation of a facility or of a category of service, the reason for the discontinuation and the proposed discontinuation date.~~

b)e) Classification of an Application  
An application for permit shall be classified as substantive, non-substantive or emergency, as ~~discussed~~classified in 77 Ill. Adm. Code 1110.40.

c)d) Completeness Review

- 1) Within 10 business days after receipt of~~Upon receipt of~~ an application for permit, HFSRB staff~~DPH~~ shall determine whether the application is substantially complete and ready to be reviewed for compliance with applicable review criteria and standards~~or incomplete~~. The completeness review shall be conducted with the understanding that additional information may be necessary during the staff review period for criteria compliance, to further clarify or explain statements or data in the application. An application for any project shall be deemed complete

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

~~within 10 business days after receipt~~ if all of the following have been met:

- A) all review criteria applicable to the individual project have been addressed, including the Safety Net Impact Statement (for applicants other than long term care providers);
- B) the required fee (as outlined in subsection (~~de~~) of this Section) has been submitted;
- C) the number of copies, forms, and format as specified in the application have been submitted;
- D) all annual progress reports on previously approved projects for the facility and/or applicants have been submitted;
- E) all required information concerning completion of previously approved projects for the facility and/or applicants has been submitted;
- F) when the project proposed contains major medical equipment, the cost of the equipment to be acquired has been provided;
- G) all persons who are applicants have been identified and the applicants that hold the license and that will operate the facility have provided documentation from the Illinois Secretary of State that the applicant is registered to conduct business in Illinois and is in good standing or, if the applicant is not required to be registered to conduct business in Illinois, evidence of authorization to conduct business in other states;
- H) all ~~HFSRB~~HFPB requests and questionnaires for information or data for all Illinois facilities owned or operated by any applicant, such as but not limited to the Annual Hospital or Long-term Care Questionnaire (77 Ill. Adm. Code 1100.60 and 1100.70) or Cancer Registry (77 Ill. Adm. Code 840.110(d) and 840.115(i)) have been received and are complete;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- I) verification that the applicant has fulfilled all compliance requirements with all existing permits that have been approved by [HFSRB/HFPB](#);
  - J) documentation of compliance with the Flood Plain Rule [under Illinois Executive Order #2006-05 of Executive Order 1979-4](#);
  - K) documentation of compliance with the requirements of the Illinois State Agency Historic Resources Preservation Act; and
  - L) identification of a site.
- 2) An application shall be incomplete if any of the elements described in subsection [\(c\)](#)(1) are not present or if additional information or documentation is required to clarify a response. Failure to address an applicable criterion or to respond that an applicable criterion does not apply to the proposed project shall be a basis for deeming the application incomplete.
- [3\)](#) [If an application fails to include any of the elements described in subsection \(d\)\(1\) or if additional information or documentation is required to clarify a response, the application shall not be scheduled for consideration by HFSRB until such time that the required information is submitted and accepted.](#)
- [4\)](#)~~3)~~ Applications received after 8:30 a.m. shall be deemed as being received the following business day.
- [5\)](#)~~4)~~ [HFSRB/DPH](#) shall notify the applicant in writing, within the completeness review period, of its decision and, in the case of an incomplete application, the reasons.
- [6\)](#)~~5)~~ If the application is deemed complete, the date of completion shall initiate the review period. If the application is deemed incomplete, the applicant shall be allowed 45 days from the date of receipt of the notification to provide all necessary information to complete the application. Upon receipt of all additional information requested, [HFSRB staff/DPH](#) shall again review the application for completeness and shall notify the applicant of its decision. If [HFSRB staff find/DPH finds](#) that the

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

application remains incomplete at the end of the allotted response period, the application shall be declared null and void, and all fees paid forfeited.

~~HFSRB BOARD~~ NOTE: It is the responsibility of the applicant to assure that ~~HFSRB receives~~ ~~IDPH is in receipt of~~ the additional information within the prescribed ~~time frame~~ ~~timeframe~~.

~~d)~~e) Review Procedures

- 1) All applications will be reviewed and evaluated for conformance with the applicable review criteria in effect at the time the application is deemed complete.
- 2) Each application will be reviewed and considered on an individual basis unless ~~HFSRB~~~~HFPB~~ has established review criteria or procedures that pertain or relate to comparative review or "batching" of applications.
- 3) Applications for permit shall be subject to the need figures set forth in the most recent update to the Inventory of Health Care Facilities and Services and Need Determinations, as adjusted by ~~HFSRB~~~~HFPB~~ decisions in effect prior to the date ~~HFSRB~~~~HFPB~~ takes action on the application. ~~HFSRB~~~~HFPB~~ action includes the approval, issuance of an intent to deny, or denial of an application.
- 4) All applications except emergency applications are subject to the public hearing requirements of the Act. All evidence submitted ~~at~~~~pursuant to~~ a public hearing shall be taken into account in the determination of compliance or noncompliance of an application with applicable review criteria.

~~e)~~f) Application Processing Fee

- 1) All applicants, except those with projects that are not subject to a fee (see Section 1130.230), are required to submit an application processing fee. An initial fee deposit of \$2,500 ~~shall~~~~must~~ accompany each application for permit submitted to ~~HFSRB~~~~HFPB~~. ~~When an~~~~Upon the~~ application ~~is~~~~being~~ deemed complete, the full amount of the fee shall be determined.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 2) HFSRB staff shall charge and collect an amount determined by the State Board and the staff to be reasonable fees for the processing of applications by the State Board. The State Board shall set the amounts by rule. Application fees for continuing care retirement communities, and other health care models that include regulated and unregulated components shall apply only to those components subject to regulation under the Act. [20 ILCS 3960/12.2]~~Fees shall be assessed based upon the total estimated project costs. To determine CON application processing fees, the total estimated project cost shall be pro-rated by project costs assigned to the clinical services areas and to non-clinical service areas.~~
- A) ~~For projects that are composed of only clinical service areas, the fees shall be calculated on 100% of the total project cost.~~
- B) ~~For projects that are composed of only non-clinical service areas, the fees shall be calculated on 50% of the total project cost.~~
- C) ~~For combined service area projects, the fees shall be calculated on 100% of the clinical service area costs plus 50% of the non-clinical service area costs.~~
- 3) Following the determination of estimated total project costs ~~assigned to clinical service area and non-clinical service area components of the project, as described in subsection (f)(2)~~, the CON application processing fees are calculated as follows: For each project having a total estimated project cost of:
- A) less than \$1,250,000, ~~then~~ the application fee shall be \$2,500;
- B) above \$1,250,000, the application fee shall be 0.22% of the assigned costs.
- 4) The maximum application fee shall not exceed \$100,000.
- 5) Once an application is deemed complete, written notice for any additional fee balance due will be sent to the applicant. Applications shall be declared null and void if the total application fee has not been paid within 30 days after receipt of notice.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.630 ~~HFSRB Staff~~Agency Actions During the Review Period**

During the course of the review period, ~~HFSRB staff~~the Agency shall:

- a) ~~Transmit a complete copy of the application (or such part thereof as may be necessary) to offices of IDPH or to any other State agencies that have requested an opportunity to comment on the application;~~ b) Notify the applicant of completeness and the start of the review period and forward to the applicant the ~~tentatively~~ scheduled date for ~~HFSRB/HFPB~~ action;
- b)e) Offer an opportunity for a public hearing, provide a period for written comments concerning the proposed project, and when requested, conduct a public hearing;
- c)d) Evaluate the application for compliance with the review criteria applicable to the specific project;
- d)e) Transmit to ~~HFSRB/HFPB~~ and to the applicant ~~HFSRB's/IDPH's~~ report and findings, the public hearing report, a summary of all written public comment received 20 days prior to the scheduled ~~HFSRB/HFPB~~ meeting, and written comments that are received within the prescribed time periods established in this Part;-
- e) Release to the public any written review or findings of the Board staff or any other reviewing organization under Section 8 of the Act concerning the application for permit at least 14 calendar days before the meeting of the State Board at which the review or findings are considered. [20 ILCS 3960/6(c-5)]

~~BOARD NOTE: Any communication, written or oral, received from a member of the public, news media, interested persons, legislators, or other persons regarding any matter other than the status of an application that is not authorized by the public comment process specified in this Part is ex parte and is prohibited.~~

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.635 Additional Information Provided During the Review Period**

- a) Additional~~Requested~~ Information

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) ~~During the review period, HFSRBAs needed to clarify the application, IDPH may request information or data during the review period from the applicant or from other persons in order to clarify the application and conduct the HFSRB staffs review. Requested information or data furnished to IDPH shall be made part of and included in the project record.~~
- b) Supplemental Information
  - 2) ~~The applicant may also submit information or data may be provided by the applicant only~~ Supplemental information or data if the information is:
    - A) due to a modification of the project; or;
    - B) ~~is~~ is in response to an Intent to Deny, or ~~is~~ is in response to a request from ~~HFSRB~~ HFPB.
  - 3) All additional information shall be submitted to HFSRB's staff in writing, on 8½ by 11" paper.
  - 4) All additional information shall be submitted within the required time frame established in subsections (b) and (c) and shall be sent only by any recognized overnight courier or personal delivery service.
  - 5) Additional information submitted by fax or email will not be accepted.
  - 6) ~~All additional~~ Supplemental information shall be made part of and included in the project record.
- b)e) Public Comment Information

Public comment information from persons other than the applicant that has been submitted in accordance with the public comment and public hearing provisions of this Part shall not be considered requested or ~~additional~~ supplemental information. The information shall be made part of and included in the project record.
- c) Public Response to Staff Review and Findings

The applicant and members of the public may submit, to the State Board, written responses regarding the facts set forth in the review or findings of the Board staff

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

*or reviewing organization. Members of the public shall submit any written response to the staff review and findings at least 10 days before the meeting of the State Board. The staff may revise any findings to address corrections of factual errors cited in the public response. At the meeting, the State Board may, in its discretion, permit the submission of other additional written materials. [20 ILCS 3960/6 (c-5)]*

- d) Ex Parte Information  
HFSRB will comply with the requirements of the Act pertaining to ex parte communications.  
~~Information submitted by the applicant or by any other person that is not requested information, that is not supplemental information, or that is not public comment or public hearing information is ex parte and will not be considered in the review of the project.~~

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.640 Extension of the Review Period**

- a) Extension by ~~HFSRB~~HFSRB~~IDPH~~ of the Review of Information  
As required to complete its review, ~~HFSRB staff~~HFSRB~~IDPH~~ may extend the review period for up to ~~120~~60 days for the analysis of ~~additional requested or supplemental~~ information. ~~HFSRB~~HFSRB~~HFPB~~ will consider the application at the next regularly scheduled meeting that is at least 10 days following the completion of the ~~HFSRB~~HFSRB~~IDPH~~ review of the ~~additional requested or supplemental~~ information.
- b) Extension Due to Deferral by Applicant  
The applicant may defer consideration of a project by ~~HFSRB~~HFSRB~~HFPB~~. A deferral extends from the ~~HFSRB~~HFSRB~~HFPB~~ meeting at which the project has been scheduled to the next scheduled ~~HFSRB~~HFSRB~~HFPB~~ meeting, subject to a review period of up to 60 days for analysis of ~~additional requested and/or supplemental~~ information. A request for deferral may be provided in writing prior to the scheduled ~~HFSRB~~HFSRB~~HFPB~~ meeting or verbally at the ~~HFSRB~~HFSRB~~HFPB~~ meeting. An applicant may not defer:
- 1) initial consideration of the application by ~~HFSRB~~HFSRB~~HFPB~~ to a meeting that is scheduled more than 6 months from the date the application was deemed complete; or

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 2) ~~HFSRB/HFPB~~ consideration of an application that has received an Intent to Deny beyond a meeting date that is more than 126 months from the date of ~~HFSRB's/HFPB's~~ decision of Intent ~~to~~ Deny.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.650 Modification of an Application**

- a) Modifications to an application are allowed during the review period, prior to final ~~HFSRB/HFPB~~ decision. Modifications (as defined in Section 1130.140) shall be classified as Type A or Type B. Type A modifications shall be subject to the public hearing requirements of ~~the Act~~ 77 Ill. Adm. Code 1140. If requested, a hearing would occur within the time allocated for ~~HFSRB staff/HDPH~~ review. Type A modifications consist of any of the following:
  - 1) ~~A change~~ An increase in the number of beds proposed in the project.
  - 2) A change in the site of the project to a new location within the planning area. A change in site to a location outside the planning area originally identified in the application is not considered a modification and voids the application.
  - 3) ~~A change~~ An increase in the cost of the project exceeding 10% of the original estimated project cost.
  - 4) ~~A change~~ An increase in the total gross square footage (GSF) of the project exceeding 10% of the original GSF.
  - 5) ~~An increase~~ A change in the categories of service to be provided.
  - 6) A change in the person who is the applicant, including the addition of one or more co-applicants to the application.
  - 7) Any modification to a project, including modifications specified in subsections (a)(1) through (a)(6), that, by itself, would require a certificate of need (CON) permit or exemption.
- b) All other modifications, including those made by an applicant in conformance with and limited to the comments, recommendations or objections of

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

HFSRB/HFPB, are Type B modifications and are not subject to public hearing.

- c) An applicant can modify a project only twice during the review period; provided, however, an applicant may modify a project at any time if the modification is in conformance with and limited to the comments, recommendations or objections of HFSRB/HFPB.
- d) If ~~an applicant modifies an application that is not~~ a modification ~~is not made~~ in conformance with and limited to the comments, recommendations or objections of HFSRB/HFPB, HFSRB staff/DPH shall:
- 1) have up to 60 days to review the modification and any supplemental information submitted pursuant to the applicable review criteria;
  - 2) hold a public hearing if requested; and
  - 3) submit its findings to HFSRB/HFPB at the next regularly scheduled meeting that is at least 10 days following the completion of the HFSRB staff/DPH review.
- e) If a modification results in an increase in the total estimated project cost, the application processing fee shall be recalculated on the basis of the revised estimated project cost. Section 1130.230 is applicable with respect to any additional fees required for a modified application.
- f) If a modification results in the need of an additional notification of opportunity for public hearing, then an additional fee of \$2,000 will be assessed.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.655 HFSRB/HFPB Consideration and Action**

- a) Chairman Consideration and Action
- 1) Applications for permit that meet all of HFSRB's review criteria and are unopposed shall be:
    - A) reviewed for approval by the Chairman, acting on behalf of HFSRB [20 ILCS 3960/5]; or

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- B) referred by the Chairman to the full Board for review and action.
- 2) The review and subsequent action by either the Chairman or the full Board shall take place prior to the next regularly scheduled HFSRB meeting that is at least 10 business days following the completion of the staff review of the applications.
- b) HFSRB Consideration and Action  
~~HFSRBHFPB~~ shall review each application for permit to determine compliance with all applicable review criteria. ~~HFSRBHFPB~~ shall consider the application material, ~~additional requested or supplemental~~ information, public comment and public hearing testimony, ~~HFSRB staffHDPH~~ findings, and other information coming before it and take the following action:
- 1)a) approve the application and issue a permit;
- 2)b) issue an Intent to Deny (an initial denial of a project);
- 3)e) issue an initial denial of a project and afford the applicant an opportunity for an administrative hearing;
- 4)d) issue a final denial of a project subsequent to an administrative hearing or waiver of ~~asueh~~ hearing; or
- 5e) defer action on an application to a subsequent meeting. ~~HFSRBHFPB~~ deferral of an application shall extend the review period, if it were to otherwise expire, until the date of the subsequent HFPB meeting.
- c) HFSRB Written Decisions  
HFSRB shall issue written decisions, upon request of the applicant or an adversely affected party, to the Board within 30 days after the meeting in which the final decision has been made. [20 ILCS 3960/12]

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.660 Approval of an Application**

- a) The number of affirmative votes required for approval of an application and

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

issuance of a permit by ~~HFSRB~~~~HFPB~~ is specified in the Act. ~~HFSRB~~~~HFPB~~ shall consider the application and any ~~additional~~~~supplemental~~ information or modification submitted by the applicant, ~~HFSRB staff~~~~DPH~~ reports, the public hearing testimony ~~and written comments~~, if any, and other information coming before it in making its determination whether to approve the project.

~~Applications~~~~The applications~~ are reviewed to determine compliance with review criteria ~~contained~~~~enumerated~~ in 77 Ill. Adm. Code 1110 and 1120. The failure of a project to meet one or more ~~of the applicable~~ review criteria, ~~as set forth in 77 Ill. Adm. Code 1110 and 1120~~, shall not prohibit the issuance of a permit. A permit is effective on the date of ~~HFSRB~~~~HFPB~~ authorization.

- b) ~~HFSRB~~~~HFPB~~ may propose conditions to be placed upon any application for permit. Projects that are approved with conditions or stipulations shall contain the following:
- 1) Specified conditions that are expressly agreed to by the applicant;
  - 2) Establishment of time frames for compliance with conditions;
  - 3) Establishment of reporting requirements; and
  - 4) Assurance that any change to the application for permit does not constitute a Type A modification as delineated in Section 1130.650(a) that would require a public hearing.
- c) Following issuance of a permit, HFSRB shall send a permit acceptance agreement to the permit holder, specifying and consolidating all post-permit requirements necessary to maintain compliance with the permit.
- d)e) Failure to comply with any conditions within the prescribed time frames shall provide a basis to invalidate the permit, or issue conditions, fines or other penalties or sanctions mandated in the Act and Section 1130.790.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.670 Intent to Deny an Application**

- a) Issuance of Intent to Deny  
Failure of an application for permit to receive the number of affirmative votes

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

required by the Act upon initial consideration by ~~HFSRB~~~~HFPB~~ shall constitute an Intent to Deny the application. Subsequent to the issuance of an Intent to Deny, the applicant *will be given an opportunity to appear before ~~HFSRB~~~~HFPB~~ and present such information as may be relevant to the approval of a permit [20 ILCS 3960/10].* The date of the Intent to Deny is the date of the ~~HFSRB~~~~HFPB~~ meeting when the action occurred.

## b) Applicant's Response

The applicant shall notify ~~HFSRB~~~~HFPB~~ in writing within 14 calendar days after issuance of an Intent to Deny and indicate ~~whether~~~~if~~ the applicant intends to appear before ~~HFSRB~~~~HFPB~~ and/or submit ~~additional~~~~supplemental~~ information. It is the responsibility of the applicant to assure that HFSRB is in receipt of the response within 14 days after issuance of an Intent to Deny.

~~BOARD NOTE: It is the responsibility of the applicant to assure that HFPB is in receipt of the response within 14 days after issuance of an Intent to Deny.~~

## c) Action Following Notice of Intent to Deny

- 1) If the applicant waives the right to appear before ~~HFSRB~~~~HFPB~~ or if a written response is not received within 14 days after issuance of an Intent to Deny, then the application shall be considered withdrawn.
- 2) If the applicant indicates that no ~~additional~~~~supplemental~~ information will be submitted, ~~HFSRB~~~~HFPB~~ shall take action on the application at its next meeting.
- 3) If the applicant indicates that ~~additional~~~~supplemental~~ information ~~will~~~~shall~~ be submitted, the applicant shall be afforded a period of ~~60~~~~30~~ days from the date of issuance of the Intent to Deny to submit the material. Upon receipt of ~~additional~~~~supplemental~~ information, ~~HFSRB staff~~~~IDPH~~ shall commence a review and submit its findings to ~~HFSRB~~~~HFPB~~ in accordance with the provisions of this Subpart. ~~HFSRB staff~~~~IDPH~~ shall be allowed up to 60 days following the receipt of all material to review the material and issue a supplemental report.
- 4) ~~Written comments submitted to IDPH from persons other than the applicant regarding a proposed project that has received an Intent to Deny are ex parte and prohibited and shall not be considered. This provision~~

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

~~does not apply to public hearing testimony or comments that are received pursuant to a provision in Subpart I (Public Hearing and Comment Procedures) or to comments or testimony that has been submitted in response to requests by HFPB for information to assist in consideration of the application subsequent to the Intent to Deny.~~

## d) Deferrals by Applicant

A project that has received an Intent to Deny and has been scheduled for ~~HFSRB~~~~HFPB~~ consideration can be deferred by the applicant. A notice of deferral may be provided in writing prior to the scheduled ~~HFSRB~~~~HFPB~~ meeting or be provided verbally at the ~~HFSRB~~~~HFPB~~ meeting. An applicant may not defer ~~HFSRB~~~~HFPB~~ consideration beyond an ~~HFSRB~~~~HFPB~~ meeting date that is more than ~~12~~~~six~~ months from the date of issuance of the Intent to Deny.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.680 Denial of an Application**

- a) If, subsequent to an issuance of an Intent to Deny, an application for permit fails to receive the required number of affirmative votes for approval specified in the Act, the ~~HFSRB~~~~HFPB~~ vote shall constitute a denial of the application for permit.
- b) If ~~HFSRB~~~~HFPB~~ denies an application for permit, the decision and notice of opportunity for administrative hearing shall be transmitted to the applicant by certified mail.
- c) At the conclusion of such administrative hearing, or upon default of the applicant, ~~HFSRB~~~~HFPB~~ shall make its final administrative decision, specifying its findings of fact and conclusions of law. The ~~Administrator~~~~Executive Secretary~~ shall transmit the decision to the applicant by certified mail.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

## SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

**Section 1130.710 Validity of Permits**

A permit is effective on the date of ~~HFSRB~~~~HFPB~~ authorization.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- a) A permit shall be valid until ~~such time as~~ the project has been completed, provided that:
- 1) obligation of the project occurs within the time frames specified in the Act unless the obligation period is extended by [HFSRBHFPB](#) (as defined in Section 1130.730); and
  - 2) the project commences and proceeds to completion with due diligence. The obligation period shall be extended for any project for which issuance of a permit has been contested and is in administrative review. The obligation period will be extended by the length of time equal to the number of days from the date a summons was received until the date of final disposition of the suit.
- b) Projects ~~shall~~must proceed with due diligence and ~~shall~~must be completed (see Section 1130.140) no later than the completion date approved by [HFSRBHFPB](#). All permits for projects that are not completed in the time frames specified shall subject the permit holder to the sanctions and penalties provided in the Act and this Subpart, unless renewed by [HFSRBHFPB](#) pursuant to Section 1130.740.
- c) A permit is valid only for the defined construction or modification, equipment, site, amount, time period and persons named in the application for the permit and shall not be transferable or assignable. A change in the person who is the permit holder; a change in the membership or sponsorship of a not-for-profit corporation that is the permit holder; or the transfer, assignment, or other disposition of 10% or more of the stock or voting rights of a for-profit corporation that is the permit holder, invalidates the permit.
- d) A permit shall not be bought, sold, or transferred either on its own or as part of a transaction for a change of ownership of a health care facility or for the acquisition of major medical equipment.
- e) Other events causing a permit to become invalid include:
- 1) Change of permit (see Section 1130.710(c));
  - 2) Failure to submit the Expenditure Commitment or Obligation Report, which should be included with the annual progress reports;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 3) [Failure to submit annual progress reports to HFSRB;](#)
- 4) [Failure to submit Final Cost Reports to HFSRB;](#)
- 5) [Implementation of a prohibited alteration \(see Section 1130.750\(c\)\);](#)
- 6) [Relinquishment of a permit without Board approval; and](#)
- 7) [Failure to comply with the requirements of Section 1130.660\(d\).](#)

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.720 Obligation**

- a) Projects for construction, establishment or modification must be obligated no later than:
  - 1) 18 months for major construction projects; or
  - 2) 12 months for all projects that do not include major construction; or
  - 3) The [HFSRB/HFPB](#) completion date of the permit, if it occurs before the ~~above-mentioned~~ deadlines [in subsections \(a\)\(1\) and \(a\)\(2\)](#).
- b) Projects that have no cost shall be considered obligated upon [HFSRB/HFPB](#) issuance of a permit.
- c) Permits for projects that have a cost and that have not been obligated as stated in this Section shall be considered expired and the project abandoned. Failure to obligate as stated shall subject the permit holder to fines pursuant to Section 1130.790(d)(1).
- d) ~~The permit holder of a project that has a cost shall submit a notarized verification by an authorized representative that the project has been obligated on a stated date certain; that the financial resources to fund the project are available or otherwise committed; and that the project's cost, scope, design, square footage, number of beds or stations, etc. (as applicable) are in compliance with that which HFPB has approved. This submittal must be made within 30 days after obligation. Failure by the permit holder to report obligation in accordance with these provisions shall~~

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

~~subject the permit holder to the sanctions and penalties provided by the Act and this Subpart.~~

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.730 Extension of the Obligation Period**

- a) ~~HFSRBHFPB~~ may grant the permit holder a single extension of time to obligate the project. An extension shall be for a period of up to one year and shall commence on the previously defined obligation date.
- b) The permit holder shall submit a written request for extension, along with an application processing fee, and shall provide the following documentation, as applicable:
  - 1) for major construction projects, evidence that final working drawings have been submitted to IDPH for review or, if IDPH review is not required, evidence that final working drawings have been completed;
  - 2) for projects that are solely for the acquisition of major medical equipment, evidence that suppliers have been solicited and cost estimates received;
  - 3) for projects that are solely for the provision of new services, verification by the permit holder's authorized representative that necessary staff has been recruited or that an application for reimbursement, recognition, or Medicare ~~or~~ Medicaid certification has been sought from third party payors or certification agencies;
  - 4) confirmatory evidence that financial resources are available to complete the project (as defined in Section 1130.140 – "Completion").
- c) A request for extension must be in writing and received by ~~HFSRBHFPB~~ at least 45 days prior to the defined obligation date or the permit expiration date if, based on the 12-month or 18-month requirement for obligation, the permit expiration date comes before the defined obligation date. A request for extension shall be assessed a \$500 application processing fee and is subject to the requirements of Section 1130.230. A request for extension that is ~~not~~ received ~~less than~~ at least 45 days prior to the permit ~~obligation expiration~~ date shall be subject to an additional \$500 late application processing fee. If payment has not been received within 30

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

days after receipt of written notice for payment, the request for extension shall be considered withdrawn.

- d) ~~HFSRB staff~~DPH shall review the request for extension and prepare a report of its findings. If the findings are that the request is in conformance with all ~~HFSRB/HFPB~~ criteria, ~~HFSRB staff~~DPH's findings and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of ~~HFSRB/HFPB~~, shall approve or deny the request, or refer the request to ~~HFSRB/HFPB~~ for action. If ~~HFSRB staff find~~DPH finds that all criteria are not positive or if the Chairman refers this to ~~the full Board~~HFPB for action, then the matter shall be sent by ~~HFSRB staff~~DPH to ~~HFSRB members, HFSRB/HFPB and HFPB~~ shall evaluate the information submitted in making its determination whether to grant the extension. Projects that continue to comply with the provisions of 77 Ill. Adm. Code 1110 and 1120 and that have shown good cause by submitting the required information for an extension request specified in subsection (b) of this Section, and for which the causes for delays are beyond the permit holder's control, shall be approved for extension. Denial by ~~HFSRB/HFPB~~ of an extension request shall constitute the final ~~HFSRB/HFPB~~ decision and is not subject to administrative appeal.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.740 Permit Renewal of a Permit**

A permit holder may request a completion date that is later than~~a change in~~ an approved project completion date by submitting to HFSRB a request~~by an application~~ for permit renewal~~of a permit~~.

- a) Permit renewal~~Renewal of a permit~~ by ~~HFSRB/HFPB~~ must be requested~~obtained~~ prior to the required project completion date.
- b) ~~Failure to complete a project or to renew a permit within the prescribed timeframes shall subject the permit holder to the sanctions and penalties provided in the Act and this Subpart. c)~~A permit renewal shall commence on the expiration date of the original permit~~renewed completion period~~.
- ~~c)~~d) The request for permit renewal shall be in writing and shall be received by ~~HFSRB/HFPB~~ at least 45 days prior to the expiration date of the permite~~completion period~~, and shall include the following information:

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) the requested completion date;
- 2) a status report on the project detailing what percent has been completed and a summary of project components yet to be finished and the amount of funds expended on the project to date;
- 3) a statement as to the reasons why the project has not been completed; and
- 4) confirmatory evidence by the permit holder's authorized representative that the project's costs and scope are in compliance with what [HFSRB/HFPB](#) approved and that sufficient financial resources are available to complete the project.

de) [HFSRB staff/IDPH](#) shall review the request and prepare a report of its findings. If the findings are that the request is in conformance with all [HFSRB/HFPB](#) criteria, and if this is the first request for this project, then the request, [HFSRB staff/IDPH's](#) findings, and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of [HFSRB/HFPB](#), shall approve or deny the request or refer the request to [the full Board/HFPB](#) for action. If [HFSRB staff find/IDPH finds](#) that all criteria are not positive ~~or~~, if this is not the first request for this project or, if the Chairman refers this to [the full Board/HFPB](#) for action, then [HFSRB/HFPB](#) will evaluate the information submitted to determine if the project has proceeded with due diligence (as defined in Section 1130.140). The number of affirmative votes required to approve a renewal request is specified in the Act. [If a request for renewal of permit is denied, HFSRB may issue a Notice of Intent to Revoke a Permit if the project is not completed by the HFSRB-approved completion date. The Denial of a permit renewal request shall constitute HFPB's Notice of Intent to Revoke a permit and the](#) permit holder shall be afforded an opportunity for an administrative hearing pursuant to Subpart J.

[HFSRB/BOARD](#) NOTE: Permit revocation procedures are explained in Section 1130.780.

ef) A permit renewal request shall be assessed a \$500 application processing fee and is subject to the requirements of Section 1130.230. Permit renewal requests that are not received at least 45 days prior to the expiration date of the [permiteompletion period](#) shall be subject to an additional \$500 late application processing fee. If payment has not been received within 30 days after receipt of

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

written notice ~~from HFSRB for payment~~, the request for renewal shall be considered withdrawn. Any renewal request received after the completion date is subject to the fines provided in the Act (see 20 ILCS 3960/14.1).

- g) ~~Permit holders who have not submitted permit renewal requests at least 45 days prior to the expiration date of the completion period may also be subject to the Act's sanctions or penalties should a project not be completed and the permit completion period expires prior to HFPB approval of a renewal request. Sanctions and penalties include the denial of permit and other sanctions as stated in Section 1130.790.~~

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.750 Alteration of Post-Permit Projects~~a Project for which a Permit Has Been Issued~~**

- a) Applicability  
The cumulative effect of alterations to a project shall not exceed the following:
- 1) All alterations shall be reported to HFSRB before any alteration is executed. Some proposed alterations require HFSRB approval and some are prohibited. Proposed alterations that are not cited under these two categories require only written notification to HFSRB prior to execution of the alteration.
  - 2) Any change after issuance of a permit may constitute an alteration. All alterations shall be reported to HFSRB before any alteration is executed.
  - 3) The alteration requirements are applicable only to projects with open permits (approved projects that are not yet completed).
  - 4) Alteration provisions are valid only for the projects defined and approved in the permit.
  - 5) A project with a permit can be altered any time between the date of permit issuance and the project completion date.
  - 6) All alterations requiring HFSRB action shall be reviewed and approved on a cumulative basis. More than one alteration can be reviewed and

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

approved during the life of a project; however, the limits on alterations shall be applied cumulatively for a single permit.

~~A permit is valid only for the defined construction or modification, equipment, site, amount and persons named in the application. Any change to a project subsequent to HFPB's issuance of a permit constitutes an alteration to the project. Projects for which a permit has been issued can be altered during the time period between the permit issuance and the date of project completion. However, all proposed alterations that require HFPB review and action must be submitted to HFPB for review prior to the execution of the alteration. Some alterations must be reviewed and approved by HFPB. Other alterations are not allowable and, if undertaken, will invalidate the permit. All alterations will be reviewed and approved on a cumulative basis. A permit holder may apply for more than one alteration during the life of a project. However, the limits on alterations shall apply cumulatively to all alterations for a single permit. The cumulative effect of alterations to a project shall not exceed the requirements stated below:~~

b)a) Allowable Alterations Requiring HFSRB Approval~~alterations that require HFPB action are:~~

The cumulative effect of alterations to a project shall not exceed the following:

- 1) a change in the approved number of beds or stations, provided that the change would not independently require a permit or exemption from HFSRB~~HFPB~~;
- 2) abandonment of an approved category of service established under the permit;
- 3) any increase in the square footage of the project up to 5% of the approved gross square footage;
- 4) any decrease in square footage greater than 5% of the project;
- 5) any increase in the cost of the project not to exceed 75% of the total project cost. This alteration may exceed the capital expenditure minimum in place when the permit was issued, provided that it does not exceed 75% of the total project cost;
- 6) any increase in the amount of funds to be borrowed for those permit holders that have not documented a bond rating of "A-""A" or better from Fitch's or Standard and Poor's rating agencies, or A3 or better from

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

Moody's (the rating shall be affirmed within the latest 18 month period prior to the submittal of the application).;

- 7) ~~any increase in the project costs components (i.e., line item amounts) if the increase is not in compliance with the 77 Ill. Adm. Code 1120 review criteria; or~~
- 8) ~~any change that substantially changes the scope or changes the functional operation of the project, as defined in Section 1130.140.~~

c)b) Prohibited Alterations Not Allowed

Notwithstanding the provisions of subsection ~~(ba) of this Section~~, the following alterations are not allowed and, if incurred, invalidate the permit:

- 1) an increase in the total project costs that exceeds 75% of the permit amount;
- 2) an increase in the project's gross square footage that exceeds 5% of the project's approved gross square footage , unless that increase is required or mandated by local, State or federal building or life safety requirements that were not in effect at the time of permit issuance;
- 3) any other change in the project's scope or funding that would independently require a CON permit or exemption.

e) Allowable Alterations Requiring Notice Only to HFPB

~~For any allowable change to the project that does not require an action of HFPB, notification must occur within 30 days after the alteration.~~

d) Allowable Alterations

- 1) ~~All alterations must be reported. Some require Board action (those listed that require Board approval, and those that are clearly listed as "Not Allowed"). There is no specific list of allowable alterations cited, since the number of possible allowable alterations is infinite.~~
- 2) ~~Allowable alterations consist of those alterations:~~
  - A) ~~that must be reported and approved by the Board;~~

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- ~~B) that are not included in the listing of "Not Allowed Alterations"; and~~
- ~~C) that need only to be reported.~~

~~d)e)~~ Alteration Procedures1) Written Notification

- A) The permit holder shall notify ~~HFSRB~~~~HFPB~~ in writing of any alteration to a project. The notice shall include a description of the alteration and related costs (if any) and shall address all applicable review criteria related to the alteration if the alteration requires ~~HFSRB~~~~HFPB~~ approval. ~~HFSRB staff~~~~DPH~~ shall review the alteration request for compliance with the review criteria and submit its findings to ~~HFSRB~~~~HFPB~~. If additional information is needed by ~~HFSRB staff~~~~DPH~~ to perform a review of the request, the permit holder shall be notified.
- B) ~~All alteration requests shall be submitted to the State Board in writing on 8½ by 11" paper.~~
- C) ~~All alteration requests shall be submitted within the allowable time frames established in subsection (a)(1) and shall be sent only by any recognized overnight courier or personal delivery service.~~
- D) ~~Alteration requests submitted by email or fax will not be accepted.~~

2) Compliance with 77 Ill. Adm. Code 1110 and 1120

A request for alteration reviewed by ~~HFSRB~~~~HFPB~~ is subject to the provisions of 77 Ill. Adm. Code 1110 ~~and~~ 1120 that are applicable to the individual project. The components and any other proposed alterations to a project that would, when taken as a separate component, require a permit under the Act shall not be subject to review under this Section but shall require a new application for a ~~supplemental~~ permit.

~~3)f)~~ HFSRB Staff Review

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

~~HFSRB staff~~ IDPH shall review the alteration request for compliance with the review criteria for alteration and prepare a report of its findings for HFSRB review. If additional information is needed to review the request, the permit holder will be notified.

4) Board Review and Action

A) The alteration request, HFSRB staff findings, and all related documentation shall be sent to the Chairman if:

- i) staff review determines that the alteration request is in conformance with all HFSRB criteria; and
- ii) this is the first alteration request for the project.

~~If the findings are that the request is in conformance with all HFPB criteria and, if this is the first request for this project, then the request, IDPH's findings, and all related documentation shall be sent to the Chairman.~~

B) The Chairman, acting on behalf of ~~HFSRB~~ HFPB, shall approve or deny the request or refer the request to the full Board HFPB for consideration and action. Other conditions under which the alteration request shall be referred to the full Board for consideration and action are as follows:

- i) the request is not in conformance with all HFSRB criteria;~~If IDPH finds that all criteria are not positive~~ or;
- ii) the request~~if this~~ is not the first one for an alteration concerning the~~request for a particular project in question;~~ or, if the Chairman refers a request to HFPB for action; ~~then the matter shall be sent by IDPH to HFPB for consideration and action.~~

C) The number of affirmative votes required for approval of an alteration request is specified in the Act. The approval or denial of a request for alteration constitutes ~~HFSRB's~~ HFPB's final administrative decision. ~~Approval of an alteration is based on the~~

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

~~continued compliance of the project with 77 Ill. Adm. Code 1110 or 1120, as applicable.~~

5)g) Inventory and Permit Amount Adjustments

Upon approval of a request for alteration, ~~HFSRB~~HFPB will revise the permit to reflect the alteration and shall adjust all inventories accordingly. If a permit holder reduces the scope or size of the project, the permit amount shall be reduced accordingly.

6)h) Notification of Decision to Applicant

Decisions on requests for alteration shall be transmitted, in writing, to the permit holder by ~~HFSRB staff~~the Executive Secretary.

7)i) Applicable Penalties

Any alteration undertaken without prior ~~HFSRB notice or notice and HFPB~~HFPB approval (when required) shall be considered a violation of the Act ~~and/or subsection (a)(1) of this Section~~ and shall ~~subject the permit or exemption holder to fines, permit revocation, be subject to and the penalties and sanctions~~ mandated in the Act (~~see 20 ILCS 3960/14.1~~) and in ~~Section 1130.790. Section 1130.790.~~

8)j) Alteration Processing Fee

A request for alteration shall be assessed an application processing fee of \$1,000 ~~or .02% of the dollar amount in excess of the approved permit amount, whichever is greater,~~ and is subject to the requirements of Section 1130.230.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.760 Annual Progress Reports**

- a) Each permit holder shall submit annual progress reports to ~~HFSRB staff~~DPH every 12 months from the permit issuance date until ~~such time as~~ the project is completed. The annual progress reports are due ~~by between 30 days prior to and 30 days after~~ the anniversary date of ~~HFSRB~~HFPB approval of the permit. ~~The~~Such reports shall include:
- 1) current status of the project, including the percentage of the project finished, components finished and components yet to be finished, and any

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

changes in the scope of the project and size;

- 2) cost incurred to date and an itemized listing of the total current estimated project costs and a comparison of those costs to the approved permit amounts;
  - 3) the method of financing the project and sources of funds; [and](#)
  - 4) ~~for major construction projects, the most recent Application and Certification for Payment for the construction contract, as per form G702 published by the American Institute of Architects, or equivalent; and~~5) the anticipated date of completion.
- b) Failure to provide the required annual progress reports will result in future applications being considered incomplete by [HFSRB staff/DPH](#) until the required reports are received.
  - c) [Failure to timely process the required annual progress reports shall be considered a violation of the Act and shall subject the permit or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act \(see 20 ILCS 3960/14.1\) and Section 1130.790.](#)
  - d) [All information submitted to HFSRB regarding annual progress reports shall be submitted on 8½ by 11" paper.](#)
  - e) [All information regarding annual progress reports shall be submitted within the allowable time frames established in subsection \(a\) and shall be sent only by any recognized overnight courier or personal delivery service.](#)
  - f) [Annual reports submitted by email or fax will not be accepted.](#)

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.770 Project Completion, Final Realized Costs and Cost Overruns**

~~Each permit holder shall notify HFPB within 30 days following the project completion date and provide the following supporting documentation within 90 days following the completion date:~~

- a) [Written Notification](#)

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) [Each permit holder shall notify HFSRB upon its project completion.](#)
  - 2) [All information concerning project completion shall be submitted on 8½ by 11" paper.](#)
  - 3) [All information regarding progress completion shall be submitted within the allowable time frames established in subsections \(a\)\(1\) and \(a\)\(5\) and shall be sent only by any recognized overnight courier or personal delivery service.](#)
  - 4) [No project completion reports will be accepted by email or fax.](#)
  - 5) [The notification shall be submitted no later than 90 days following the project completion date. The permit holder shall provide the supporting documentation in subsections \(b\), \(c\) and \(d\) within 90 days following the notification.](#)
- b)a) For projects with no cost, the permit holder ~~shall~~**must** submit a written notice to ~~HFSRB~~**HFPB** of the project's conclusion (e.g., initiation of a new service, discontinuation, certification of additional dialysis stations).
- c)b) For a project with a cost below the capital expenditure minimum, the permit holder ~~shall~~**must** submit a notice that the project has been brought to a conclusion and submit a report of final realized costs containing the following:
- 1) a detailed itemization of all project costs and sources of funds;
  - 2) an itemization of those project costs that have been or will be submitted for reimbursement under Titles XVIII and XIX of the Social Security Act;
  - 3) a certification that the final realized costs are the total costs required to complete the project and that there are no additional or associated costs or capital expenditures related to the project that will be submitted for reimbursement under Title XVIII or XIX;
  - 4) certification attesting to compliance with the requirements of this Section ~~shall~~**must** be in the form of a notarized statement signed by an authorized representative of the permit holder; and

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 5) for major construction projects, the final Application and Certification for Payment for the construction contract, as per form G702 published by the American Institute of Architects or equivalent.

d)e) For a project with a cost above the capital expenditure minimum in place at the time of permit approval, the permit holder ~~shall~~must submit a notice that the project has been brought to a conclusion and submit a report of final realized costs containing the following:

- 1) itemization of all project costs;
- 2) ~~an~~ itemization of those project costs that have been or will be submitted for reimbursement under Titles XVIII and XIX;
- 3) ~~a~~ certification that the final realized costs are the total costs required to complete the project and that there are no additional or associated costs or capital expenditures related to the project that will be submitted for reimbursement under Title XVIII or XIX;
- 4) certification of compliance with all terms of the permit to date, including project cost, square footage, services, etc.; certification attesting to compliance with the requirements of this Section must be in the form of a notarized statement signed by an authorized representative the permit holder; ~~and~~
- 5) the final Application and Certification for Payment for the construction contract, as per the American Institute of Architects form G702 or equivalent; and
- 6) for permits with a project cost equal to or greater than three times the capital expenditure minimum in place at the time of permit approval, an audited financial report of all project costs and sources of funds.

e)d) Failure to file final realized costs reports will result in subsequent applications for permit filed by the permit holder to be deemed incomplete by HFSRB staff~~DPH~~ until the required report is filed. In addition, the permit holder will be subject to fines, penalties and sanctions as mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- f)e) Failure to timely file the project's final realized cost report, notice of project completion, all necessary supporting documentation following the project completion, or any project cost overrun information shall subject the permit or exemption holder to fines, permit revocation, and the penalties and sanctions mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790. All permits for projects that are not completed in required timeframes shall constitute a basis to revoke the permit, unless renewed by HFPPB (reference Section 1130.710 and 1130.740).
- g)f) Any amount of the final realized cost that exceeds the approval permit amount shall be considered a cost overrun without a permit unless the amount is subsequently approved by HFSRBHFPPB. *Projects may deviate from the costs, fees, and expenses provided in their project cost information for the project's cost components, provided that the final total project cost does not exceed the approved permit amount [20 ILCS 3960/5].*
- h)g) Any project with a cost overrun shall not be complete until such time as HFSRBHFPPB determines that the project has complied with all project completion requirements, as determined by HFSRB~~is complete~~.
- i)h) Any project that is compliant with the conditions of its permit shall not be complete until HFSRBsuch time as HFPPB determines that the project completion requirements have been met~~is complete~~.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.775 Relinquishment of a Permit**

The holder of an HFSRB permit may request to withdraw or abandon that permit. The request requires an application to and approval by HFSRB for relinquishment. Upon approval of relinquishment by HFSRB, the permit is considered null and void. Requests for relinquishment shall be considered only for permits that are current and valid. Requests shall be filed with HFSRB prior to the completion date of the permit.

- a) Relinquishment Procedure  
The permit holder shall notify HFSRB in writing, prior to the abandonment or withdrawal of a project. The notice shall include:

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) A description of the permit and related costs;
  - 2) A detailed explanation of the reasons for abandonment; and
  - 3) If the approval of the permit or exemption was based upon need, an explanation of how that need will be met in absence of the project.
- b) HFSRB staff shall review the request for withdrawal and prepare a report of its findings. HFSRB staff findings and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFSRB, shall approve the request or refer it to the full Board for action. The approval or denial of a request for relinquishment constitutes HFSRB's final administrative decision.
- c) Upon approval of a request for relinquishment, HFSRB staff shall adjust all inventories accordingly.
- d) Decisions on requests for relinquishment shall be transmitted in writing to the permit holder.
- e) Any relinquishment undertaken without prior HFSRB approval shall be considered a violation of the Act and shall be subject to the sanctions and penalties in the Act (see 20 ILCS 3960/14.1) and in Section 1130.790.
- f) A request for relinquishment shall be assessed an application processing fee of \$1,000.

(Source: Added at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.780 Revocation of a Permit**

- a) HFSRB shall revoke a permit ~~shall be revoked by HFPB~~ upon a ~~determination~~ finding that a permit holder has failed to comply with the requirements of the Act and ~~this Section~~ this Part. This HFSRB determination to revoke a permit may be based upon, but not limited by, for any of the following ~~reasons~~ reasons:
- 1) the project for which the permit was granted has been altered without the required notice and/or approval of HFSRB~~HFPB~~;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 2) the permit holder has failed to complete the project [on or before the completion date](#)with due diligence;
  - 3) The permit holder or applicant materially changed information or details submitted representations in the CON application or in any written materials submitted to HFSRB; that served as a basis for HFPB approval of the project and issuance of a permit have been materially changed or information was submitted by the permit holder that is false or fraudulent and served as the basis and was material to the issuance of the permit or completion of the project.
  - 4) The permit holder or applicant submitted false information in the CON application or in any written materials submitted to HFSRB;
  - 5) The permit holder or applicant misrepresented information presented at a Board meeting, at an HFSRB public hearing, or in response to HFSRB or HFSRB staff inquiries;
  - 6) The permit holder or applicant has been convicted of any of the following crimes during the previous five years. The convictions shall be verified by a certified copy of the court of conviction.
    - A) A felony;
    - B) Two or more misdemeanors involving moral turpitude;
  - 7) The permit holder, applicant, or health care facility representative has refused to allow an inspection or survey of the health care facility by Board representatives (i.e., IDPH surveyors);
  - 8) The facility has insufficient financial or other resources to operate the facility in accordance with the CON application or with any other information submitted to the Board;
  - 9) The facility's license has been revoked by IDPH.
- b) If HFSRB intends to revoke a permit, the permit holder shall be provided with written notification of the intent to revoke and notice of allegations. The permit holder shall be afforded an opportunity for a hearing before an administrative law

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

~~judge, and may request to appear before HFSRB prior to the start of an administrative hearing. HFSRB may also impose other sanctions or penalties mandated in the Act (see 20 ILCS 3960/14.1) and Section 1130.790, including fines, in addition to the revocation determination (see 20 ILCS 3960/14.1(c)). If at any time HFPB has information that a reason for revocation of a permit exists, the permit holder shall be provided written notification of the allegations and will be afforded 30 days following receipt of the notification to prepare and submit a written response to the allegations.~~

~~BOARD NOTE: It is the responsibility of the permit holder to assure that HFPB is in receipt of the written response within the 30-day prescribed time frame.~~

- ~~e) The permit holder shall be provided written notification of the date, time, and place when the allegations will be reviewed by HFPB and afforded an opportunity to appear before HFPB. If, after reviewing the allegations and the permit holder's response, if any, HFPB finds that a basis for revocation exists pursuant to subsection (a), it shall issue and transmit to the permit holder a Notice of an Intent to Revoke a permit.~~
- ~~d) The permit holder may request an administrative hearing by filing a written request with the Chairman within 30 days after receipt of the Notice of Intent to Revoke a permit.~~
- ~~e) If at the end of the 30-day period the permit holder has not responded or requested an administrative hearing, HFPB shall, at its next regularly scheduled meeting, act on the matter of the revocation of the permit. If an administrative hearing has been held, HFPB shall act on the matter of the revocation of the permit following the submission of the hearing officer's report.~~
- ~~f) If HFPB revokes a permit, the Executive Secretary shall transmit the decision to the permit holder by certified mail or shall serve it personally on the permit holder. All inventories shall be amended to indicate the elimination of the proposed project.~~
- ~~g) The decision by HFPB on the revocation of a permit constitutes its final administrative decision and shall be subject to the provisions of the Administrative Review Law.~~

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

**Section 1130.790 Penalties, Fines and Sanctions Mandated in the Illinois Health Facilities Planning Act for Non-compliance with the Act and HFSRB/HFPB Rules**

- a) *Any person establishing, constructing, or modifying a health care facility or portion thereof without obtaining a required permit, or in violation of the terms of the required permit, shall not be eligible to apply for any necessary operating licenses or be eligible for payment by any State agency for services rendered in that facility or portion thereof until the required permit is obtained. [\[20 ILCS 3960/13.1\]](#)~~(Section 13.1 of the Act)~~*
- b) *Any person acquiring major medical equipment or establishing, constructing or modifying a health care facility without a permit issued under the Act or in violation of the terms of such a permit is guilty of a business offense and may be fined up to \$25,000. [\[20 ILCS 3960/14\]](#)~~(Section 14 of the Act)~~*
- c) *HFSRB/HFPB may deny an application for permit or may revoke or take other action as permitted by the Act with regard to a permit as HFSRB/HFPB deems necessary, including the imposition of fines. [\[20 ILCS 3960/14.1\(a\)\]](#)~~(Section 14.1(a) of the Act)~~*
- d) *HFSRB/HFPB may impose fines as specified below for the enumerated violations:*
- 1) *A permit holder who fails to comply with the requirements for maintaining a valid permit shall be fined an amount not to exceed 1% of the approved permit amount, plus an additional 1% of the approved permit amount for each 30-day period, or fraction thereof, that the violation continues. [\[20 ILCS 3960/14.1\(b\)\(1\)\]](#) ~~(Section 14.1(b)(1) of the Act)~~*
  - 2) *A permit holder who alters the scope and size of an approved project or whose project costs exceed the allowable permit amount without first obtaining HFSRB/HFPB approval shall be fined an amount not to exceed the sum of:*
    - A) *The lesser of \$25,000 or 2% of the approved permit amount; and*
    - B) *In those cases where the approved permit amount is exceeded by more than \$1,000,000, an additional \$20,000 for each \$1,000,000, or fraction thereof, in excess of the approved permit amount. [\[20](#)*

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

ILCS 3960/14.1(b)(2)](Section 14.1(b)(2) of the Act)

- 3) *A person who acquires major medical equipment, or who establishes a category of service without first obtaining a permit or exemption, as the case might be, shall be fined an amount not to exceed \$10,000 for each such acquisition or category of service established plus an additional \$10,000 for each 30-day period, or fraction thereof, that the violation continues. [20 ILCS 3960/14.1(b)(3)](Section 14.1(b)(3) of the Act)*
- 4) *A person who constructs, modifies or establishes a health care facility without first obtaining a permit shall be fined an amount not to exceed \$25,000 plus an additional \$25,000 for each 30-day period, or fraction thereof, that the violation continues. [20 ILCS 3960/14.1(b)(4)](Section 14.1(b)(4) of the Act)*
- 5) *A person who discontinues a health care facility or category of service without first obtaining a permit shall be fined an amount not to exceed \$10,000 plus an additional \$10,000 for each 30-day period, or fraction thereof, that the violation continues. Facilities licensed under the Nursing Home Care Act or the MR/DD Community Care Act, with exception of facilities operated by a county or Illinois Veterans Homes, are exempt from this permit requirement. However, facilities licensed under the Nursing Home Care Act or the MR/DD Community Care Act must comply with Section 3-423 of the Nursing Home Care Act or Section 3-423 of the MR/DD Community Care Act and must provide the Board with 30-days' written notice of its intent to close [20 ILCS 3960/14.1(b)(5)].-(Section 14.1(b)(5) of the Act)*
- 6) *A person subject to ~~the~~this Act who fails to provide information requested by HFSRB or its staff~~HFPB or IDPH~~ within 30 days after a formal written request shall be fined an amount not to exceed \$1,000, plus an additional \$1,000 for each 30-day period, or fraction thereof, that the information is not received by HFSRB or its staff~~HFPB or IDPH~~. [20 ILCS 3960/14.1(b)(6)](Section 14.1(b)(6) of the Act)*
- e) If an individual or entity has failed to comply with the Act or HFSRB~~HFPB~~'s rules and has been notified by HFSRB~~HFPB~~ about an allegation of noncompliance, this shall provide a basis for HFSRB~~HFPB~~ to defer consideration

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

of any and all applications, rulings, or advisory opinions filed before ~~HFSRB~~~~HFPB~~ until the noncompliant matter is resolved.

- f) Failure to pay any fine imposed under this Section within 30 days after its imposition, or by a specified date if the default of payment extends past 30 days, shall subject the person to other sanctions permitted by the Act as ~~HFSRB~~~~HFPB~~ deems appropriate.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

## SUBPART H: DECLARATORY RULINGS

**Section 1130.810 Declaratory Rulings**

~~HFSRB~~~~HFPB~~ shall render determinations on various matters relating to permits and the applicability of the statute and regulations. Requests for determination shall be made in writing. Pursuant to Section 5-150 of the Illinois Administrative Procedure Act, ~~thesesueh~~ determinations are declaratory rulings and are not subject to appeal. The following matters shall be subject to declaratory rulings by ~~HFSRB, including~~~~HFPB include~~, but are not limited; to:

- a) whether a proposed project requires a permit or exemption;
- b) corrections to the facility inventories utilized by ~~HFSRB~~~~HFPB~~;
- c) recognition that a particular service was in existence prior to permit requirements;
- d) amount of fees required;
- e) project classification as substantive or non-substantive; and
- f) applicability of rules.

~~HFSRBOARD~~ NOTE: Declaratory ruling requests pertaining to an application for permit or exemption during the review period may be submitted only by the applicant and by ~~HFSRB~~~~staff~~~~DPH~~.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

## SUBPART I: PUBLIC HEARING AND COMMENT PROCEDURES

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

**Section 1130.910 Applicability**

- a) ~~Public Hearing on Applications for Permit and Certificates of Recognition~~  
The Act requires that ~~IDPH~~ affords an opportunity for public hearing when an application for permit is declared complete (see 20 ILCS 3960/8) and with respect to the approval of or revocation of a certificate of recognition of an areawide health planning organization (see 20 ILCS 3960/9).
- a)b) Public Hearing on Certificates of Exemption for Change of Ownership  
The Act requires that ~~HFSRB staff~~~~IDPH~~ afford an opportunity for public hearing when an application for a change of ownership exemption is declared complete (see 20 ILCS 3960/8.5).
- be) Public Hearing on Proposed Rules  
In addition to the requirements of the ~~IAPA~~~~APA~~, ~~HFSRB~~~~the State Board~~ shall adopt procedures concerning public notice and hearing on proposed rules (see 20 ILCS 3960/12).

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.920 Notice of Review and Opportunity for Public Hearing and Comment on Applications for Permit**

- a) Notice of Review and Opportunity for Public Hearing and Comment  
After an application for permit has been received and has been deemed complete or after certain types of modification have been made to a complete application (pursuant to the provisions of this Part), ~~HFSRB~~~~IDPH~~ shall afford an opportunity for public hearing and written comments on the project by preparing and publishing a Notice of Review and Opportunity for Public Hearing and Comment (Notice). This Notice shall consist of at least the following elements:
- 1) Identification of the proposed project, including the project cost and a brief description of the project and the tentative date that the application is scheduled for ~~HFSRB~~~~HFPB~~ review;
  - 2) Identification, including the mailing address and telephone number, of the agency that is responsible for the public hearing;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 3) Information regarding where a copy of the application may be viewed by the public and how copies of the application may be obtained;
- 4) A statement that any person has the right to request a public hearing and to submit written comments on the proposed project;
- 5) The date (which shall be at least 15 days from the date of publication of the Notice) by which a written request for a public hearing ~~shall~~must be received by ~~HFSRB~~DPH; and
- 6) All public comment regarding an application ~~shall~~must be received by ~~HFSRB staff~~DPH no later than 20 days prior to tentatively scheduled consideration of the application by ~~HFSRB~~HFPB. If that date of consideration is extended, then the public comment period will also be extended. If subsequent to ~~HFSRB~~HFPB consideration of an application, a final decision is not made (application is deferred or is issued an Intent to Deny, or is denied), then the public comment period shall be extended to the 20 days prior to the next consideration.

~~HFSRB~~BOARD NOTE: The provisions of this subsection (a) do not apply to written comments that are submitted pursuant to the time frames established by a hearing officer as part of a public hearing concerning an application for permit.

- b) The Notice of Review and Opportunity for Public Hearing and Comment shall be forwarded promptly to the applicant by certified mail and shall be published in a newspaper of general circulation in the area or community where the project is to occur.
- c) Notice to all other persons, including health care facilities and members of the general public, shall be deemed to have been given by publication of the notice in a newspaper in the area or community where the project is to occur.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.930 Notice of Public Hearing on Applications for Permit**

- a) Content and Distribution of Notice of Public Hearing on Application for Permit  
If ~~HFSRB staff receive~~DPH receives a request for a public hearing on a proposed project in response to the Notice of Review and Opportunity for Public Hearing or

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

Comment within the time frame established in the notice, [HFSRB staff](#)~~DPH~~ shall schedule a public hearing on the proposed project and prepare and publish a Notice of Public Hearing. The ~~content of the~~ Notice of Public Hearing shall consist of at least the following:

- 1) Identification of the subject to be heard;
- 2) Identification of the law under which ~~the subject~~ is being heard;
- 3) Identification of the agency conducting the hearing;
- 4) Announcement of the time, date and location of the hearing;
- 5) Announcement that the hearing is an open public meeting at which opportunity will be afforded all parties at interest to present written and/or verbal comments relevant to the project; and
- 6) Announcement that allegations or assertions should be relevant to the need for the proposed project and be supported with two copies of documentation or materials that are preferably printed or typed on 8½ by 11" paper ~~size 8 1/2" by 11"~~.

~~b) Notice of such hearing shall be made promptly by certified mail to the applicant, and within 10 days prior to the hearing, by publication in a newspaper of general circulation in the area or community to be affected [20 ILCS 3960/8].~~

~~b)e) Notice to all other persons, including members of the general public, who are to be served by the proposed project shall be deemed to have been given by publication of the Notice of Public Hearing in a newspaper in the area or community where the project is to occur.~~

~~HFSRB~~**BOARD** NOTE: If the applicant or other person requests a public hearing on a proposed project after an application for permit has been submitted but prior to the application being deemed complete or after a modification that requires an opportunity for a public hearing (pursuant to the provisions of this Part) is received, [HFSRB staff](#)~~DPH~~ shall not provide a Notice of Review and Opportunity for Public Hearing or Comment but shall, at the time the application is deemed complete or the modification is received, schedule a public hearing and prepare and publish a Notice of Public Hearing.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.940 Procedures for Public Hearing on Applications for Permit**

Procedures for public hearing shall include at least the following:

- a) ~~The hearing shall be conducted in the area or community where the proposed establishment, construction, or modification of a health care facility is to occur [20 ILCS 3960/8];~~
- a)b) A place of reasonable size and accessibility shall be provided;
- b)e) A hearing officer or officers with shall conduct the hearing and take all necessary steps to assure the hearing's proper completion;
- d) ~~All interested persons attending such hearing shall be given reasonable opportunity to present their views or arguments in writing or orally. [20 ILCS 3960/8] Any person shall have the right to be represented by counsel;~~
- c)e) The hearing officer shall have the authority to require the swearing in of persons presenting testimony and to determine the order in which testimony is taken and the time to be allocated for each person to testify;
- d)f) The hearing officer shall maintain order and may set and announce new hearing dates, times and places. The hearing officer's verbal announcement shall, for this purpose, constitute public notice;
- e)g) The proceeding shall be tape-recorded or otherwise recorded. A full and complete transcript need not be made, however, unless required by law and paid for by the requesting party;
- f)h) The hearing shall be deemed to have been completed and terminated when the hearing officer so finds and has determined that all exhibits, documents and other written materials presented or requested at the hearing are in his or her custody; and
- g)i) The hearing officer shall, within a reasonable time, submit a public hearing report that shall include all exhibits and documents to [HFSRB staff](#)~~DPH~~ for submission to [HFSRB](#)~~HFPB~~.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.950 Written Comments on Applications for Permit**

## a) Provision for and Types of Written Comments

- 1) Written comments regarding an application and any supplemental information pertaining to an application ~~shall~~must be submitted in accordance with the Notice of Review requirements of this Subpart, in accordance with public hearing requirements established at the direction of the hearing officer, or in accordance with requirements for additional testimony established as a request from and at the direction of ~~HFSRB~~HFPB.
- 2) Persons who have previously participated in any public hearings or submitted written comments related to a project shall not repeat previously submitted comments.

## b) Submission of Comments

- 1) Written comments are to be submitted to ~~HFSRB or its Administrator~~HFPB or the Executive Secretary at:

Illinois Health Facilities ~~and Services Review~~Planning Board  
~~Illinois Department of Public Health~~  
525 West Jefferson St., 2<sup>nd</sup> Floor  
Springfield IL 62761

- 2) Those written comments that have been addressed and submitted as described in this subsection will be included as part of the public record, provided that such comments have been received within the prescribed time frame and in accord with the requirements of this Subpart. Persons submitting comments are responsible for assuring that the Board's staff ~~at IDPH~~ receive the comments within the prescribed time frame. No person shall knowingly provide ex parte comment to any ~~HFSRB~~HFPB member or staff in contravention of Section 1130.630(d) (see 20 ILCS 3960/4.2).

## c) Format of Comments

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 1) Written comments ~~shall~~must contain a signature and the name and address of the person submitting the comments. Written comments ~~shall, other than those submitted electronically, must~~ be on 8½ by 11" paper ~~and not exceed a width of 8½" and a length of 11"~~.
  - 2) All written comments shall be submitted within the allowable time frames established in Sections 1130(b) and 1130.920(a)(5), and shall be sent only by any recognized overnight courier or personal delivery service.
  - 3) Written comments submitted by email or fax will not be accepted.
- d) Forwarding of Comments to ~~HFSRB~~HFPB and to Applicant  
All written comments that are received within the specified time frame will be forwarded by ~~HFSRB staff~~DPH to ~~HFSRB members~~HFPB and to the applicant in advance of the ~~HFSRB~~HFPB meeting date.
- e) Ex Parte Comments  
Written comments that are received after the prescribed date shall be considered ex parte and shall not be forwarded to ~~HFSRB~~HFPB or to the applicant.
- f) Validity of Comments
- 1) Written comments filed with HFSRB or oral statements made under oath to HFSRB under any Board matter that are subsequently found to be false or inaccurate will serve as a basis for an HFSRB investigation of the matter.
  - 2) HFSRB may require the person who made the false or inaccurate comments or statements to appear before the Board. HFSRB may censure that person. Further, HFSRB may determine that person to be ineligible to provide written comments or oral statements concerning any future Board considerations.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.960 Notice Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition) (Repealed)**

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- a) ~~Scheduling of Public Hearing~~  
~~Upon receipt of an application for a certificate of recognition (or in the case of proposed revocation of a certificate of recognition) of an areawide health planning organization for health facilities planning made to HFPB, IDPH shall conduct a public hearing within a reasonable period after receipt of the application, not to exceed 90 days. (See 20 ILCS 3960/9.)~~
- b) ~~Content and Distribution of Notice of Public Hearing on Application for Certificate of Recognition (or Revocation of Recognition)~~  
~~In addition to scheduling the public hearing, IDPH shall also prepare a Notice of Public Hearing and provide for distribution of the notice in accordance with the requirements of the Notice of Public Hearing for Applications for Permit as specified in this Subpart. (See 20 ILCS 3960/9.)~~

(Source: Repealed at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.970 Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition) (Repealed)**

~~The procedures for public hearing concerning an application for certificate of recognition or for the revocation of recognition shall be in accordance with the requirements of the Procedures for Public Hearing for Applications for Permit as specified in this Subpart.~~

(Source: Repealed at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.990 Procedures for Public Hearing and Comment on Proposed Rules**

All proposed rulemaking is subject to the provisions of the ~~Illinois Administrative Procedure Act (IAPA)~~. ~~HFSRB/HFPB~~ shall conduct public hearings on all proposed rules and provide notice of public hearings as part of the IAPA first notice requirements. Written comments should be submitted in accordance with the first notice requirements published in the Illinois Register.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.995 Procedures for Public Comment on All Other Matters**

Public comment is permitted for all other matters subject to ~~HFSRB/HFPB~~ proceedings that are not specified above (e.g., requests for alterations, renewals, extensions, declaratory rulings). Public comment shall identify the subject matter and be in conformance with the following:

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- a) Persons who have previously participated in any public hearings or submitted written comments related to a project shall not repeat previously submitted comments.
- b)a) All public comment ~~shall~~must be received by ~~HFSRB staff~~HFSRB staff~~DPH~~ no later than 20 days prior to tentatively scheduled consideration of the matter by ~~HFSRB~~HFPB. If that date of consideration is extended, then the public comment period will also be extended.
- c)b) Comments shall be in writing. Written comments are to be submitted to ~~HFSRB staff~~HFSRB staff~~DPH~~. Only those written comments that have been addressed or submitted to ~~HFSRB or its Administrator~~HFPB or Executive Secretary and received at ~~HFSRB~~HFPB headquarters shall be included as part of the public record, provided that such comments have been received within the prescribed time frame and are in accord with the requirements of this Subpart. Persons submitting comments are responsible for assuring that ~~HFSRB staff receive~~DPH receives the comments within the prescribed time frame. In addition, persons providing comments to ~~HFSRB~~HFPB are responsible to assure that any submission is not in violation of the ex parte provisions of the Act.
- d)e) Written comments ~~shall~~must contain a signature and the name and address of the person submitting the comments. Written comments ~~shall, other than those submitted electronically, must~~ be on 8½ by 11" paper ~~and not exceed a width of 8½" and a length of 11"~~.
- e) All written comments shall be submitted within the allowable time frames established in subsection (b) and shall be sent only by any recognized overnight courier or personal delivery service.
- f) Written comments that are submitted by fax or email will not be accepted.
- g)e) Ex Parte Comments  
Written comments that are received after the prescribed date shall be considered ex parte and shall not be forwarded to ~~HFSRB~~HFPB or to the applicant and shall not be considered in making a determination.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

## SUBPART J: PRACTICE AND PROCEDURE IN ADMINISTRATIVE HEARINGS

**Section 1130.1010 The Right to an Administrative Hearing and Applicable Rules**

- a) This Subpart of practice and procedures for administrative hearings is promulgated pursuant to Section 5-10(a)(i) and Article 10 of the IAPA and Sections 10 and 11 of the Illinois Health Facilities Planning Act.
- b) A person whose application for permit, a renewal of a permit, or a certificate of recognition is denied or whose permit or certificate of recognition is revoked by HFSRB shall be afforded an opportunity for a hearing before a hearing officer. ~~A person whose application for permit, a renewal thereof, or a certificate of recognition is denied or whose permit or certificate of recognition is revoked by the Illinois Health Facilities Planning Board shall be afforded an opportunity for a hearing before a hearing officer. [20 ILCS 3960/10] These~~ Such hearings shall be governed by this Part.
- c) Administrative hearings in contested cases as defined by the IAPA shall be governed by this Part.
- d) In case of a conflict between the provisions of this Part and the IAPA, the provisions of the IAPA shall apply. Provisions of the IAPA that relate to contested cases shall apply to all hearings.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.1020 Initiation of a Contested Case (Pleadings)**

- a) In contested cases, in which where HFSRB is required to HFPB shall serve on the respondent a Notice of Opportunity for an Administrative Hearing, that notice shall contain:
  - 1) *a statement of the nature of the action;*
  - 2) *a statement of the legal authority and jurisdiction under which the action is being initiated;*
  - 3) *a reference to the particular Sections of the statutes and/or rules involved;*

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 4) allegations of noncompliance;
  - 5) a statement of the procedure for requesting an administrative hearing (~~Section 10-25 of the IAPA~~), including a date by which the request must be received by [HFSRBHFPB](#), which must be set at least 10 days after the notice is mailed or personally served;
  - 6) *except where a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted, the consequences of a failure to respond, and the official file or reference number.* [\[5 ILCS 100/10-25\]](#)~~(Section 10-25 of the IAPA)~~
- b) A person who receives a Notice of an Opportunity for an Administrative Hearing ~~shall~~**must** submit a written request for a hearing to [HFSRBHFPB](#). The request ~~shall~~**is to** be sent to [HFSRBHFPB](#) at the address stated in the notice and ~~shall~~**must** be received by the date set forth in the notice. Failure to comply with this Section shall constitute a waiver of the person's right to an administrative hearing.
- c) Upon receipt of a timely request for hearing, [HFSRBHFPB](#) shall issue a Notice of Hearing or Prehearing Conference. *The notice of hearing or prehearing conference shall contain:*
- 1) *a statement of the nature of the hearing;*
  - 2) *a statement of the time and place that the hearing or prehearing conference will be held;*
  - 3) *a statement of the legal authority and jurisdiction under which the hearing is to be held; and*
  - 4) *the names and mailing addresses of the administrative law judge, all parties, and all other persons to whom the agency gives notice of the hearing, unless otherwise confidential by law.* [\[5 ILCS 100/10-25\]](#)~~(Section 10-25 of the IAPA)~~
- d) Amendments to the pleadings may be allowed upon proper motion at any time during the pendency of the proceedings on such terms as shall be just and reasonable.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- e) All written documents provided for under this Section shall be liberally construed with a view toward doing substantial justice between the parties.
- f) Venue shall be the location designated in the Notice of Administrative Hearing. Venue may be moved to another location upon stipulation by all parties or upon a showing to and a finding by the administrative law judge that exceptional circumstances, including but not limited to age, infirmity or inability to travel, exist that make it desirable, in the interest of justice, to allow a change of venue.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.1030 Waiver of Hearing**

An applicant's right to an administrative hearing on an application denied by [HFSRBHFPB](#) pursuant to Section 10 of the Act shall be waived by the submission of a modified application for permit for the project that was the subject of the application that was denied. Any pending administrative hearing on an application for permit shall be dismissed by the administrative law judge upon the showing that a modified application was submitted by the applicant and the matter was referred to [HFSRBHFPB](#). The waiver of a right to an administrative hearing on a denied application does not waive the right to an administrative hearing on the denial of the modified application.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.1040 Parties to Hearings**

- a) The parties to proceedings before [HFSRBHFPB](#) are complainants, applicants, respondents, and intervenors.
- b) [HFSRBHFPB](#) shall be deemed a complainant in any proceedings initiated by its own action.
- c) An applicant is the person required by the Act to obtain a permit from [HFSRBHFPB](#) who files an application with [HFSRBHFPB](#).
- d) A respondent is a party other than an applicant against whom a complaint or petition is filed.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- e) Intervenors are "adversely affected persons" and are granted the right to be parties to proceedings before [HFSRB/HFPB](#). ~~These~~ Such persons are defined as:
- 1) the areawide health planning organization for the health service area in which the proposed project is to be located;
  - 2) areawide health planning organizations serving contiguous health service areas or located within the same Standard Metropolitan Statistical Area (SMSA);
  - 3) any person residing within the geographic area served or to be served by the applicant;
  - 4) any person who regularly uses health care facilities within that geographic area;
  - 5) health care facilities and HMOs located in the health service area in which the project is proposed to be located that provide services similar to the services of the applicant;
  - 6) health care facilities and HMOs that, prior to receipt by [HFSRB staff/IDPH](#) of the application being reviewed, have formally indicated an intention to provide similar services in the future;
  - 7) third party payers who reimburse health care facilities for services in the health service area in which the proposed project is to be located;
  - 8) any agency that establishes rates for health care facilities or HMOs located in the health service area in which the project is proposed to be located; and
  - 9) IDPH.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.1060 Prehearing Conferences**

- a) A prehearing conference may be scheduled by the administrative law judge or [HFSRB/HFPB](#) at their discretion or as a result of a request pursuant to subsection

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

(b) of this Section. This conference shall be held prior to the date of hearing and shall be for the purpose of considering:

- 1) the simplification of the issues;
- 2) amendments to the pleadings;
- 3) the possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;
- 4) the limitation of the number of expert witness; and
- 5) any other matters that may aid in the disposition of the hearing.

- b) In any proceedings under this Section in which [HFSRB/HFPB](#) has not scheduled a prehearing conference, any party to the proceedings may request the scheduling of a prehearing conference. The request ~~shall~~**must** be made in writing and received by the administrative law judge at least five days prior to the scheduled date of hearing. The requesting party shall serve all other parties to the proceedings with a copy of the request.
- c) Upon the receipt of a request for a prehearing conference in accordance with subsection (b) of this Section, the administrative law judge shall schedule the prehearing conference and notify all parties of the date, time and place of the conference.
- d) After a prehearing conference, the administrative law judge shall make a report that recites any action taken by the administrative law judge and any agreements made by the parties as to any of the matters considered.
- e) Any party may request additional prehearing conferences. The administrative law judge, in his or her discretion, may deny or grant the request.
- f) A certified stenographic reporter (court reporter) may not be present at a prehearing conference unless one of the parties to the proceeding or the administrative law judge requests a court reporter to be present. The request ~~shall~~**must** be received by [HFSRB/HFPB](#) at least two working days in advance of the scheduled prehearing conference. The party, other than the administrative law

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

judge or ~~HFSRB~~~~HFPB~~, requesting the presence of the court report shall be billed directly for the attendance fee of the reporter.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.1080 Disqualification of Administrative Law Judge**

Prior to commencement of a hearing, a party may file a written motion to disqualify the administrative law judge supported by an affidavit setting forth the facts upon which the motion is made. The administrative law judge who is the subject of a motion to disqualify shall review the motion and affidavit and shall issue his or her report to ~~HFSRB~~~~HFPB~~. The report shall include a proposed ruling on the motion and the reasons for the ruling. If ~~HFSRB~~~~HFPB~~ determines that bias or a conflict of interest exists, it shall grant the motion and the Director of IDPH shall appoint a new administrative law judge within 30 days after ~~HFSRB's~~~~HFPB's~~ determination. *An adverse ruling, in and of itself, shall not constitute bias or conflict of interest* ~~[5 ILCS 100/10-30](Section 10-30 of the IAPA).~~

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.1090 Form of Papers**

- a) All papers filed in any proceeding, except exhibits, shall be typewritten or printed. If typewritten, the impression shall be on one side of the paper; long quotations shall be single spaced and indented. ~~Mimeographed~~~~Mimiographed~~, multigraphed, hectographed ~~and~~, ~~photocopied~~~~photostated~~ papers, and the like, will be accepted as typewritten.
- b) All papers, except exhibits, shall be cut or folded so as not to exceed a width of 8½" and a length of 14" and shall have inside margins not less than one inch wide. Whenever practical, all exhibits of a documentary character shall conform to these requirements.
- c) All pleadings, written motions, or notices filed in the administrative proceeding shall be signed in ink by the party filing the paper or by an officer or agent or an attorney representing the officer or agent.
- d) Pleadings, written motions, notices, and applications shall contain the address of the party filing the paper or, if represented by an attorney, the name and business address of such attorney.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.1110 Conduct of Hearings**

- a) All hearings conducted in any proceedings shall be open to the public.
- b) Hearings shall commence and proceed with due diligence.
- c) Hearings will be conducted by an administrative law judge, appointed by the Director of IDPH.
- d) The administrative law judge shall conduct hearings; administer oaths; issue subpoenas; regulate the course of hearings; hold informal conferences for the settlement, simplification, or definition of issues; dispose of procedural requests, motions, and similar matters; continue the hearing from time to time when necessary; examine witnesses; and rule upon the admissibility of evidence and amendments to pleadings.
- e) In a hearing to consider the denial of a permit or certificate of recognition, the applicant shall have the burden of establishing that the proposed project or application for certificate of recognition, as the case may be, for which application for permit or recognition is made is consistent with the standards, criteria, or plans adopted by ~~HFSRB~~~~HFPB~~ upon which the finding and decision of ~~HFSRB~~~~HFPB~~ ~~were~~~~HFPB was~~ made; only ~~such~~ testimony and evidence as ~~are~~~~is~~ relevant shall be offered or accepted.
- f) All parties to an administrative hearing shall have the right to give testimony, produce evidence, cross-examine adverse witnesses and present arguments relevant to the question of consistency and conformity of the proposed project with the adopted standards, criteria or plans upon which the finding and decision of ~~HFSRB~~ ~~were~~~~HFPB was~~ made.
- g) The administrative law judge shall direct all parties to enter their appearances on the record.
- h) Parties may by stipulation agree upon any facts involved in the proceeding. The facts stipulated shall be considered as evidence in the proceeding. Unless

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

precluded by law, disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

- i) At any stage of the hearing, or after all parties have completed the presentation of their evidence, [HFSRB/HFPB](#) or its administrative law judge may call upon any party or the technical staff of [HFSRB/IDPH](#) or other departments of State government or State Universities for further material or relevant evidence upon any issue. All parties at interest shall be afforded the right to present further evidence or material, or contradict the evidence or material presented, as per the provisions of the IAPA.
- j) The rules of evidence and privilege as applied in civil cases in the Circuit Court of this State shall be followed. However, evidence not admissible under such rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Immaterial, irrelevant, unduly repetitious material shall be excluded. All admissible evidence shall be considered in accordance with its relative probative value in formulating the final decision of [HFSRB/HFPB](#) and also in formulating the findings of fact and conclusions of law (if any) that support the decision. A copy of the whole or any part of an admissible book, record, paper, or memorandum of [HFSRB staff/IDPH](#) that is made by photostatic or other method of accurate and permanent reproduction may be admitted in evidence at the hearing without further proof of the accuracy of such copy. When any material or relevant matter offered in evidence by any party is [contained/embraced](#) in a book, paper, or document containing other matter not material or relevant, the party offering the same shall plainly designate the matter ~~so offered~~. If, in the judgment of the administrative law judge, [thesueh](#) immaterial or irrelevant matter would unnecessarily encumber the record, [thesueh](#) book, paper, or document will not be received in evidence as a whole, but the material or relevant portions [thereof](#), if otherwise admissible, may be read into the record or entered as an exhibit. Objections to evidentiary offers may be made and shall be noted in the record. Any part of the evidence may be received in written form.
- k) Official notice may be taken of matters of which Circuit Courts of this State may take judicial notice. In addition, official notice may be taken of generally recognized technical or scientific facts within [HFSRB's/HFPB's](#) specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

the material so noticed. ~~HFSRB's~~~~HFPB's~~ experience, technical competence and specialized knowledge may be used in the evaluation of evidence.

- l) ~~HFSRB's legal counsel and/or the Administrator~~~~The Executive Secretary and/or HFPB's legal counsel~~ will arrange for a certified stenographic reporter (court reporter) to make a stenographic record of the hearings in all administrative hearings under this Part. Any persons may make arrangements to obtain a copy of the stenographic record from the reporter.
- m) Suggested corrections to the transcript of record may be offered within 10 days after the transcript is filed in the proceedings, unless the Director of IDPH or the administrative law judge permits suggested corrections to be offered thereafter. Suggested corrections shall be served upon or brought to the attention of such party whose appearance is of record or his/her attorney, the official reporter, and the administrative law judge. If suggested corrections are not objected to, the administrative law judge will direct the corrections to be made and the manner of making them. In case the parties disagree on suggested corrections, they may be heard by the administrative law judge, who shall then determine the manner in which the record shall be changed, if at all.
- n) Written opening arguments and written closing arguments shall not be permitted unless all parties so stipulate.
- o) Absent a showing of good cause, no document shall be offered into evidence that was not disclosed in accordance with the requirements in Section 1130.1120, and no witness shall testify whose name was not provided pursuant to Section 1130.1120. For purposes of this subsection, a showing of good cause shall mean that a party, through no fault of its own, did not have knowledge of a document to be offered into evidence or the name of a witness within the time frame necessary for compliance with Section 1130.1120.
- p) If a party, or any person at the insistence of or in collusion with a party, violates any ruling of the administrative law judge, the administrative law judge, on motion, may enter such orders as are just, including, among others, the following:
- 1) that further proceedings be stayed until the order or rule is complied with;
  - 2) that the offending party be barred from filing any other pleadings relating to any issue to which the refusal or failure relates;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 3) that he or she be barred from maintaining any particular claim or defense relating to that issue;
  - 4) that a witness be barred from testifying concerning that issue;
  - 5) that, as to claims or defenses asserted in any pleading to which that issue is material, an order of default be entered against the offending party or that his or her pleading be dismissed without prejudice; or
  - 6) that any portion of his or her pleadings relating to that issue be stricken and, if thereby made appropriate, judgment be entered as to the issue.
- q) At any time, the administrative law judge may order the removal of any person from the hearing room who is creating a disturbance whether by physical actions, profanity or otherwise engaging in conduct that disrupts the hearing.
- r) At the request of any party, the administrative law judge may exclude all witnesses from the hearing room, except that each party or a representative of a party, in addition to legal counsel, shall be allowed to remain.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.1120 Discovery**

- a) Prior to hearing or at the prehearing conference, [HFSRB/HFPB](#) shall provide all parties with a copy of [HFSRB's/HFPB's](#) reports relating to the Allegations of Noncompliance.
- b) At least 21 days prior to the commencement of the hearing, each party shall provide all other parties with a copy of any document that it intends to offer into evidence. This subsection shall not require any party to again provide copies of those documents already provided by [HFSRB/HFPB](#) under subsection (a).
- c) At least 21 days prior to the commencement of the hearing, each party shall provide all other parties with a list containing the name and address of any witness who may be called to testify.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- d) All parties shall be entitled to any exculpatory evidence in ~~HFSRB's~~the HFPPB's possession that tends to support the other party's position or that might impeach the credibility of ~~HFSRB's~~HFPPB's witness.
- e) Upon a written request by ~~HFSRB~~HFPPB, at any time after a notice or hearing request is filed, or at any stage of the hearing, the other parties shall be required to produce within seven days documents, books, records, or other evidence that relates directly to conduct of the business entity or other subject of the administrative hearing.
- f) All parties shall be under a continuing obligation to promptly update requested discovery until the hearing is concluded without the necessity for further or additional requests.
- g) There shall be no depositions for discovery purposes or interrogatories allowed in any proceedings brought pursuant to this Part, except as agreed to by the parties.
- h) For good cause shown, including but not limited to age, infirmity, or inability to travel, evidentiary depositions shall be allowed, by the agreement of the parties or order of the administrative law judge.
- i) Requests to Admit Facts and Genuineness of Documents shall be allowed in accordance with Supreme Court Rule 216.
- j) Nothing contained in this Section shall preclude the parties from agreeing to the voluntary exchange of more information than is required.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.1130 Motions**

- a) Motions, unless made during a hearing or pre-hearing, shall be made in writing and shall set forth the relief or order sought and the legal authority for the action requested. Except as otherwise provided in this Part or by a specific statute, motions may seek any relief or order recognized in the Illinois Code of Civil Procedure and Rules of the Illinois Supreme Court, and shall include a reference to the applicable Section of such Code or Rules. Motions based on a matter that does not appear of record shall be supported by affidavit.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- b) Written motions shall be titled as to the party making the motion and the nature of the relief sought. The title shall be in capital letters and shall be placed either below the caption or to the right of the caption beneath the docket number. No motion shall be identically titled with any other motion. Examples of properly titled motions: Respondent's Motion to Dismiss, Respondent's Second Motion to Dismiss.
- c) Motions to the pleadings if not raised at the earliest opportunity shall be deemed waived. Motions to the pleadings shall not be granted if the pleadings are in conformity with Section 1130.1020.
- d) The administrative law judge shall not have the authority to dismiss, postpone, vacate, or overturn an order or notice issued by [HFSRBHFPB](#), but may make a recommendation to [HFSRBHFPB](#) any time that circumstances merit such a recommendation.
- e) Motions for a continuance shall be granted only for good cause shown. Motions for a continuance shall be in writing and filed at least 5 working days prior to the hearing. Motions for a continuance shall be made immediately when the party learns that a continuance is needed and statements as to when the party learned that a continuance was needed, steps that were taken to avoid the continuance, and the current reasons the continuance is needed shall be contained in the motion. After one continuance has been granted to a party additional continuances may be granted to that party only if:
- 1) a hearing on the issue of whether or not to grant the continuance has been held and the administrative law judge finds that the moving party has presented sufficient evidence showing entitlement to another continuance;
  - 2) there is an emergency; or
  - 3) all parties so stipulate.
- f) Whenever possible, as much of the hearing as possible shall be completed and only those matters that must be continued shall be continued.
- g) If there is an unforeseen emergency, motions for a continuance may be made by telephone rather than in writing. Motions by telephone shall be made through a

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

conference call involving the administrative law judge and all parties and shall be confirmed within three business days by the filing of a written motion.

- h) Responses shall be in writing unless made at a prehearing conference or a hearing.
- i) Demands for a Bill of Particulars shall not be allowed.
- j) All motions under this Section shall be filed with the administrative law judge.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.1140 Subpoenas**

- a) Subpoenas requiring the attendance and the giving of testimony by witnesses and subpoenas duces tecum requiring the production of books, papers, records or memoranda may be issued by [HFSRB/HFPB](#) or the administrative law judge upon its own motion or upon the written request of any party to the proceeding. [HFSRB/HFPB](#) or the administrative law judge may require the party requesting the issuance of subpoenas to demonstrate the relevancy of the request to the issues in the hearing. For good cause shown, [HFSRB/HFPB](#) or the administrative law judge may deny or modify the request for subpoenas.
- b) Subpoenas issued by [HFSRB/HFPB](#) or the administrative law judge upon the request of a party to the proceeding shall be delivered to the requesting party who shall be responsible for serving the subpoenas. Subpoenas shall be served personally or by certified mail.
- c) The witness fee for attendance and travel shall be the same as the fee of the witness before the Circuit Courts of this State. When a witness is subpoenaed by [HFSRB/HFPB](#) or hearing officer upon its own motion or upon the request of [HFSRB staff/IDPH](#), the witness fee shall be paid in the same manner as other expenses of the agency.
- d) Subpoenas shall be enforced in the same manner as subpoenas issued by the Circuit Courts of this State.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.1150 Administrative Law Judge's Report and Final Decision**

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- a) At the conclusion of a hearing, the administrative law judge shall make a written report of the hearing, with ~~his~~ findings of fact and conclusions of law and his or her recommendations, if any, to ~~HFSRB/HFPB~~ through the ~~HFSRB Administrator.~~ ~~The Executive Secretary~~ which report shall be accompanied by a transcript of the record, all exhibits admitted into evidence, copies of all pleadings and documents or evidence made a part of the record and any other material that is deemed to be a part of the record.
- b) The administrative law judge shall render a report as promptly as possible. Except in unusual cases and for cause shown, the report should be made within 30 working days following the date the hearing is closed.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.1160 Proposal for Decision**

- a) When a majority of the members of ~~HFSRB/HFPB~~ who are to render the final decision have not heard the case or read the record, the decision, if adverse to a party to the proceeding other than ~~HFSRB/HFPB~~, shall not be made final until a written proposal for decision is served upon the parties by certified mail and the provision of this Section complied with.
- b) The proposal for decision shall be written by the administrative law judge. The Proposal for Decision shall:
- 1) indicate the proposed order;
  - 2) contain a statement of the reasons for the proposed decision;
  - 3) contain a statement of each issue of fact or law necessary to the proposed decision; and
  - 4) indicate the time in which the adversely affected parties have to file written exceptions and a brief.
- c) A party adversely affected by a proposal for decision shall within 10 days ~~after~~ receipt of the proposed finding submit in writing a notice of an intent to file

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

exceptions and a written brief. Failure to file such notice within this time limit shall constitute a waiver of the right to file exceptions and a brief.

- d) There shall be no right to oral arguments before [HFSRB/HFPB](#) on proposed decisions.
- e) Written exceptions and brief are to be submitted within 30 days after receipt of the proposed decision. [HFSRB/HFPB](#) may in its discretion, upon the showing of good cause by a party, grant additional time for the submission of the exception and brief if the request for [the additional timesueh](#) is made prior to the time for submission of the written exceptions and brief.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.1170 Final Decision**

- a) On the basis of the hearing or upon default of the party to the hearing, [HFSRB/HFPB](#) shall make its final decision in each case, supported by concise written findings of fact and appropriate conclusions of law. The decision and supporting findings of fact and conclusions of law shall be made a part of the official record of each hearing.
- b) A copy of [HFSRB's/HFPB's](#) decision shall be sent by Certified Mail or personally served upon all the parties.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.1180 Records of Proceedings**

- a) A full and complete record shall be kept of all proceedings. The record shall consist of the following:
  - 1) all pleadings (including all notices and responses to pleadings), motions, and rulings;
  - 2) a transcript of the hearing, if any, and all evidence received;
  - 3) a statement of matters officially noticed;

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

- 4) offers of proof, objections and rulings on those matters;
  - 5) proposed findings and exceptions;
  - 6) any decision, opinion or report by the administrative law judge;
  - 7) all staff memoranda or data submitted to the administrative law judge or members of the agency in connection with their consideration of the case; and
  - 8) any communication determined to be ex parte, but such communications shall not form the basis for any finding of fact. (See 20 ILCS 3960/4.2.)
- b) [HFSRBHFPB](#) shall be the official custodian of all papers and documents filed in proceedings before [HFSRBHFPB](#).
- c) The records of administrative proceedings, including the transcript, are public records and shall be open to reasonable public inspection at the offices of [HFSRBHFPB](#). The administrative law judge reports shall be available for public inspection after it has been delivered to [HFSRBHFPB](#).

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

**Section 1130.1200 ~~Number of~~ Copies of Pleadings to be Filed**

Under this Part, the parties shall file answers, amendments, motions, and affidavits in support of Motions, together with proof of service on all parties to the proceedings or their attorneys.

(Source: Amended at 37 Ill. Reg. 6227, effective June 1, 2013)

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF ADOPTED AMENDMENTS

**Section 1130. APPENDIX A Capital Expenditure Minimums/Review Thresholds~~Annual Inflation Adjustments to Review Thresholds (Repealed)~~**

In accordance with P.A. 96-31, the following capital expenditure minimums/review thresholds become effective July 1, 2012. These thresholds were adjusted by 2.5% in accordance with P.A. 96-31. The source for the increases is RS Means.

<u>Capital Expenditure (Hospitals)</u>	<u>\$12,182,576</u>
<u>Capital Expenditure (Long-Term Care)</u>	<u>\$ 6,885,803</u>
<u>Capital Expenditure (All Other Applicants)</u>	<u>\$ 3,178,064</u>

(Source: Old Appendix A repealed at 30 Ill. Reg. 14852, effective September 1, 2006; new Appendix A added at 37 Ill. Reg. 6227, effective June 1, 2013)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Impartial Due Process Hearing
- 2) Code Citation: 89 Ill. Adm. Code 828
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
828.5	New Section
828.10	Amendment
828.30	Amendment
828.40	Amendment
828.50	Amendment
828.60	Amendment
828.80	Amendment
828.90	Amendment
828.100	Amendment
- 4) Statutory Authority: Implementing Sections 10 and 11 and authorized by Section 3(f) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/10, 11 and 3(f)]
- 5) Effective Date of Amendments: April 25, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notices of Proposal Published in the *Illinois Register*: 37 Ill. Reg. 497; January 18, 2013
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Section 828.05 was corrected to state Section 828.5.
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? None were necessary.
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 14) Are there any proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking pertains to the Department of Human Services impartial due process hearing for the residential school facilities. This rulemaking is a result of updating all school rules to insure that language is consistent with current terminology and program practices. The revisions include:
- Under disciplinary appeals, changes "disciplinary officer" to "principal, dean of students or designee" as the individual that a parent or guardian should address minor infractions.
- Changes the term "multi disciplinary conference" to "eligibility review".
- Adds the ability to hold hearings via video conference or teleconference.
- Updates School Code references.
- Updates language so it is consistent with Illinois State Board of Education (ISBE) requirements.
- 16) Information and questions regarding these adopted amendments shall be directed to:
- Tracie Drew, Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
Harris Building, 3<sup>rd</sup> Floor  
Springfield, Illinois 62762
- 217/785-9772
- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

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

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
 CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
 SUBCHAPTER f: EDUCATIONAL FACILITIES

PART 828  
 IMPARTIAL DUE PROCESS HEARING

Section828.5Definitions

828.10	Scope and Purpose
828.20	General Information
828.30	Disciplinary Appeals
828.40	What May Not Be Appealed
828.50	Impartial Due Process Hearing
828.60	Procedures for Hearing Request
828.70	Denial of Hearing Request
828.80	Rights of the Parties Prior to the Hearing
828.90	Powers and Duties of Hearing Officer
828.100	Decision of the Hearing Officer

AUTHORITY: Implementing Sections 10 and 11 and authorized by Section 3(f) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/10, 11 and 3(f)].

SOURCE: Adopted at 23 Ill. Reg. 10198, effective August 10, 1999; amended at 37 Ill. Reg. 6358, effective April 25, 2013.

Section 828.5 Definitions

Definitions for this Part can be found at 89 Ill. Adm. Code 751.

(Source: Added at 37 Ill. Reg. 6358, effective April 25, 2013)

**Section 828.10 Scope and Purpose**

This Part sets forth the procedures for appealing decisions made by theState Schools and the rights of the students and other involved parties. TheState Schools shall follow the procedures as set forth inby the Illinois State Board of Education's (ISBE) Due Process System at (23 Ill. Adm. Code, Subpart J). If there are any discrepancies between this Part and the rules of ISBE~~the State Board of Education~~, the rules of ISBE~~the State Board of Education~~ shall be utilized.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 37 Ill. Reg. 6358, effective April 25, 2013)

**Section 828.30 Disciplinary Appeals**

Disciplinary actions taken as a result of simple infractions listed in the ~~Schools'~~State School's Rights, Responsibilities and Procedures Handbook are not appealable under this Part. This handbook is provided to parents or guardians and students annually. A student or parent or guardian has the right and is encouraged to speak with the principal, dean of students or his or her designee, disciplinary officer or the superintendent concerning minor discipline taken as a result of simple infractions listed in the Schools' Rights, Responsibilities and Procedures Handbook~~89 Ill. Adm. Code 827 Appendix A~~. Minor discipline is appealable in accordance with 89 Ill. Adm. Code~~Section~~ 827.40.

(Source: Amended at 37 Ill. Reg. 6358, effective April 25, 2013)

**Section 828.40 What May Not be Appealed**

- a) The following matters are not appealable under this Part, but are appealable under the Department of Human Services-Division of Rehabilitation Services (DHS-DRS) appeals rules found at 89 Ill. Adm. Code 510, (Appeals and Hearings).
  - 1) Matters concerning sex equity or discrimination on the basis of sex as prohibited by the Illinois School Code [105 ILCS 5/10-22.5 and 27-1] and the Education Amendments of 1972 (20 USC 1681). Matters of sex equity may ultimately be appealed to the State Superintendent of Education.
  - 2) Matters concerning student records as set forth in the Illinois School Student Records Act [105 ILCS 10] and the Family Educational Rights and Privacy Act of 1974 (FERPA) (20 USC 1232g).
  - 3) Matters concerning Vocational Rehabilitation Services under the federal Rehabilitation Act of 1973, as amended (29 USC 701 et seq.).
- b) The following matters are not appealable under this Part:
  - 1) Changes in services or procedures over which DHS-DRS exercises no

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

discretion or control.

2)e) Issues related to the legality of DHS-[DRS](#) rules.

3)d) Changes in services or procedures that are mandated by federal or State law or regulation.

(Source: Amended at 37 Ill. Reg. 6358, effective April 25, 2013)

**Section 828.50 Impartial Due Process Hearing**

- a) A parent, [guardian](#) or ~~a~~ student may request an impartial due process hearing.
- b) A hearing may be requested for, but not limited to, the following reasons:
  - 1) Objection to signing consent for a proposed case study evaluation or initial placement.
  - 2) Failure of the ~~State~~ School, upon request of the parents, [guardians](#), other persons having primary care and custody of the student, the student, or ~~ISBE the State Board of Education (State Board)~~, to provide a case study evaluation.
  - 3) Failure of a local school district to consider evaluations completed by qualified professional personnel outside the local school district.
  - 4) Objection to a proposed special education placement, i.e., an initial placement, a continuation of a previous placement, or a change in the placement.
  - 5) Termination of a special education placement.
  - 6) Failure of the ~~State~~ School to provide a special education placement consistent with the finding of the case study evaluation and the recommendations of the [Eligibility Review \(see 89 Ill. Adm. Code 795\)](#)~~multi-disciplinary conference~~.
  - 7) Failure of the ~~State~~ School to provide the least restrictive special education placement appropriate to the student's needs.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 8) Provision of special education instructional or resource programs or related services in an amount insufficient to meet the student's needs.
- 9) Recommendation for the graduation of a student.
- 10) Failure of the ~~State~~-School to comply with any provision of this Part.

c) A hearing may be conducted via video conference or teleconference.

d)e) Receipt of a request for an impartial due process hearing shall cause the student to remain in his or her current educational placement, unless a mutual agreement is reached between the parents or guardians and the ~~State~~-School.

(Source: Amended at 37 Ill. Reg. 6358, effective April 25, 2013)

**Section 828.60 Procedures for Hearing Request**

The ~~State~~-School, the parent or guardian of any student, or the student may request an impartial due process hearing. A ~~parent's or student's~~ request for a hearing by a parent, guardian or student shall be made, in writing, to the superintendent of the ~~State~~-School.

- a) If the ~~State~~-School makes the request, a written request shall be sent ~~in to ISBE~~ to the Illinois State Board of Education, attention Division of Program Compliance, in Springfield, and at the same time a copy shall be sent to the other party. This letter shall include the information set forth in subsections (b)(1)(A), (C) and (D) of this Section.
- b) Within five days after the ~~State~~-School receives a request for a hearing from a parent, guardian or ~~from a~~ student, the ~~State~~-School shall:
  - 1) Send a certified letter to the Division of Program Compliance requesting the appointment of an impartial due process hearing officer. This letter shall be delivered by a means that provides written evidence of the delivery and shall include:
    - A) the name, address and telephone number of the student and the parent or guardian, and of the person making the request for the hearing, if it is someone other than the student, ~~or~~ parent or

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- [guardian](#);
- B) the date on which the request for the hearing was received by the [State](#) School;
  - C) the nature of the controversy to be resolved;
  - D) the primary language spoken by the parents [or guardian](#) and student; and
  - E) a copy of the ~~parent's~~ request [from the parent, guardian or student](#).
- 2) Send to the person requesting the hearing, by certified mail or other means providing written evidence of delivery, a copy of the letter sent to ~~ISBE~~[the State Board](#).
- A) If the hearing has been requested by someone other than the student's parents [or guardians](#), the ~~State~~ School shall inform the parents [or guardians](#) by certified mail of the request and invite them to participate in the proceedings.
  - B) Copies of all correspondence pertaining to impartial due process hearings shall be forwarded to the DHS-~~DRS~~[ORS](#) Director, [who will notify and distribute correspondence to the appropriate administrators and units within DHS-DRS of Educational Services](#).

(Source: Amended at 37 Ill. Reg. 6358, effective April 25, 2013)

**Section 828.80 Rights of the Parties Prior to the Hearing**

- a) The parties have the right to be represented at their own expense by counsel, or to be represented and assisted by other persons having special knowledge of this Part. The ~~State~~ School shall inform the parents [or guardians](#) of any free or low cost legal services that may be available in their area, and of the availability of publicly funded advocacy services.
- b) The parents [or guardians](#) may inspect and review all records pertaining to their child and, subject to the provisions of 23 Ill. Adm. Code 375.50 (Student Records), may obtain copies of any such records at their own expense.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- c) The parents or guardians shall have access to the ~~State~~ School's list of independent evaluators, and may obtain an independent evaluation of their child at their own expense. If acquisition of a completed independent evaluation requires a delay in convening the hearing, the parents or guardians shall request ~~the~~such delay as provided in Section 828.100(c) ~~of this Part~~. The hearing officer shall delay the hearing until ~~such time as~~ the independent evaluation is completed, the report is available, and the opposing party has been afforded, in the judgment of the hearing officer, a reasonable opportunity to review it. The parents or guardians may ask the hearing officer to determine whether an independent evaluation is needed. If the hearing officer concludes, after reviewing the available information, that an independent evaluation is necessary to inform the hearing officer concerning the services to which the student may be entitled, it shall be so ordered and provided at the ~~State~~ School's expense. The hearing officer shall delay the hearing as provided for in this subsection.
- d) Either party to the hearing has the right to the disclosure at least ~~5~~five days prior to the hearing of any evidence to be introduced.
- e) Either party may compel the attendance of any ~~State~~ School employee at the hearing, or any other person who may have information relevant to the needs, abilities, ~~the~~ proposed program, or ~~the~~ status of the student. At the request of either party, the hearing officer shall issue subpoenas to compel the testimony of witnesses or the production of documents relevant to the case at issue. If any person refuses to comply with a subpoena issued under Section 828.90(e) ~~of this Part~~, court action may be sought as provided in Section 14-8.02a(g) of the School Code [105 ILCS 5].
- f) Either party, or any person participating in the hearing, may request that an interpreter be available during the hearing because one of the participants is deaf or hard of hearing~~hearing impaired~~ and/or uses a primary language other than English. Interpreters~~Such interpreters~~ shall be provided at DHS-DRS expense.
- g) The student's educational placement shall not be changed pending completion of the hearing except as provided in Section 14-8.02a(j) of the School Code.

(Source: Amended at 37 Ill. Reg. 6358, effective April 25, 2013)

**Section 828.90 Powers and Duties of Hearing Officer**

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- a) Once appointed, the impartial due process hearing officer shall not communicate with ~~ISBE~~the State Board, the ~~State~~ School, or ~~their~~ employees of ISBE or the School concerning the hearing and shall not initiate or participate in any ex parte communications with the parties, except as provided in Section 14-8.02a(g) of the School Code.
- b) The hearing officer shall disclose any actual or potential conflict of interest to the parties upon learning of ~~thesueh~~ a conflict of interest.
- c) The hearing officer shall conduct the hearing and shall have, but not be limited to, the following powers:
- 1) ~~to~~To administer, or to authorize the court reporter to administer, oaths;
  - 2) ~~to~~To examine witnesses;
  - 3) ~~to~~To issue subpoenas;
  - 4) ~~to~~To rule upon the admissibility of evidence;
  - 5) ~~to~~To order independent evaluations;
  - 6) ~~to~~To grant specific extensions of time;
  - 7) ~~to~~To read into the hearing record any stipulations of fact and other matters agreed upon at the pre-hearing conference and to enter into the record any pre-hearing orders; and
  - 8) ~~to~~To render decisions and issue orders and clarifications.
- d) The hearing officer shall comply with applicable timelines established in Section 14-8.02a of the School Code.

(Source: Amended at 37 Ill. Reg. 6358, effective April 25, 2013)

**Section 828.100 Decision of the Hearing Officer**

- a) Within ~~10~~ten days after the conclusion of the hearing, the hearing officer shall

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

issue a written decision that sets forth the issues in dispute, ~~the~~ findings of fact based upon the evidence and testimony presented, and the hearing officer's conclusions of law and orders. The hearing officer shall determine whether the evidence establishes that the student has needs that require special education services; and, if so, whether ~~thesuch~~ services proposed or provided by the ~~State~~ School are appropriate given the student's identified needs.

- b) The hearing officer's decision shall be sent by certified mail to the involved parties. The decision shall be translated into the native language of the parents ~~or guardians~~ if their primary language is other than English.
- c) The written decision shall be binding upon the parties unless a party aggrieved by the decision commences a civil action as provided in Section 14-8.02a(i) of the School Code. ~~A Such~~ filing of a civil action shall act as a ~~supersedeassupersedes~~, and implementation of the hearing officer's decision shall be stayed pending judicial review.
- d) The hearing decision, if not appealed pursuant to subsection (c) ~~of this Section~~, shall be enforced by the ~~State~~ School.

(Source: Amended at 37 Ill. Reg. 6358, effective April 25, 2013)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Sex Equity
- 2) Code Citation: 89 Ill. Adm. Code 829
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
829.10	Amendment
829.20	Amendment
829.30	Amendment
829.40	Amendment
829.50	Amendment
829.70	Amendment
829.80	Amendment
829.90	Amendment
829.100	Amendment
- 4) Statutory Authority: Implementing Sections 10 and 11 and authorized by Section 3(f) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/10, 11 and 3(f)]
- 5) Effective Date of Amendments: April 25, 2013
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in the *Illinois Register*: 36 Ill. Reg. 16614; November 30, 2012
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version: In Section 829.50(a)(1), changed the comma to "that" and struck "which".  
  
In Section 829.70(a)(1) & (2), struck "of this Section".
- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking pertains to the Department of Human Services, Division of Rehabilitation Services. It is regarding equality of both sexes at the residential school facilities. This rulemaking is a result of updating all school rules to insure that language is consistent with current terminology and program practices. The revisions include:
- Changing "Office" to Division"; "ORS" to "DRS"; and add "DRS" to "DHS" when appropriate;
  - Changing "Vocational and Career Education" to Technical and Career Education"; and
  - Removing Section 829.100(a) as a result of a labor relations finding.
- 16) Information and questions regarding these adopted amendments shall be directed to:
- Tracie Drew, Chief  
Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
Harris Building, 3<sup>rd</sup> Floor  
Springfield, Illinois 62762
- 217/785-9772
- 17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code? No

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

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER f: EDUCATIONAL FACILITIESPART 829  
SEX EQUITY

Section	
829.10	Definitions
829.20	Applicability
829.30	Administration
829.40	Treatment of Students
829.50	Educational Programs and Activities
829.60	Counseling Services
829.70	Extracurricular Programs and Activities
829.80	Compliance and Enforcement
829.90	Effects of Other Requirements
829.100	Supervision of Students by School Staff

**AUTHORITY:** Implementing Sections 10 and 11 and authorized by Section 3(f) of the Disabled Persons Rehabilitation Act [20 ILCS 2405/10, 11 and 3(f)].

**SOURCE:** Adopted at 13 Ill. Reg. 5755, effective April 11, 1989; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 23 Ill. Reg. 10281, effective August 10, 1999; amended at 37 Ill. Reg. 6368, effective April 25, 2013.

**Section 829.10 Definitions**

In addition to the terms defined in Part 751, the following terms are defined for the purposes of this Part.

"Comparable" means similar in quality and quantity, taking into consideration all relevant facts and circumstances.

"Contact Sports" means those sports whose purpose or major activity involves bodily contact: e.g., basketball, boxing, football, [goalball](#), ~~ice hockey~~, rugby, and wrestling.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

"Counseling" means all guidance activities, personal counseling, guidance-related evaluation and testing, provision of vocational and career information and advice, scheduling assistance, and any other guidance services provided to students by any person acting under the authorization of ~~the~~ State School.

"Course" means any State-School sponsored class regardless of the location of ~~the~~ class meetings, nature of instruction, or type or age of student.

"Discrimination" means the violation of individuals' ~~State~~state or federal equal rights guarantees (U.S. Constitution, Amendment 14; 20 USC 1681 et seq.; Illinois Constitution, Article I, Sections 2, 18; and Sections 10-22.5 and 27-1 of the School Code [105 ILCS 5/10-22.5], whether intended or unintended.

"Disparate Interest Levels" means that, according to the results of a ~~State~~-School's written student athletics interest survey, the total number of students of one sex who wish to participate in all athletics exceeds by more than 50% the total number of students of the other sex who wish to participate in all athletics. Disparate interest levels do not in and of themselves evidence discrimination.

"Disproportionate Enrollment" means that students of one sex constitute at least 75% of a School's participants in a given program, course, or activity. Disproportionate enrollment does not in and of itself evidence discrimination.

"Equal Access" means availability of opportunity without discrimination on the basis of sex, going beyond simple admission to a course or activity to include full and unrestricted participation in educational and experiential processes.

"Prime Time" means that time period which is most desirable locally for a given activity.

"Program" means a series of courses or set of activities leading toward identified educational or experiential student outcomes.

"Sex Bias" means the attribution of behaviors, abilities, interests, values and/or roles to a person or group of persons on the basis of their sex.

"Sexual Harassment" means unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

"Sexual Intimidation" means any behavior, verbal or nonverbal, which has the effect of subjecting members of either sex to humiliation, embarrassment or discomfort because of their gender.

"Significant Assistance" means the payment of dues, fees, or other remuneration in return for the provision of services or benefits, or any other collaboration that significantly facilitates the functioning of any agency, organization, or person outside ~~the~~ ~~State~~ School.

(Source: Amended at 37 Ill. Reg. 6368, effective April 25, 2013)

**Section 829.20 Applicability**

Nothing contained herein shall be construed as relieving a ~~State~~ School of its duty to comply with Title IX of the Education Amendments of 1972 (20 USC 1681 et seq.) or its implementing regulations (34 CFR 106).

(Source: Amended at 37 Ill. Reg. 6368, effective April 25, 2013)

**Section 829.30 Administration**

- a) All policies and practices of the ~~School~~~~State~~ ~~Schools~~ shall comply with Title IX of the Education Amendments of 1972 (20 USC 1681 et seq.), Article I, Section 18 of the Illinois Constitution, and Sections 10-22.5 and 27-1 of the School Code [105 ILCS 5/10-22.5 and 27-1].
- b) The ~~School~~~~State~~ ~~Schools~~ shall not discriminate on the basis of sex in the provision of programs, activities, services, or benefits. They shall guarantee both sexes equal access to educational and extracurricular programs and activities.
- c) Any individual(s) wishing to appeal a decision of action alleging that a ~~State~~ School has discriminated against a student or students on the basis of the student's sex may do so as set forth in 89 Ill. Adm. Code 510 (Appeals).
- d) Each ~~State~~ School shall take reasonable measures to assure that employees, students and parents or guardians are informed of the School's sex equity policy and grievance procedure, e.g., through the use of policy manuals and student handbooks.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- e) Each ~~State~~ School shall, at least every four years, evaluate its policies and practices in terms of the requirements of these rules to identify sex discrimination and shall develop a written sex equity plan to modify any policy or practice that does not meet the requirements of those rules and take remedial steps to eliminate the effects of any discrimination resulting from ~~thesuch~~ policy or practice.
- 1) The sex equity evaluation shall include an examination of course enrollment data to identify any instances of disproportionate enrollment on the basis of sex and, where discrimination may have contributed to ~~the disproportionality~~~~such disproportionately~~, the sex equity plan shall seek to redress ~~the disproportionality~~~~any such disproportionately~~ identified.
  - 2) DHS-~~DRS~~ shall assure that in-service training implementing the sex equity plan shall be provided to ~~theState~~ School administrators and to certificated and ~~non-certificated~~~~noncertificated~~ personnel annually.
- f) Except as provided in Section 829.70(a)(4) and 829.100, a ~~State~~ School may not, on the basis of sex, designate or otherwise limit the use of any facility or portion thereof, related services, equipment or supplies. This Section shall not apply to shower and toilet facilities, locker rooms, dormitories, and dressing areas. All ~~such~~ accommodations and all related support and maintenance services shall be comparable for both sexes.
- g) Except as provided in Section 829.70(a)(4), a ~~State~~ School may not provide significant assistance to or enter into any agreement with any organization, group, business or individual that discriminates against students on the basis of sex.
- h) A ~~State~~ School shall not institute organizational changes or employment practices ~~thatwhich~~ would result in discrimination against students of either sex.
- i) A ~~State~~ School shall maintain records documenting compliance with this Part, e.g., records of sex equity evaluations and plans, remediation efforts and in-service activities, athletic interest survey results, enrollment data, grievances and their disposition; ~~thesesuch~~ records shall be made available to ~~the~~ Illinois State Board of Education (~~ISBE~~) enforcement authorities upon request.

(Source: Amended at 37 Ill. Reg. 6368, effective April 25, 2013)

**Section 829.40 Treatment of Students**

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- a) No student shall, on the basis of sex, be denied equal access to programs, activities, services or benefits or be limited in the exercise of any right, privilege, advantage, or opportunity.
- b) A ~~State~~ School shall apply the same system and program admission standards for both sexes.
- c) A ~~State~~ School shall not set quotas limiting the number of either male or female students who will be admitted to the ~~State~~ School's programs, courses or activities unless ~~thesuch~~ quotas have the effect of furthering affirmative action goals established by the ~~State~~ School to overcome the effects of conditions that resulted in limited participation in a program or activity by persons of a particular sex.
- d) Graduation requirements shall be the same for both sexes.
- e) No student shall be discriminated against because of his or her actual or potential marital or parental status.
  - 1) Pregnancy shall be treated as any other temporary disability.
  - 2) Pregnancy or parenthood shall not be considered cause for dismissal or exclusion from any program or activity.
  - 3) Participation in special programs provided for pregnant students or students who are parents shall be at the student's option.
  - 4) ~~The School~~~~State Schools~~ shall eliminate administrative and programmatic barriers to school attendance and school completion by pregnant students or students who are parents.
  - 5) ~~The School~~~~State Schools~~ will not pay for medical care directly related to pregnancy or for child care for the children of students.
- f) No student shall be subjected to sexual intimidation or harassment by any ~~State~~ School employee, by other students, or by the effect of any school policy or practice.
- g) A ~~State~~ School shall not discriminate on the basis of sex in the bestowing of

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

awards, honors, scholarships and financial aid.

- h) A ~~State~~-School may not discriminate on the basis of sex in the provision of employment opportunities for students; a ~~School~~~~state school~~ may not enter into ~~work-study~~~~work-study~~ or cooperative employment agreements with employers who discriminate against students on the basis of sex.
- i) The ~~State~~-Schools' discipline policies and practices shall not discriminate on the basis of sex.

(Source: Amended at 37 Ill. Reg. 6368, effective April 25, 2013)

**Section 829.50 Educational Programs and Activities**

- a) General Practices
  - 1) All courses shall be open to students regardless of their sex, although students may be segregated by sex during class sessions or portions of class sessions ~~that thereof which~~ deal exclusively with human sexuality.
  - 2) Students shall be advised to take courses consistent with their interests and abilities, regardless of their sex.
  - 3) Neither course titles nor course descriptions shall discourage either sex from enrolling.
  - 4) Course prerequisites and course requirements shall be the same for both sexes.
  - 5) Course content and course objectives shall not discriminate on the basis of sex.
- b) Selected Program Areas
  - 1) Music
    - A) Students shall not be separated according to sex when participating in voice instruction, although divisions within a class may be established on the basis of vocal range and quality.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- B) The study of musical instruments shall be suited to students' individual interests and abilities, regardless of their sex.
- 2) Physical Education
- A) Each physical education class shall be open equally to both sexes.
- i) Instructional portions of all physical education classes shall be coeducational.
- ii) A student may be segregated by sex during participation in a contact sport, upon parental or guardian request or when the student's safety is at jeopardy.
- B) When~~Where~~ assignments to classes or portions of classes are based on ability levels, group composition shall be determined by objective standards of individual performance developed and applied without regard to sex, and students shall be re-grouped at appropriate intervals, e.g., when substantial changes occur in either teaching objectives or student ability levels.
- C) If the use of a single standard for measuring skill or progress in a physical education class results in discrimination against members of either sex, appropriate standards that~~which~~ do not have that~~such~~ effect shall be used.
- D) Neither physical education classes nor areas where those~~such~~ classes are conducted shall be designated by sex.
- 3) Special Education
- A) Special education referral, testing and placement practices shall not discriminate on the basis of sex.
- B) Classes and related services for students with disabilities shall not discriminate on the basis of sex.
- 4) Gifted Education

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- A) Gifted education referral, testing and placement practices shall not discriminate on the basis of sex.
- B) Programs and classes or related services for gifted students shall not discriminate on the basis of sex.
- 5) TechnicalVocational and Career Education
  - A) Students shall be provided opportunities to acquire knowledge and understanding of technicalvocational and career options without discrimination on the basis of sex.
  - B) Materials used in technicalvocational and career education shall not discriminate on the basis of sex.
- c) Classroom Practices
  - 1) Classroom practices shall not discriminate on the basis of sex.
  - 2) Teaching methods shall in no way inhibit the participation of any student on the basis of sex.
  - 3) The history, roles and contributions of both sexes shall be presented on a comparable basis in curricular areas.
  - 4) Teachers shall utilize methods designed to counteract sex bias in instructional materials.
  - 5) Instructional materials shall not be discriminatory against either sex.

(Source: Amended at 37 Ill. Reg. 6368, effective April 25, 2013)

**Section 829.70 Extracurricular Programs and Activities**

- a) General Practices
  - 1) Except as provided in subsection (b)(1)(A) ~~of this Section~~, students of both sexes shall have equal access to all extracurricular programs and

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

activities, including clubs, committees, service or honor organizations, intramural sports programs, interscholastic athletics and other after-school activities ~~that~~which are offered by a ~~State~~-School.

- 2) Except as provided in subsection (b)(1)(A) ~~of this Section~~, extracurricular programs and activities offered by a ~~State~~-School shall not use titles ~~that~~which imply that membership or participation is restricted on the basis of sex.
- 3) A ~~State~~-School shall not provide significant assistance to any association or conference whose purpose is to organize or regulate interscholastic competition if that association or conference discriminates on the basis of sex in the provision of benefits or services to students.
- 4) ~~The School~~State Schools may cooperate with single sex youth organizations that are tax exempt and whose membership has traditionally been limited to members of one sex and principally to persons who are under 19 years of age, provided that comparable activities shall be available for both sexes.

b) Selected Activity Areas

- 1) Athletics (Interscholastic and Intramural)
  - A) Both sexes shall be accorded equal opportunities to participate in athletic programs.
    - i) Single-sex teams are permitted for contact sports or when selection for team membership is based upon competitive skill, provided the interests and abilities of both sexes are accommodated.
    - ii) In a non-contact sport, when a team is provided only for members of one sex, members of the excluded sex must be allowed to compete for a place on the team if their overall athletic opportunities have been limited in comparison with those of the other sex.
    - iii) ~~When~~Where a coeducational team in a given sport does not

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

accommodate the interests and abilities of members of both sexes, separate teams shall be afforded by sex. For example, if the level of interest determined pursuant to subsection (b)(1)(B) indicates that 30 students of one sex and 30 students of the other sex want to participate in a particular sport, but only one student of the first sex is able to qualify to compete while 20 students of the other sex do so, a coeducational team does not accommodate the interests and abilities of both sexes.

- B) ~~At~~ ~~Within one year of the effective date of this Part and at~~ least once every four years ~~thereafter~~, each ~~State~~ School shall assess student athletics interest by administering a written survey to all students. If survey data indicate that the overall levels of student interest in the range of alternatives being provided are disparate between the sexes and ~~this~~ ~~such~~ disparity may be the result of discrimination, the ~~State~~ School shall initiate efforts to reduce ~~this~~ ~~such~~ disparity.
- C) Based upon the results of the interest survey, existing offerings and other pertinent factors (e.g., budget, facilities, available competition, etc.), each ~~State~~ School shall provide comparable continuity in sports opportunities for students of both sexes (i.e., students have the opportunity to acquire skills at successive levels, over time, within a given sport).
- D) The nature and extent of the athletics programs offered by a ~~State~~ School shall accommodate the interests and abilities of both sexes to a comparable degree. Factors to be considered in assessing program comparability include, but are not necessarily limited to, the following:
- i) selection of sports offered;<sub>5</sub>
  - ii) levels of competition within sports;<sub>5</sub>
  - iii) length of sports seasons;<sub>5</sub>
  - iv) scheduling of athletics opportunities throughout the

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- calendar year;
  - v) scheduling of practices and games during prime time;
  - vi) use of facilities for practice and competition;
  - vii) ratio of ~~coaches~~each(es) to athletes;
  - viii) quality of coaching and officiating (e.g., credentials, experience and compensation);
  - ix) assignment and compensation of coaches and officials;
  - x) supplies and equipment;
  - xi) allowances for travel and per diem;
  - xii) medical and training services;
  - xiii) publicity for teams and individual participants; ~~and~~;
  - xiv) overall distribution of athletic budget funds.
- 2) Music
- A) Choruses segregated by sex shall not be allowed; however, choral groups based upon vocal range and ~~qualities~~quality are allowable.
  - B) Instrumental music skill acquisition and performance shall be based upon students' individual interests and abilities, regardless of their sex.
- 3) Speech and Drama
- A) Competitive speaking events shall be open to both sexes.
  - B) Materials limited to a single sex (e.g., a monologue specific to one sex) may be used as long as comparable opportunities are provided for both sexes.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 4) Miscellaneous
- A) Activities such as cheerleading, pompom squads, color guards, school safety patrol, teacher or /office aides, and library assistants shall be open to students of both sexes.
- i) Participation criteria, selection procedures, or uniform restrictions thatwhich would discriminate on the basis of sex shall not be applied.
- ii) Criteria for the utilization of thesesueh groups shall not discriminate on the basis of sex.
- B) A king or queen of an activity may be selected; however, comparable opportunities for students of both sexes shall be provided.
- C) If a State-School sponsors mother-son, father-daughter, mother-daughter, or father-son activities, comparable activities shall be available for both sexes, and the special needs of children from single-parent families shall be accommodated.

(Source: Amended at 37 Ill. Reg. 6368, effective April 25, 2013)

**Section 829.80 Compliance and Enforcement**

Compliance with this Part will be subject to evaluation during the recognition process for the SchoolState Schools established in 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision).

(Source: Amended at 37 Ill. Reg. 6368, effective April 25, 2013)

**Section 829.90 Effects of Other Requirements**

The obligation to comply with this Part is not obviated or alleviated by any policy or regulation of any club, organization, athletic league or other association thatwhich would limit the eligibility or participation of students on the basis of their sex in any program or activity operated by any State-School covered by this Part.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 37 Ill. Reg. 6368, effective April 25, 2013)

**Section 829.100 Supervision of Students by School Staff**

- a) ~~Direct supervision of female students shall be by adult female staff while they are in their living quarters at night.~~
- a)b) Supervision and assistance of female students, as necessary, in the performance of personal hygiene will be performed by an adult female staff.
- b)e) Extracurricular activities that require overnight stays away from the ~~State~~ School will be supervised by female staff when the students involved are female.

(Source: Amended at 37 Ill. Reg. 6368, effective April 25, 2013)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
MAY AGENDA

SCHEDULED MEETING:

STRATTON OFFICE BUILDING  
ROOM D-1  
SPRINGFIELD, ILLINOIS  
MAY 14, 2013  
9:00 A.M.

NOTICES: The scheduled date and time for the JCAR meeting are subject to change. Due to *Illinois Register* submittal deadlines, the agenda below may be incomplete. Other items not contained in this published agenda may be considered by the Committee at the meeting, and items from the list may be postponed to future meetings.

**RULEMAKINGS CURRENTLY BEFORE JCAR**

*NOTICE: It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules  
700 Stratton Office Building  
Springfield, Illinois 62706  
Email: [jcar@ilga.gov](mailto:jcar@ilga.gov)  
Phone: 217/785-2254*

**PROPOSED RULEMAKINGS**

Central Management Services

1. Auto Liability (80 Ill. Adm. Code 3100)
  - First Notice Published: 37 Ill. Reg. 2525 – 3/1/13
  - Expiration of Second Notice: 6/2/13

Chief Procurement Officer for General Services

2. Chief Procurement Officer for General Services Standard Procurement (44 Ill. Adm. Code 1)

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
MAY AGENDA

- First Notice Published: 37 Ill. Reg. 901 – 2/1/13
- Expiration of Second Notice: 5/15/13

Children and Family Services

3. Background Checks (89 Ill. Adm. Code 385)
  - First Notice Published: 36 Ill. Reg. 17278 – 12/14/12
  - Expiration of Second Notice: 5/26/13

Commerce Commission

4. Standards of Service Applicable to 9-1-1 Emergency Systems (Repealer) (83 Ill. Adm. Code 725)
  - First Notice Published: 36 Ill. Reg. 9493 – 7/6/12
  - Expiration of Second Notice: 6/2/13
5. Standards of Service Applicable to 9-1-1 Emergency Systems (83 Ill. Adm. Code 725)
  - First Notice Published: 36 Ill. Reg. 9539 – 7/6/12
  - Expiration of Second Notice: 6/2/13
6. Procedures Governing the Establishment of Credit, Billing, Deposits, Termination of Service and Issuance of Telephone Directories for Local Exchange Telecommunications Carriers in the State of Illinois (83 Ill. Adm. Code 735)
  - First Notice Published: 37 Ill. Reg. 387 – 1/11/13
  - Expiration of Second Notice: 5/24/13

Education

7. Certification (23 Ill. Adm. Code 25)
  - First Notice Published: 36 Ill. Reg. 18170 – 12/28/12
  - Expiration of Second Notice: 5/31/13
8. Payments to Certain Facilities under Section 14-7.05 of the School Code (23 Ill. Adm. Code 405)
  - First Notice Published: 37 Ill. Reg. 1569 – 2/8/13
  - Expiration of Second Notice: 5/31/13
9. Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475)
  - First Notice Published: 37 Ill. Reg. 1575 – 2/8/13
  - Expiration of Second Notice: 5/31/13

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
MAY AGENDA

10. Class Size Reduction Grants (23 Ill. Adm. Code 565)  
-First Notice Published: 37 Ill. Reg. 1580 – 2/8/13  
-Expiration of Second Notice: 5/31/13

Emergency Management Agency

11. Licensing of Radioactive Material (32 Ill. Adm. Code 330)  
-First Notice Published: 37 Ill. Reg. 2597 – 3/8/13  
-Expiration of Second Notice: 6/8/13

Financial and Professional Regulation

12. Administrative Procedures for General Professional Regulation under the Administrative Code (68 Ill. Adm. Code 1130)  
-First Notice Published: 37 Ill. Reg. 2405 – 2/22/13  
-Expiration of Second Notice: 5/30/13

Gaming Board

13. Video Gaming (General) (11 Ill. Adm. Code 1800)  
-First Notice Published: 37 Ill. Reg. 2410 – 2/22/13  
-Expiration of Second Notice: 6/8/13

Healthcare and Family Services

14. Medical Payment (89 Ill. Adm. Code 140)  
-First Notice Published: 36 Ill. Reg. 8594 – 6/15/12  
-Expiration of Second Notice: 5/24/13

15. Child Support Services (89 Ill. Adm. Code 160)  
-First Notice Published: 37 Ill. Reg. 661 – 1/25/13  
-Expiration of Second Notice: 5/30/13

Housing Development Authority

16. Abandoned Residential Property Municipality Relief Program (47 Ill. Adm. Code 381)  
-First Notice Published: 37 Ill. Reg. 1537 – 2/8/13  
-Expiration of Second Notice: 5/25/13

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
MAY AGENDA

Human Services

17. Definition of Terms (89 Ill. Adm. Code 751)
  - First Notice Published: 36 Ill. Reg. 14546 – 10/5/12
  - Expiration of Second Notice: 6/5/13
18. Special Education Program and Services (89 Ill. Adm. Code 765)
  - First Notice Published: 36 Ill. Reg. 14553 – 10/5/12
  - Expiration of Second Notice: 6/5/13
19. Identification, Evaluation, and Placement of Students (89 Ill. Adm. Code 795)
  - First Notice Published: 36 Ill. Reg. 14572 – 10/5/12
  - Expiration of Second Notice: 6/5/13

Pollution Control Board

20. Water Quality Standards (35 Ill. Adm. Code 302)
  - First Notice Published: 37 Ill. Reg. 2436 – 2/22/13
  - Expiration of Second Notice: 6/2/13
21. Tiered Approach to Corrective Action Objectives (35 Ill. Adm. Code 742)
  - First Notice Published: 36 Ill. Reg. 7340 – 5/18/12
  - Expiration of Second Notice: 5/23/13

Public Health

22. Control of Sexually Transmissible Diseases Code (77 Ill. Adm. Code 693)
  - First Notice Published: 36 Ill. Reg. 14146 – 9/21/12
  - Expiration of Second Notice: 5/25/13
23. Animal Population Control Code (77 Ill. Adm. Code 996)
  - First Notice Published: 37 Ill. Reg. 521 – 1/18/13
  - Expiration of Second Notice: 6/9/13

Revenue

24. Retailers' Occupation Tax (86 Ill. Adm. Code 130)
  - First Notice Published: 36 Ill. Reg. 7971 – 5/25/12
  - Expiration of Second Notice: 6/15/13

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
MAY AGENDA

25. Service Occupation Tax (86 Ill. Adm. Code 140)  
-First Notice Published: 36 Ill. Reg. 7990 – 5/25/12  
-Expiration of Second Notice: 6/15/13

Secretary of State

26. State Records Commission (44 Ill. Adm. Code 4400)  
-First Notice Published: 37 Ill. Reg. 706 – 1/25/13  
-Expiration of Second Notice: 5/24/13
27. Issuance of Licenses (92 Ill. Adm. Code 1030)  
-First Notice Published: 37 Ill. Reg. 2450 – 2/22/13  
-Expiration of Second Notice: 5/25/13

State Police

28. Imaging Products (20 Ill. Adm. Code 1298)  
-First Notice Published: 37 Ill. Reg. 1585 – 2/8/13  
-Expiration of Second Notice: 5/16/13

State Universities Retirement System

29. Universities Retirement (80 Ill. Adm. Code 1600)  
-First Notice Published: 37 Ill. Reg. 763 – 1/25/13  
-Expiration of Second Notice: 5/15/13

Student Assistance Commission

30. General Provisions (23 Ill. Adm. Code 2700)  
-First Notice Published: 37 Ill. Reg. 1117 – 2/1/13  
-Expiration of Second Notice: 5/24/13
31. Illinois National Guard (ING) Grant Program (23 Ill. Adm. Code 2730)  
-First Notice Published: 37 Ill. Reg. 1124 – 2/1/13  
-Expiration of Second Notice: 5/24/13
32. Grant Program for Dependents of Correctional Officers (23 Ill. Adm. Code 2731)  
-First Notice Published: 37 Ill. Reg. 1130 – 2/1/13  
-Expiration of Second Notice: 5/24/13

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
MAY AGENDA

33. Grant Program for Dependents of Police or Fire Officers (23 Ill. Adm. Code 2732)  
-First Notice Published: 37 Ill. Reg. 1136 – 2/1/13  
-Expiration of Second Notice: 5/24/13
34. Illinois Veteran Grant (IVG) Program (23 Ill. Adm. Code 2733)  
-First Notice Published: 37 Ill. Reg. 1142 – 2/1/13  
-Expiration of Second Notice: 5/24/13
35. Monetary Award Program (MAP) (23 Ill. Adm. Code 2735)  
-First Notice Published: 37 Ill. Reg. 1148 – 2/1/13  
-Expiration of Second Notice: 5/24/13
36. Optometric Education Scholarship Program (23 Ill. Adm. Code 2741)  
-First Notice Published: 37 Ill. Reg. 1160 – 2/1/13  
-Expiration of Second Notice: 5/24/13
37. Minority Teachers of Illinois (MTI) Scholarship Program (23 Ill. Adm. Code 2763)  
-First Notice Published: 37 Ill. Reg. 1164 – 2/1/13  
-Expiration of Second Notice: 5/24/13
38. Illinois Special Education Teacher Tuition Waiver (SETTW) Program (23 Ill. Adm. Code 2765)  
-First Notice Published: 37 Ill. Reg. 1170 – 2/1/13  
-Expiration of Second Notice: 5/24/13
39. Illinois Prepaid Tuition Program (23 Ill. Adm. Code 2775)  
-First Notice Published: 37 Ill. Reg. 1174 – 2/1/13  
-Expiration of Second Notice: 5/24/13

**EMERGENCY RULEMAKINGS**Commerce and Economic Opportunity

40. Enterprise Zone and High Impact Business Programs (14 Ill. Adm. Code 520)  
-Notice Published: 37 Ill. Reg. 5006 – 4/12/13

Healthcare and Family Services

41. Children's Health Insurance Program (89 Ill. Adm. Code 125)  
-Notice Published: 37 Ill. Reg. 5049 – 4/12/13

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
MAY AGENDA

42. Medical Payment (89 Ill. Adm. Code 140)  
-Notice Published: 37 Ill. Reg. 5058 – 4/12/13
43. Medical Payment (89 Ill. Adm. Code 140)  
-Notice Published: 37 Ill. Reg. 5170 – 4/19/13
44. Hospital Services (89 Ill. Adm. Code 148)  
-Notice Published: 37 Ill. Reg. 5082 – 4/12/13

Labor Relations Board

45. General Procedures (80 Ill. Adm. Code 1200)  
-Notice Published: 37 Ill. Reg. 5897 – 5/3/13
46. Gubernatorial Designation of Positions Excluded from Collective Bargaining (80 Ill. Adm. Code 1300)  
-Notice Published: 37 Ill. Reg. 5901 – 5/3/13

State Fire Marshal

47. Technical Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and use of Petroleum and Other Regulated Substances (41 Ill. Adm. Code 175)  
-Notice Published: 37 Ill. Reg. 5195 – 4/19/13

**PEREMPTORY RULEMAKING**

Central Management Services

48. Pay Plan (80 Ill. Adm. Code 310)  
-Notice Published: 37 Ill. Reg. 5925 – 5/3/13

**INTERNAL RULEMAKING**

Transportation

49. Access to Records of the Department of Transportation (2 Ill. Adm. Code 1226)  
-Notice Published: 37 Ill. Reg. 5892 – 5/3/13

**EXEMPT RULEMAKING**

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JOINT COMMITTEE ON ADMINISTRATIVE RULES  
MAY AGENDA

Illinois Emergency Management Agency

50. Licensing of Radioactive Material (32 Ill. Adm. Code 330)  
-Notice Published: 37 Ill. Reg. 2533 – 3/1/13  
-Adopted Date: 5/3/13

**AGENCY RESPONSES**

Central Management Services

51. Business Enterprise Program: Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities (44 Ill. Adm. Code 10; 37 Ill. Reg. 3885) (Emergency)

Financial and Professional Regulation

52. Illinois Orthotics, Prosthetics and Pedorthics Practice Act (68 Ill. Adm. Code 1325; 36 Ill. Reg. 61; 36 Ill. Reg. 6118)

Human Services

53. Maternal and Child Health Advisory Board (77 Ill. Adm. Code 2260; 36 Ill. Reg. 15319)  
54. Lekoteks (Repealer) (89 Ill. Adm. Code 899; 36 Ill. Reg. 11888)

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 April 23, 2013 through April 29, 2013. The rulemakings are scheduled for review at the Committee's May 14, 2013 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>
6/8/13	<u>Illinois Emergency Management Agency</u> , Licensing of Radioactive Material (32 Ill. Adm. Code 330)	3/8/13 37 Ill. Reg. 2597	5/14/13
6/8/13	<u>Illinois Gaming Board</u> , Video Gaming (General) (11 Ill. Adm. Code 1800)	2/22/13 37 Ill. Reg. 2410	5/14/13
6/9/13	<u>Department of Public Health</u> , Animal Population Control Code (77 Ill. Adm. Code 996)	1/18/13 37 Ill. Reg. 521	5/14/13

## DEPARTMENT OF LABOR

## NOTICE OF PUBLIC INFORMATION

LIST OF CONTRACTOR(S) PROHIBITED FROM AN AWARD  
OF A CONTRACT OR SUBCONTRACT  
FOR PUBLIC WORKS PROJECTS

Pursuant to 820 ILCS 130/11a of the Prevailing Wage Act the Director of the Illinois Department of Labor gives notice that the following contractors and subcontractors have been found to have disregarded their obligations to employees under the Prevailing Wage Act on two (2) separate occasions and that they, or any firm, corporation, partnership or association in which such contractors or subcontractors have an interest, are prohibited from being awarded any contract or subcontract for a public works project:

B & T Services of Monee, Inc.  
4922 W. Margaret Street  
Monee, IL 60449  
IDOL Case No.(s): 2007-PW-AP06-0839 & 2006-PW-RW06-0939  
May 21, 2010 and continuing through May 20, 2014

American Brick Paving, Inc.  
c/o John Biebrach, President  
825 Seegers Road  
Des Plaines, IL 60016  
IDOL Case No.: 2010-PW-WJ11-0557  
September 24, 2010 and continuing through September 23, 2014

Performance Paving, Ltd.  
c/o Larry Kennebeck, President  
520 Bonner Road  
Wauconda, IL 60084  
IDOL Case No.(s): 2008-PW-WJ01-0530 & 2010-PW-WJ08-0214  
November 29, 2010 and continuing through November 29, 2014

Dem/Ex Group, Inc.  
c/o Daniel Saal  
805 S. Adams Street  
Manito, IL 61546  
IDOL Case No.(s): 2008-PW-RW09-0186 & 2010-PW-RDW09-0351  
July 29, 2011, and continuing through July 29, 2015

## DEPARTMENT OF LABOR

## NOTICE OF PUBLIC INFORMATION

Gire Construction, Inc.  
aka Gire Roofing  
c/o Ed Gire  
712 S. Neil Street  
Champaign, IL 61820  
IDOL Case No.(s): 2010-PW-JD08-0104 & 2011-PW-JD07-0009  
December 16, 2011, and continuing through December 16, 2015

American Painting, Inc.  
c/o Gary Bens  
1820 S. Wallace, Unit 118  
St. Charles, IL 60174  
IDOL Case No.(s): 2010-PW-DA12-0578 & 2012-PW-DA09-0139  
February 3, 2012, and continuing through February 3, 2016

City Cottage Group, Inc.  
2907 South Wabash Avenue  
Chicago, IL 60616  
IDOL Case No.(s): 2008-PW-DA02-0631 & 2010-PW-DA08-0123  
March 30, 2012, and continuing through March 30, 2016

Champion Environmental Services, Inc.  
38 West End Drive  
Gilberts, IL 60136  
IDOL Case No.(s): 2009-PW-LL02-0743 & 2011-PW-RDW05-1039  
June 1, 2012, and continuing through June 1, 2016

V & R Landscaping  
c/o Vito Roppo  
2000 W. Roosevelt Road  
West Chicago, IL 60185  
IDOL Case No.(s): 2009-PW-AP09-0253 & 2011-PW-AP10-0317  
August 10, 2012, and continuing through August 10, 2016

Tree and Land, Inc.  
c/o Karen J. Matan  
P.O. Box 698  
Minooka, IL 60447

DEPARTMENT OF LABOR

NOTICE OF PUBLIC INFORMATION

IDOL Case No.(s): 2008-PW-DA10-0330 & 2012-PW-RDW07-0027  
March 22, 2013, and continuing through March 22, 2017

Bill's Painting Company  
c/o James Soulis  
751 Kenilworth Street  
Des Plaines, IL 60016

IDOL Case No.(s): 2011-PW-DA09-0230 & 2012-PW-WJ04-0690

"this debarment is effective until 4 years have elapsed from the date of publication of the list containing the name of the contractor".

Copies of the Prevailing Wage Act are available on the internet at  
<http://www.legis.state.il.us/ilcs/ch820/ch820act130.htm>, and at the:

Illinois Department of Labor  
Conciliation and Mediation Division  
900 S. Spring Street  
Springfield, Illinois 62704

## OFFICE OF THE STATE TREASURER

## NOTICE OF PUBLIC INFORMATION

NOTICE OF NAMES OF PERSONS APPEARING  
TO BE OWNERS OF ABANDONED PROPERTY WHOSE  
LAST KNOWN ADDRESSES ARE IN CERTAIN STATES

Pursuant to Public Act 91-0016, the Illinois State Treasurer's Office is publishing the names and last known addresses of abandoned property owners whose last known addresses are allegedly in a state other than Illinois. The other state does not have a reciprocity arrangement with Illinois.

If your name or that of a person you represent appears below, you may contact this Agency for further information about the assets.

INQUIRIES MUST BE IN WRITING. The written inquiry should include the name and address as listed, and the correct name and address for reply. If inquiring about a name other than your own, you must indicate your authority to act on behalf of that person.

Address written inquiries to:

ILLINOIS STATE TREASURER'S OFFICE  
UNCLAIMED PROPERTY DIVISION  
P.O. Box 19495  
Springfield, Illinois 62794-9495

AUTHORITY: Implementing and required by the Illinois Uniform Disposition of Unclaimed Property Act [765 ILCS 1025/12].

## OFFICE OF THE STATE TREASURER

## NOTICE OF PUBLIC INFORMATION

ABBOTT JOHN

OAKVILLE ONTARIO L6L2X5 1198 COLBORNE COURT

AKIMOTO YUKI

TOKYO 00101005 191 KANDANISHIKICHO 1CHOME CHIYADAKU T

ALFARSI SALMAN A BOX 3374 RIYADH 11741

ALJISHI FAHMI

SAUDI ARABIA PO BOX 13494 TAROUT ARABIA

ALLEN PATRICIA 2800 NW 56TH AVE FORT LAUDERDALE

ALONSO LETICIA R

ARAB WORLD INSURANCE COMPANY

AL KHOBAR 31952 PO BOX 120 SAU

ARMSTRONG DAWN USS KEARSAGE DECK DEPT FPO

ARNOLD DOLORES 143RD RAMSEYS LN OVERLAND PARK

ARNOLD JOHN 143RD RAMSEYS LN OVERLAND PARK

AYALA ESPERANZ 3811 MAIN ST EAST CHICAGO

AYALA SALVADOR 3811 MAIN ST EAST CHICAGO

BACON SHIRLEY J FLORIDA

BAILEY JONATHAN USS GEORGE WASHINGTON BOX 46 FPO

BAILEY MABEL ESTATE RR 1 UNION PARK

BAKER CARL ESTATE RR 2 WEST FANKFLIN

BANK OF TEXAS

BANKERS ASSURANCE COMPANY

## OFFICE OF THE STATE TREASURER

## NOTICE OF PUBLIC INFORMATION

GARCHES PO BOX 11 RIAD EL SOLH SQ BEIRUT CENT4293 4<sup>TH</sup>BAREFOOT JOSEPH  
CAYMAN ISALNDS PO BOX 10494 APO GRAND CAYMANBAREFOOT THERESA  
CAYMAN ISLANDS PO BOX 10494 APO GRAND CAYMAN

BENOIT EARLANE	117 W LINCOLN	POLLUSVILLE
BEST DOLORES M ESTATE	1317 WALNUT ST	DES MOINES
BOYSON ROBERT E	3205 BRUNSWICK DR	FLORISSANT
BRADFORD JOHN S	RR 1	CALFAUX
BRAWLEY JOHN	1424 LYNCH E	ST LOUIS
BRAWLEY MARGARET A	1424 LYNCH E	ST LOUIS
BRECHWALD CVN	BOX 46 74 USS JOHN STENNIS	FPO
BRECHWALD JOHN	BOX 46 74 USS JOHN STENNIS	FPO
BROWN RICHARD ESTATE	1224 ILLINOIS AVE	ST LOUIS
BROWNING RICHARD	BARCELONA 08024 C ASTILEJOS	426 13
BURAN MILDRED ESTATE	RR 1 IANING	
BURMAN WAYNE	3950 N LAKE SHORE DRIVE	CHICAGO
BUZZINGHAM BETTY	232 N MAIN ST	WOPP
CASTRILLO JAVIER	7 JARDINES APT 4C	
CAVALIAS TOM	YIANNOU MICHAEL 2	
CHAPTER ONE CO LTD	2464 HONCHO NAKANOKU	TOKYO

## OFFICE OF THE STATE TREASURER

## NOTICE OF PUBLIC INFORMATION

CHENIER BERT L	160 N GROVE	WERTIUESPRING
CHENOWETH DWIGHT J	701 E MAYWOOD	PRASEA
CHETTLE ANTHONY JOHN	IRL	
CIPRIJANOVIC STEVE ESTATE	2119 A KANSAS AVE	ST LOUIS
CITIZENSHIP AND IMMIGRATION CANADA		
CLARK CLAIRE W ESTATE	505 W MONMOUTH ST	ARINGDEN
CLARK KAZZY	USS MCCLUSKY FFG41	FPO
COMPAGNIE DES ILES DU PONANT NANTES F	44100 60 BLVD DU MARECHAL JUIN	FRA
COMPAGNIE EUROPEENEED ASSURANCES INDUSTRIELLES SA LONDON EC3N2LU 2 AMERICA SQUARE 2ND FLOOR		
CONLEY KENNETH B	RR5 FRENCH VLG 1920 3RD AVE	ST LOUIS
CRAWFORD FRANK L	1337 N 41TH ST	ST LOUIS
CRAWFORD MARGARET	1337 N 41TH ST	ST LOUIS
DAINA JOSEPH S	99 RECHOV DISKIN	
DANIELS JOHN H JR	PSC 482 BOX 2909	FPO
DEARBORN COUNTY CLERKS OFFICE		
DEHM JAMES	2900 STATE HIGHWAY A1A APT 208 ATLANTIC BEACH	
DOUGHERTY ELENORE ESTATE	RR 1	CRAWFORD

## OFFICE OF THE STATE TREASURER

## NOTICE OF PUBLIC INFORMATION

EMMA ENGIBOUS ESTATE		JOHNSTOWN
EWERT ROGER M ESTATE		JOHNSTOWN
EYESTONE ANNYA Z	PSC 559 BOX 6806	FPO
EYESTONE BRIAN W	PSC 559 BOX 6806	FPO
FEARRINGTON JONATHAN	PSC 2 BOX 12165	APO
FEARRINGTON LARRY	PSC 2 BOX 12165	APO
FINNEGAN JOHN ESTATE		JOHNSTOWN
FLEMING MARGUERIET ESTATE		JOHNSTOWN ACU
FOGARTY CHRISTINE LONDON ENGLAND	00000 85 CAMPDEN HILL COURT	
FOOTE ESTELLA	RTE 2 BOX 456	LAKE PANASOFFKEE
FORBES HELEN	PO BOX 356 ST DAVIDS	ONTARIO
FOSTER SHANNON	ENGR DIV USS BATAAN LHD 5	FPO
FRAZIE DOLORES R	RT 2 BOX 278	PORTSMOUTH
FRED AARON ESTATE	RR 2	JOHNSTOWN CITY
FUNADACLASSEN SAYAKA LUZERNE 182017 CHOFU CITY TOKYO 5 6 46 JINDAIJIMOTOMACHI		
GEORGIA DEPT OF REVENUE		
GIBBENS MARY A ESTATE	RR 1	
GILHUYS KENNETH BAKER	48 2152LA NIEUW VENNEP	

## OFFICE OF THE STATE TREASURER

## NOTICE OF PUBLIC INFORMATION

GILHUYS KENNETH G BAKER 48 2152LA NIEUW VNNP

GILHUYS PEDERSON LISA  
ANN BAKER 48 2152LA NIEUW VNNP

GILVARY BRIAN 18 ROTTON ROW GREAT BRICKHILL  
BUCKINGHAMSHIRE MK17 9BA ENGLA

GOARIN GUY VAN F CMR 437 BOX 1360 APO

GODEE ABBY R  
NETHERLANDS ENGELANDERWEG 47 7361CV BEEKBERGEN

GODEE JOOST  
NETHERLANDS ENGELANDERWEG 47 7361CV BEEKBERGEN

GOLL STEVEN PSC 80 BOX 16861 APO

GONZALEZ MANUEL 1403 SOUTH 59TH AVENUE

GOVERNMENT OF CANADA

GRANT JANIE GARY

GREEN JAMES P ESTATE 604 MISSOURI

GREER JOEL E  
TOKYO 001010054 191 KANDANISHIKICHO 1CHOME CHIYADAKU T

GROUPE KLEBER PARIS F75009 46 RUE DE PROVENCE

GUSTAVISON GLENN P CAIN ST  
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GUSTAVSSON PATRICK MOUVANGER 40 MUDDINGE

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HARRISON WII		APO
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HEAVEY BERNARD		
HEINZ EILEEN ESTATE	RR 2	MARDA
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HERING EDWARD ESTATE	5711 B ARTESUAB	CGUCAGI
HICKS MILDRED		ST LOUIS
HILL RICHARD ESTATE	700 S DIVISION	CARBONVILLE
HOADLEY MELVIN	330 LUDINGTON	WAUWATOSA
HOFFMAN BRANDICMR	459 BOX 13009	APO
HOFFMAN CLARENCE H	807 MILDRED	MAPLEWOOD
HOFFMAN LEATH M	807 MILDRED	MAPLEWOOD
HOLCOMB MARGARET ESTATE	226 S BEACH ST	CONTRIBIA
HOWARD SHIRLEY ESTATE	569 SATANNER ST	HANKEEKEE

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HUNTER NATALIE	PO BOX 1350 ALBERTA	CANADA
IBERIA C A DE SEGUROS GENERALES BARCELONA 43 PASEO DO GARCIA ESP		
IFH ASIA PACIFIC PTE LTD	61 ROBINSON RD 1704	ROBINSON CENTER
INFORMATION & MARKETING	PO BOX 777 DUBAI	
IRAQ REINSURANCE COMPANY BAGDAD AL WALEED STREET UQBA BIN NAFEE SQUARE KHALID		
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JEFFRIES RICHARD F	1706 M 11ST	THAUTE
JENKINS AMANDA G	423 HUDSONPEONA	
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JOHNSON EDWARD ESTATE	RR 1	DOUGLAS PENN
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KOOP JOHN	5925 N CAMELOT WAY	NORTH VERNON
KOOP VIRGINIA	MADISON	
KOZLOWSKI CHARLES	USS CHARLOTTE SSN 766	FPO
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LATOUR ASHLEY	24 JOILET ST	DYER
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MWENDAH GRACE	SAXON WOLD 2132 POSTNET SUITE 216 PRIVATE BAG X31	
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NEWELL JOHN B	STATE PARK	
NOE BRET PSC	41 BOX 4774	APO
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OBRIEN DOROTHY	426 N 9TH ST	ST LOUIS
OBRIEN JAMES	426 N 9TH ST	ST LOUIS
OISHI MASATAKA 3 19 10 SAKURA SETAGAYA KU 2 201 TOKYO 156 00		
OKRA SHARON	PSC 80 BOX 16861	APO
OLESON D	PSC 54 BOX 1954	APO
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ONEILL EMMA P NORTHERN IRELAND 11 KNIGHTBRIDGE COURT APT 9		
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PENERMON WILMA LEE	4115 S 43RD	ST LOUIS
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PETRY WILLIAM ESTATE	818 WOODWARD ST	WASHESHA
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PIPIS MARY JANE EST	2310 HOLLYWOOD DR	MONROE
PLOSHEHANSKI NICOLE K	PSC 9 BOX 34	APO
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PYLESCANIZALES ENRIQUE	UNIT 15072 BOX 415	APO
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RAMIREZ MARIA D		
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SIEGFERTH LOUELLA B	2143 E BAILEY RD	CUYAHOGA FALLS
SIMON ANNIE ESTATE	118 W 6 <sup>TH</sup>	OFAKON
SIMPSON MEGAN M		MITROPALET
SIMPSON MILLARD D ESTATE	211 W 7TH ST	MITROPALET
SISTERS OF ST FRANCIS HEALTH SVCS	P O BOX 310 MISHAWAKA	
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STATE OF MICHIGAN		
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	LONDON EC3P3DQ 1 UNDERSHAFT ST HELENS	
UNIONE MEDITERRANEA DI SICURTA		
	GENOVA GE16122 VIA SAN BARTOLOMEO ARMENI	
VALDEZ JORGE	612 LA UNION	SULPHUR SPRINGS
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VENTURA ROBERTO J		
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VICTORY HEALTH REINSURANCE COMPANY LTD		
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WALKER RONNIE	PSC 71 BOX 7	APO
WALTER ERLINDA S	PO BOX 1369	APO



## DEPARTMENT OF HUMAN SERVICES

## AGENCY RESPONSE TO JOINT COMMITTEE OBJECTION TO PROPOSED RULE

Agency: Department of Human Services

Heading of the Part: Maternal and Child Health Advisory Board

Code Citation: 77 Ill. Adm. Code 2260

Register Citation: 36 Ill. Reg. 15319 (October 26, 2012)

Agency Response to Specific Joint Committee Objections: At its meeting on February 6, 2013, the Joint Committee on Administrative Rules objected to the Department of Human Services rules titled Maternal and Child Health Advisory Board (77 Ill. Adm. Code 2260; 36 Ill. Reg. 15319) because of DHS' failure to adhere to the statutory requirement that it adopt these rules by August 2, 2006.

The Department of Human Services has reviewed the Objection from the Joint Committee on Administrative Rules and will carefully consider statutory requirements that specifically state an implementation date. The Department agrees to make every attempt to adhere to such requirements in future rulemakings.

2013-164

GUBERNATORIAL PROCLAMATION

Severe storms generating heavy rainfall moved through Illinois on April 15-18, 2013, causing significant river and flash flooding throughout the State. Additional rainfall on April 23-24, 2013, caused severe flooding along the Wabash River, resulting in evacuations, property damage to homes and businesses, the closure of roadways, and threats to the existing levees. The additional rainfall also caused infrastructure damage in Warren County, resulting in roadway closures due to sewer line and culvert collapses. The flooding of and damage to transportation routes have caused a disruption of essential services and are a threat to public health and safety.

In the interest of aiding the people of Illinois and the local governments responsible for ensuring public health and safety, I hereby proclaim that a disaster exists within the State of Illinois, and pursuant to the provisions of Section 7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7, specifically declare Clark, Crawford, Lawrence and Warren Counties as disaster areas.

This gubernatorial proclamation of disaster will aid the Illinois Emergency Management Agency in coordinating State resources to support local governments in disaster response and recovery operations, including, but not limited to, emergency purchases necessary for response and other emergency powers as authorized by the Act. This includes the suspension of provisions of the Illinois Procurement Code that would in any way prevent, hinder or delay necessary action in coping with the disaster. In addition, this proclamation can facilitate a request for Federal disaster assistance if a complete and comprehensive assessment of damage indicates that effective recovery is beyond the capabilities of the State and affected local governments.

**ILLINOIS ADMINISTRATIVE CODE**  
**Issue Index - With Effective Dates**

Rules acted upon in Volume 37, Issue 19 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

**PROPOSED RULES**

2 - 1620	.....	6008
35 - 201	.....	6028
35 - 218	.....	6054
35 - 219	.....	6083
35 - 620	.....	6123
77 - 260	.....	6135
80 - 1600	.....	6170

**ADOPTED RULES**

83 - 468	4/25/2013 .....	6184
89 - 140	4/29/2013 .....	6196
77 - 1130	6/1/2013 .....	6227
89 - 828	4/25/2013 .....	6358
89 - 829	4/25/2013 .....	6368

**EXECUTIVE ORDERS AND  
PROCLAMATIONS**

13 - 164	4/25/2013 .....	6412
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