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## TABLE OF CONTENTS

**September 18, 2015 Volume 39, Issue 38**

**PROPOSED RULES**
CHILDREN AND FAMILY SERVICES, DEPARTMENT OF
Service Appeal Process
89 Ill. Adm. Code 337.....12658
FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF
Veterinary Medicine and Surgery Practice Act of 2004
68 Ill. Adm. Code 1500.....12677
Certified Veterinary Technicians
68 Ill. Adm. Code 1505.....12699
INSURANCE, DEPARTMENT OF
Accident and Health Reserves
50 Ill. Adm. Code 2004.....12715
NATURAL RESOURCES, DEPARTMENT OF
Regulations for the Letting of Concessions, Farm Leases, Sale of Buildings and Facilities, and Demolitions
17 Ill. Adm. Code 150.....12719
White-Tailed Deer Hunting by Use of Bow and Arrow
17 Ill. Adm. Code 670.....12723
PROCUREMENT POLICY BOARD, ILLINOIS
Rulemaking and Organization
2 Ill. Adm. Code 3000.....12725
Freedom of Information
2 Ill. Adm. Code 3001.....12730
General Policies
2 Ill. Adm. Code 3002.....12767
SECRETARY OF STATE
Motor Vehicle Accident Prevention Courses For Liability Insurance Premium Reduction
50 Ill. Adm. Code 8000.....12796
Issuance of Licenses
92 Ill. Adm. Code 1030.....12800
STUDENT ASSISTANCE COMMISSION, ILLINOIS
General Provisions
23 Ill. Adm. Code 2700.....12813
Grant Program for Exonerees
23 Ill. Adm. Code 2743.....12818
**ADOPTED RULES**
HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF
Medical Payment
89 Ill. Adm. Code 140.....12825
POLLUTION CONTROL BOARD

General Rules
35 Ill. Adm. Code 101.....12848
Enforcement
35 Ill. Adm. Code 103.....12898
Regulatory Relief Mechanisms
35 Ill. Adm. Code 104.....12905
Proceedings Pursuant to Specific Rules or Statutory Provisions
35 Ill. Adm. Code 106.....12914
Administrative Citations
35 Ill. Adm. Code 108.....12921
Management of Used and Waste Tires
35 Ill. Adm. Code 848.....12934
PUBLIC HEALTH, DEPARTMENT OF
Hospital Licensing Requirements
77 Ill. Adm. Code 250.....13041
Emergency Medical Services, Trauma Center, Primary Stroke Center and Emergent Stroke Ready Hospital Code
77 Ill. Adm. Code 515.....13075
**EMERGENCY RULES**
NATURAL RESOURCES, DEPARTMENT OF
White-Tailed Deer Hunting by Use of Bow and Arrow
17 Ill. Adm. Code 670.....13125
**SECOND NOTICES RECEIVED**
JOINT COMMITTEE ON ADMINISTRATIVE RULES
Second Notices Received….....13130

## 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 2015

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

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Service Appeal Process

2) Code Citation: 89 Ill. Adm. Code 337

3)

| Section Numbers: | Proposed Actions: |
|---|---|
| 337.20 | Amendment |
| 337.30 | Amendment |
| 337.80 | Amendment |
| 337.110 | Amendment |

4) Statutory Authority: The proposed amendments implement recent amendments to the Children and Family Services Act [20 ILCS 505/5(o)] enacted by PA 98-249

5) A Complete Description of the Subjects and Issues Involved: Sections 337.80 (f) and 337.110 (a)(4) identify issues that are inappropriate for a service appeal. The proposed amendments mirror a recent change in law that clarifies that the juvenile court does not make substitute care placement decisions. The proposed amendments clarify that a court finding that "a current foster home placement is necessary and appropriate" is not a judicial determination on the merits of a service appeal filed by a former foster parent or relative caregiver involving a change of placement decision, and does not render the issue inappropriate for a service appeal. The proposed amendments mirror a recent change in law clarifying that the juvenile court does not make substitute care placement decisions.

In Sections 337.20 and 337.30, the proposed amendments replace "Child and Youth Investment Team" or "CAYIT." with "Clinical Intervention for Placement Prevention" or "CIPP."

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this proposed rulemaking replace an 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? No

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

| Sections: | Proposed Actions: | *Illinois Register* Citation: |
|---|---|---|
| 337.20 | Amendment | 39 Ill. Reg. 143; January 2, 2015 |
| 337.20 | Amendment | 39 Ill. Reg. 7092; May 22, 2015 |

11) Statement of Statewide Policy Objective: The proposed rulemaking permits the Department to accept requests for appeal of service decisions affecting changes of placement from one substitute care setting to another when the juvenile court has also reviewed the decision, and substitutes the CIPP for the CAYIT multidisciplinary assessment process.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65-D
Springfield IL 62701-1498

217/524-1983
TTY: 217524-3715
fax: 217/557-0692
email: cfpolicy@idcfs.state.il.us

13) Initial Regulatory Flexibility Analysis:

A) Types of businesses affected: This rulemaking affects Department and private child welfare agency-licensed foster family homes, and unlicensed relative homes.

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

C) Types of professional skills necessary for compliance: The ability to understand and comply with regulations governing the Department's Service Appeal Process

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because the need for rulemaking was not anticipated.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERY

PART 337
SERVICE APPEAL PROCESS

Section
337.10 Purpose
337.20 Definitions
337.30 The Service Appeal Process
337.40 Department and Provider Agency Responsibilities on Appealable Issues
337.50 The Right to a Service Appeal
337.60 Who May Appeal
337.70 What May Be Appealed
337.80 What May Not Be Appealed
337.90 Notices of Department or Provider Agency Decisions
337.100 How to Request a Service Appeal
337.110 Grounds for Dismissal of a Service Appeal Request
337.120 Time Frames for the Service Appeal Process
337.130 Continuing Services During the Service Appeal Process
337.140 Confidentiality During the Service Appeal Process
337.150 Notice Concerning a Service Appeal
337.160 Abandonment of a Service Appeal
337.170 Fair Hearing Appeal Rights
337.180 The Administrative Law Judge
337.190 Record of a Fair Hearing
337.200 Combined Hearings
337.210 Continuances Requested in a Combined Hearing
337.220 The Final Administrative Decision
337.230 Who Receives a Copy of the Final Administrative Decision
337.240 Notice of the Availability of Judicial Review
337.250 Severability of This Part

AUTHORITY: Implementing and authorized by Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5].

SOURCE: Adopted at 17 Ill. Reg. 1046, effective January 15, 1993; amended at 19 Ill. Reg. 7175, effective June 1, 1995; amended at 19 Ill. Reg. 10557, effective July 1, 1995; emergency

amendment at 25 Ill. Reg. 4283, effective March 19, 2001, for a maximum of 150 days; emergency amendment repealed in response to an Objection of the Joint Committee on Administrative Rules at 25 Ill. Reg. 6735, effective May 8, 2001; amended at 26 Ill. Reg. 6246, effective June 1, 2002; amended at 26 Ill. Reg. 11778, effective August 1, 2002; amended at 36 Ill. Reg. 4388, effective March 7, 2012; amended at 39 Ill. Reg. _____, effective _____.

**Section 337.20 Definitions**

"Adequate notice" means a notice that contains all of the elements identified in Section 337.90(c) of this Part.

"Administrative Hearings Unit" means the Department's unit responsible for receiving requests for and acting upon a service appeal and conducting fair hearings on appeal.

"Administrative law judge" means an attorney who is appointed by the Director of the Department and who is responsible for conducting the fair hearing.

"Administrator of the Administrative Hearings Unit" means the person who is responsible for receiving requests for a service appeal and for coordinating the fair hearings.

"Appellant" means the person who requests a service appeal or on whose behalf a service appeal is requested.

"Authorized representative" means a person authorized in writing by the appellant to assist the appellant in the appeal process. If the appellant is unable to reduce such authorization to writing, the Department shall assist the appellant in doing so. The representative may be legal counsel or other spokesperson.

"Clinical Intervention for Placement Prevention~~Child and Youth Investment Teams~~" or "CIPP~~CAYIT~~" means a regionally based, multidisciplinary team consisting of designated DCFS staff, the child (when age-appropriate), the child's family, extended family and others who have relevant and current information about the child, and professionals who are critical to achieve informed, sound decision-making.

"Clinical Intervention for Placement Prevention (CIPP)~~CAYIT~~ Action Plan"

means a written document summarizing a clinical assessment of a child's or youth's service needs, identifying the resources required to meet those needs, and establishing time frames for their achievement.

*"Child welfare services" means public social services* that *are directed toward the accomplishment of the following purposes:*

*protecting and promoting the health, safety and welfare of* all~~*all*~~ *children, including homeless, dependent, or neglected children;*

*preventing,* ~~*or*~~ *remedying, or assisting in the solution of problems* that *may result in, the neglect, abuse, exploitation, or delinquency of children;*

*preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible when the child can be cared for at home without endangering the child's health and safety;*

*restoring to their families children who have been removed by the provision of services to the child and the families when the child can be cared for at home without endangering the child's health and safety;*

*placing children in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate;*

*assuring safe and adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption. At the time of placement, the Department shall consider concurrent planning so that permanency may occur at the earliest opportunity. Consideration should be given so that, if reunification fails or is delayed, the placement made is the best available placement to provide permanency for the child;*

*providing supportive services and living maintenance* that *contributes to the physical, emotional and social well-being of children for whom the Department is legally responsible who are pregnant and unmarried;*

*providing shelter and independent living services for homeless youth; and*

*placing and maintaining children in facilities that provide separate living quarters for children under the age of 18 and for children 18 years of age and older, unless a child 18 years of age is in the last year of high school education or vocational training, in an approved individual or group treatment program,~~ or~~ in a licensed shelter facility, or secure child care facility. The Department is not required to place or maintain children:*

*who are in a foster home; or*

*who are persons with a developmental disability~~developmentally disabled~~, as defined in the Mental Health and Developmental Disabilities Code* [405 ILCS 5]*; or*

*who are female children who are pregnant, pregnant and parenting or parenting; or*

*who are siblings,*

*in facilities that provide separate living quarters for children 18 years of age and older and for children under 18 years of age*. [20 ILCS 505/5(a)(3)]~~.~~

These services include but are not limited to: counseling, advocacy, day care, homemaker, emergency caretaker, family planning, adoption, visitation, placement, child protection and information and referral.

"Clinical placement review" means a process in which designated clinical Department staff will review a disputed decision by the Department or purchase of service agency to remove a child from the home of a foster family or relative caregiver, when the child will be placed in the home of another foster family or relative caregiver.

"Date of action" means the effective date of the action or proposed action by the Department or provider agency that resulted in the appeal.

"Date of appeal" means the postmark date or date of receipt of appellant's written request for an appeal, whichever is earlier, at the address specified in the notice.

"Date of notice" means the date on which the appellant receives written notice of the Department's intended action or decision or the date on which the appellant learns of the intended action or decision, if a written notice was not provided.

"Day care services" means care provided to children for less than 24 hours per day in facilities requiring licensure under the Child Care Act of 1969 [225 ILCS 10] in facilities exempt from licensure, in the homes of relatives, or in their own home.

"Department representative" means an attorney or designated individual responsible for presenting the Department's position in mediation, staffings and negotiations and at an emergency review and fair hearing.

"Emergency review" means a limited review of the actions or decisions of the Department or provider agency that may adversely affect an individual or individuals served by the Department. An emergency review provides for an interim decision pending a fair hearing.

"Fair hearing", as used in this Part, means a formal review of the action or decision of the Department or provider agency to determine whether that action or decision is in compliance with applicable laws and rules and will be in the best interests of the child.

"Family" means one or more adults and children, related by blood, marriage, civil union or adoption and residing in the same household ~~the biological or adoptive parents (provided a court has not terminated parental rights), legal guardian, or any relative who has assumed custody and control of the child in the absence of the child's biological or adoptive parents~~.

"Final administrative decision" means the Department's final decision, order, or determination on an appealed issue rendered by the Director in a particular case that affects the legal rights, duties or privileges of appellants and that may be appealed in a circuit court under the Administrative Review Law [735 ILCS 5/Art. III].

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising the child if the parent cannot raise the child. The worker shall verify the godparent/godchild relationship by contacting the parents to confirm the fact that they did, in fact,

designate the person as the godparent. If the parents are unavailable, the worker should contact other close family members to verify the relationship. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code 301.60 (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code 301.80 (Relative Home Placement) must be met.

"Imminent risk of harm" means that individuals' actions, omissions or conditions endanger the life, or seriously jeopardize the physical or mental health or safety of themselves or others, if protective action would not be taken immediately.

"Individual legally acting on a person's behalf" means an individual who has been appointed by a court to act on behalf of a person when the person is incompetent, incapacitated, or otherwise unable to speak for himself or herself.

"Mediation" means a meeting open to all parties affected by the decision being appealed to attempt agreement on the issue in dispute with a mediator, who assists the parties in resolving issues and drawing up an agreement.

"Mediator" means a neutral third party appointed by the Director of the Department who conducts the mediation and assists the parties in resolving issues and drawing up an agreement.

"Parties" means the Department or its agents and those persons who have appealed the service decisions made by the Department or its agents.

"Preponderance of the evidence" means the greater weight of the evidence or evidence that renders a fact more likely than not.

"Provider agency" means an agency offering case management and/or casework services through a signed contract with the Department for paid services.

*"Relative"*, for purposes of placement of children for whom the Department is legally responsible, means *any person, 21 years of age or over, other than the parent, who:*

- is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew,

niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt, or

- *is the spouse, or party to a civil union, of such a relative; ~~, or~~*

- *is the child's step-father, step-mother, or adult step-brother or step-sister; or ~~.~~*

- is the partner, or adult child of a partner, in a civil union with the child's mother or father.

*"Relative" also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this* definition *prior to the adoption, but only if the Department determines, and documents, that it would be in the child's best interests to consider this person a relative, based upon the factors for determining best interests set forth in Section 1-3(4.05) of the Juvenile Court Act of 1987* [705 ILCS 405/1-3(4.05)]. [20 ILCS 505/7(b)]

"Request for an appeal" means the written request by an appellant for a fair hearing to review an action taken or a decision made by the Department or a provider agency on behalf of the Department. If the appellant is unable to request an appeal in writing, the Department or provider agency shall help the appellant put the request in writing.

"Reviewer" means the person appointed by the Department to conduct an emergency review.

"Service appeal process" means the appeal system offered by the Department to parents, children, guardians ad litem, foster parents and relative caregivers to challenge service decisions of the Department.

"Services" means child welfare or day care services, including placement services

or benefits provided by the Department or its provider agencies under Titles IV and XX of the Social Security Act (42 USC 601 et seq. and 1397 et seq.) or the laws of the State of Illinois.

"Stay of action" means the action or decision made by the Department or its provider agency will not be implemented pending an emergency review or final administrative decision by the Department.

"Timely written notice" means a notice that complies with the requirements of Section 337.90(b).

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

**Section 337.30 The Service Appeal Process**

When the issue is the removal of a child from the home of a foster family or relative caregiver, the service appeal process for the Department of Children and Family Services consists of a fair hearing after a clinical placement review of the decision to remove the child pursuant to subsection (c). When the issue is disagreement with a Clinical Intervention for Placement Prevention action plan~~Child and Youth Investment Team Action Plan~~, the service appeal process consists of a fair hearing to review the issue pursuant to subsection (d). In all other cases, the service appeal process for the Department of Children and Family Services consists of a mediation, which is optional, and a fair hearing. Initiation of a service appeal does not preclude ongoing discussion between the parties to resolve the appealed issues. If mediation is successful, an agreement is drawn up, with the assistance of the mediator, and signed by the parties. In some instances, the issue on appeal is too immediate to await the final administrative decision on the action. An emergency review may be held in lieu of mediation on the specific issues, and an interim decision will be issued by the reviewer pending the fair hearing and final administrative decision. Mediation and emergency review is not available to any party when the issue is removal or change of placement of a child or disagreement with a service decision in a CIPP~~Child and Youth Investment Team~~ Action Plan.

a) Mediation

1) The Department shall offer mediation to an appellant within 30 calendar days from the date of appeal in an attempt to resolve his or her issues. The appellant may accept or reject an offer to participate in mediation. No issues addressed and determined by an emergency review, clinical placement review, or CIPP~~Child and Youth Investment Team~~ may be

addressed in mediation. If mediation is successful, an agreement is drawn up, with assistance by the mediator, and signed by the parties. This constitutes a resolution of the fair hearing, but the appellant may reinstate the request for hearing if the agreement is violated.

2) If the dispute is not resolved in mediation, or if the appellant rejects the mediation agreement and the Department receives written notice of this rejection at least 15 calendar days after the mediation session, the appellant may then proceed to the fair hearing.

3) The individual conducting the mediation shall be trained as a mediator and shall have no prior involvement in the case.

b) Emergency Review
An emergency review allows for an interim decision pending a fair hearing and can be requested by any party. The request for an emergency review must be in writing and shall be submitted to the Administrative Hearings Unit, Department of Children and Family Services, 406 E. Monroe, Station 15, Springfield, Illinois 62701. The emergency review must be requested within 10~~ten~~ calendar days after the date of an appeal. A determination will be made whether the issues are appropriate for emergency review. If they are appropriate, the Department shall schedule an emergency review and the reviewer shall issue a decision, which shall include any corrective orders, within 10~~ten~~ calendar days from the date of the request for emergency review. The Department shall implement the order within five calendar days from the date the decision was issued by the reviewer. An emergency review is held to consider only the following issues on appeal:

1) Lack of Timely Notice Due to Imminent Risk of Harm
A party may request an emergency review within 10 calendar days after the date of appeal on any issue, except placement, where the Department or provider agency has taken action without timely notice because the child was determined to be at imminent risk of harm. The reviewer shall consider only whether imminent risk of harm existed to justify the Department or provider agency action without timely notice. If the reviewer determines imminent risk of harm did not exist, the reviewer shall order corrective action.

2) Continuing Services Pertaining to Changes in Family Visitation During the Service Appeal

When services pertaining to the family visitation plan remain unchanged because an appeal has been requested within 10 calendar days after the date of notice, a party may request an emergency review, if that party has reasonable cause to believe that imminent risk of harm to the child will result if services remain unchanged during the appeal process. The only issue to be considered by the reviewer is whether imminent risk of harm to the child is likely to result from the stay of action. If the reviewer determines imminent risk of harm to the child is likely to result, the reviewer may order corrective action.

c) Clinical Placement Review

1) When the issue is the removal of a child from the home of a foster family or relative caregiver, the party objecting to the removal must request and complete a clinical placement review before filing a request for a service appeal. The request for a clinical placement review must be made within 3 working days after receiving the notice of intent to remove the child.

2) The Department shall conduct a clinical placement review within 5 working days after receipt of the request. During the clinical placement review, the Department will review the current placement, the reason for the removal of the child, and the child's needs regarding safety, well being and permanency. The clinical reviewer has the authority to create an action plan that may alleviate the issues prompting removal of the child. The clinical reviewer may postpone the removal date when he/she determines the need to obtain and review additional information that currently exists in another file or the party requesting the change in placement agrees to postpone the removal date.

3) The Department shall provide written notice of the decision of the clinical placement review and the right to request a fair hearing through the Department's Administrative Hearings Unit.

4) The following placement changes shall not be subject to clinical placement review:

A) change in the child's substitute care placement when:

i) the child has been placed in a licensed foster family or relative caregiver's home for fewer than 60 days, or

ii) the child has been placed in an unlicensed relative caregiver's home for fewer than 90 days;

B) placement to consolidate siblings in a single home;

C) placement of a child in a specialized foster home, in accordance with a CIPP~~CAYIT~~ action plan;

D) placement in a group home or institution, in accordance with a CIPP~~CAYIT~~ action plan; or

E) placement in a transitional or independent living program, in accordance with a CIPP~~CAYIT~~ action plan.

5) The Department or provider agency may immediately remove a child from a foster family or relative caregiver's home, without timely notice to the family, when the child is determined to be at imminent risk of harm in the current placement.

6) When the child, family or caregiver disagrees with the final clinical placement review decision, the objecting party may request a hearing through the Department's Administrative Hearings Unit.

7) The request for a fair hearing must be submitted in writing within 10 days after receiving written notice of the clinical placement review decision. The request for a hearing and a copy of the clinical placement review decision shall be sent to:

DCFS Administrative Hearings Unit
Change of Placement Appeals
406 East Monroe, Station 15
Springfield, Illinois 62701
Fax: (217) 557-4652

8) If an appeal is taken from the final decision of a clinical placement review, the child shall be placed in accordance with that decision during the pendency of the appeal.

d) Review of Service Decisions in Clinical Intervention for Placement Prevention Action Plans~~CAYIT action plans~~

1) CIPP participants~~The CAYIT~~ shall attempt to reach a consensus ~~among participants~~ in developing an action plan and resolve any objections to the action plan that are raised. When a consensus cannot be reached, the objecting participants shall record the nature and basis of their objection on the action plan.

2) The Department shall provide a copy of the action plan to the parents (if parental rights have not been terminated), the child, the child's guardian ad litem, the child's current caregiver, and may also provide a copy to other CIPP~~CAYIT~~ participants when consistent with confidentiality requirements in 89 Ill. Adm. Code 431 (Confidentiality of Personal Information of Persons Served by the Department).

3) The Department shall give written notice to the parents, the child and the child's guardian ad litem of their right to request a fair hearing through the Department's Administrative Hearings Unit if they disagree with a service decision in the action plan that denies, reduces, suspends or terminates child welfare services.

4) The Department shall give written notice to the current foster parent/relative caregiver of his or her right to request a fair hearing through the Department's Administrative Hearings Unit if he or she disagrees with a service decision in an action plan that directly affects the foster parent/relative caregiver or affects services provided for the benefit of a foster child in his/her care. (See Section 337.70(b)~~ of this Part~~.)

5) The request for a fair hearing must be submitted in writing within 45 days after receiving written notice of the decision of the CIPP~~CAYIT~~. The request for a hearing and a copy of the action plan shall be sent to:

DCFS Administrative Hearings Unit
CIPP~~CAYIT~~ Appeals

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

406 East Monroe, Station 15
Springfield, Illinois 62701
Fax: (217) 557-4652

6) In order to stop any recommended denial, reduction, suspension or termination of services during the appeal, the request for a fair hearing must be submitted within 10 calendar days after receiving the action plan.

7) When an appeal is not requested within 10 days, the child or youth shall be placed in accordance with the action plan, and all other aspects of the action plan shall be implemented during the pendency of the appeal.

8) When a request for a hearing is received, the Administrative Hearings Unit shall conduct a review to determine whether re-convening the CIPP staffing~~Child and Youth Investment Team~~ is appropriate based on one of the following factors:

A) Material information that existed at the time of the CIPP~~CAYIT~~ staffing was not presented at the staffing, and the inclusion of that information would have affected the development of the action plan; or

B) Critical staffing participants, such as the child or youth (if clinically appropriate), current caregiver, guardian ad litem or another professional with relevant, current information about the child or youth were not in attendance at the staffing and their attendance would have affected the development of the action plan.

9) If the Administrative Hearings Unit review confirms that one of the factors in subsection (d)(7), is the basis for the appeal, the Administrative Hearings Unit shall refer the case back to the CIPP~~CAYIT~~ to review the action plan in light of the additional material and/or include critical staffing participants.

A) If a referral back to the CIPP~~CAYIT~~ is requested or agreed to by an appellant, the appeal shall be dismissed as premature.

B) If the appellant does not agree to a review by the CIPP~~CAYIT~~, the administrative law judge shall refer the case for review. However,

the Department shall be required to make and implement a final administrative decision within the service appeal time frame as set out in Section 337.120.

e) Fair Hearing
At a fair hearing, the administrative law judge conducts a hearing in which the Department and all parties may present evidence supporting their position. The administrative law judge then makes a recommendation to the Director of the Department based on the evidence presented at the hearing.

1) At a fair hearing for service appeals of clinical placement review decisions, the burden of proof shall be on the appellant to show by a preponderance of the evidence that the decision made by the clinical reviewer was not consistent with the child's needs regarding safety, well being, and permanency.

2) At a fair hearing for appeals of a CIPP~~CAYIT~~ action plan, the burden of proof shall be on the appellant to show by a preponderance of the evidence that the decision made by the CIPP~~CAYIT~~ was not consistent with the child's needs regarding safety, well being and permanency.

3) At all other fair hearings, the burden of proof shall be on the Department to show by a preponderance of the evidence that the decision made was consistent with the child's needs regarding safety, well being~~,~~ and permanency.

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

**Section 337.80 What May Not Be Appealed**

The Administrator of the Administrative Hearings Unit will decide whether an issue is appropriate for fair hearing pursuant to Section 337.70~~ of this Part~~. Issues inappropriate for a fair hearing include, but are not limited to:

a) When the sole issue is one of State or federal law regulating the automatic adjustment of services for classes of children and families;

b) When the Department has already made a final administrative decision on the issue as a result of a previous appeal;

c) When the issue is not a service issue as defined in 89 Ill. Adm. Code 302 (Services Delivered by the Department), 89 Ill. Adm. Code 304 (Access to and Eligibility for Child Welfare Services), 89 Ill. Adm. Code 315 (Permanency Planning), 89 Ill. Adm. Code 316 (Administrative Case Reviews and Court Hearings), and 89 Ill. Adm. Code 359 (Authorized Child Care Payment). These issues are to be appealed through a different appeal and administrative hearing process, as identified in 89 Ill. Adm. Code 435 (Administrative Appeals and Hearings);

d) When the issue involves a service that the child does not currently need, but may potentially be needed by the child at some future time;

e) When the issue regards only the Medical Assistance Program under Title XIX of the Social Security Act (42 USC 1396 et seq.). Appeal requests regarding Title XIX services should be sent to the Department of Healthcare and Family Services;

f) When a court has made a judicial determination or issued an order on the issue being appealed. However, a juvenile court determination that a current foster home placement is necessary and appropriate does not constitute a judicial determination on the merits of a service appeal, filed by a former foster parent, involving a change of placement decision.

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

**Section 337.110 Grounds for Dismissal of a Service Appeal Request**

a) The Administrator of the Administrative Hearings Unit shall dismiss a request for a service appeal for the following reasons:

1) the appellant failed to request an appeal within the time frames allowed. However, when timely or adequate notice was not provided in accordance with this Part, the appellants may appeal up to 45 days from the date they receive adequate notice of the Department's action or decision;

2) the appeal has been withdrawn in writing. If the appellant is unable to withdraw the appeal in writing, the Department or provider shall help the appellant put the withdrawal in writing;

3) the issue is not within the jurisdiction of the appeal system;

4) a court has made a judicial determination or issued an order on the issue being appealed. However, a juvenile court determination that a current foster home placement is necessary and appropriate does not constitute a judicial determination on the merits of a service appeal, filed by a former foster parent, involving a change of placement decision; or

5) the appellant has waived the right to a service appeal by abandoning his or her right, as defined in Section 337.160 of this Part.

b) The Administrator of the Administrative Hearings Unit shall give written notice of the decision to grant or deny the request for an appeal within 10ten calendar days of receipt of the request. If the Department finds that the issue is not an appealable issue under this Part, but may be appropriately heard through another appeal process (seerefer to 89 Ill. Adm. Code 435, Administrative Appeals and Hearings), the Department shall forward the request for appeal to the proper hearing authority and notify the appellant of this action.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Veterinary Medicine and Surgery Practice Act of 2004

2) Code Citation: 68 Ill. Adm. Code 1500

3)

| Section Numbers: | Proposed Actions: |
|---|---|
| 1500.5 | Amendment |
| 1500.10 | Amendment |
| 1500.11 | Amendment |
| 1500.30 | Amendment |
| 1500.35 | Amendment |
| 1500.45 | Amendment |
| 1500.47 | Amendment |
| 1500.48 | New Section |
| 1500.50 | Amendment |
| 1500.55 | Amendment |
| 1500.70 | Amendment |

4) Statutory Authority: Implementing the Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]

5) A Complete Description of the Subjects and Issues Involved: PA 98-339, effective December 31, 2013, is the sunset reauthorization of the Veterinary Medicine and Surgery Practice Act of 2004; this proposed rulemaking implements its provisions. Section 1500.30 corrects the process for application for licensure by endorsement to accurately match the requirements set forth in the Act. Section 1500.48 sets forth the appropriate scope of activities and supervision required for unlicensed veterinary assistants. Section 1500.50 removes the provision regarding gross malpractice in light of statutory changes. Technical and clean up changes are also being made.

6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None

7) Will this rulemaking replace any emergency rule currently in effect? No

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

9) Does this rulemaking contain incorporations by reference? No

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786

217/785-0813
fax: 217/557-4451

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Those providing the services of veterinarians

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

C) Types of professional skills necessary for compliance: Veterinary skills are required for licensure.

14) Regulatory Agenda on which this rulemaking was summarized: July 2015

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1500
VETERINARY MEDICINE AND SURGERY PRACTICE ACT OF 2004

Section

1500.5 Approved Veterinary Medicine and Surgery Programs
1500.10 Application for Examination by Graduates of Approved Programs
1500.11 Application by Graduates of Unapproved Programs
1500.15 Temporary Permit (Repealed)
1500.20 Examination
1500.25 Continuing Education
1500.30 Endorsement
1500.35 Restoration
1500.45 Renewals
1500.47 Fees
1500.48 Unlicensed Veterinary Assistants
1500.49 Supervision
1500.50 Standards of Professional Conduct
1500.51 Impaired Veterinarian Program of Care, Counseling or Treatment
1500.55 Advertising
1500.60 Conduct of Hearings (Repealed)
1500.65 Annual Report of Board (Repealed)
1500.70 Granting Variances

AUTHORITY: Implementing the Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Rules and Regulations promulgated for the Administration of the Illinois Veterinary Medicine and Surgery Practice Act, effective January 1, 1984; amended at 2 Ill. Reg. 23, p. 13, effective June 10, 1978; codified at 5 Ill. Reg. 11070; amended at 6 Ill. Reg. 2004, effective January 30, 1982; Part repealed, new Part adopted at 9 Ill. Reg. 16327, effective October 10, 1985; amended at 11 Ill. Reg. 20966, effective December 9, 1987; transferred from Chapter I, 68 Ill. Adm. Code 500 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1500 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2982; amended at 13 Ill. Reg. 3826, effective March 10, 1989; amended

at 15 Ill. Reg. 16702, effective October 30, 1991; amended at 18 Ill. Reg. 11212, effective June 30, 1994; amended at 19 Ill. Reg. 12488, effective August 18, 1995; amended at 22 Ill. Reg. 15353, effective August 10, 1998; amended at 24 Ill. Reg. 653, effective December 31, 1999; amended at 26 Ill. Reg. 12294, effective July 24, 2002; amended at 28 Ill. Reg. 9621, effective June 28, 2004; amended at 31 Ill. Reg. 15767, effective November 13, 2007; amended at 36 Ill. Reg. 13866, effective September 7, 2012; amended at 39 Ill. Reg. _____, effective _____.

**Section 1500.5 Approved Veterinary Medicine and Surgery Programs**

~~a)Approved Veterinary Medicine and Surgery Programs~~

a~~1~~) The Department of Financial and Professional Regulation-Division of Professional Regulation (Division) shall approve a veterinary medicine and surgery program as reputable and in good standing if it meets the following minimum criteria:

1~~A~~) The institution is legally recognized and authorized by the jurisdiction in which it is located to confer the Doctor of Veterinary Medicine degree or its equivalent.

2~~B~~) Has a faculty that consists of a sufficient number of full-time instructors to make certain that the educational obligations to the student are fulfilled. The faculty must have demonstrated competence in their area of teaching as evidenced by appropriate degrees from reputable professional colleges or institutions.

3~~C~~) Has a curriculum of at least 4 academic years, including at least the following subject areas, as applied to the various species of animals:

A) Anatomy

B) Anesthesiology

C) Applied Clinical Training

D) Clinical Chemistry

E) Epidemiology

F) Federal and State Laws

G) Food Quality and Safety

H) General and Special Pathology

I) Immunology

J) Internal Medicine

K) Microbiology

L) Nutrition

M) Parasitology

N) Pharmacology

O) Physiology

P) Preventive Medicine

Q) Professional Ethics

R) Radiology

S) Surgery and Obstetrics

3~~D~~) Accepts only persons who have graduated from accredited high schools or who have obtained equivalent education through such programs as the General Education Development Examination, and have successfully completed at least 2 years of pre-veterinary collegiate training in an accredited college or university.

4~~E~~) Maintains permanent student records that summarize the credentials for admission, attendance, grades and other records of performance.

5~~F~~) Maintains or is formally affiliated with a hospital for the care and treatment of animals, which provides a sufficient number and variety of surgical and medical cases for the students' clinical instruction.

b~~2~~) In determining whether a program should be approved, the Division shall take into consideration but not be bound by accreditation or approval by the American Veterinary Medical Association, Council on Education.

c~~3~~) The Division has determined that all veterinary medicine and surgery programs accredited or approved by the American Veterinary Medical Association, Council on Education (AVMA) as of September 1, 2005 meet the minimum criteria set forth in subsection (a)(1) and are~~, therefore,~~ approved.

~~b) Withdrawal of Approval~~

~~1) The Director of the Division of Professional Regulation (Director), with the authority delegated by the Secretary, may withdraw, suspend or place on probation the approval of a veterinary medicine and surgery program when the quality of the program has been materially affected by any of the following causes:~~

~~A) Gross or repeated violations of any provision of the Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115] (the Act);~~

~~B) Gross or repeated violations of any portion of this Part;~~

~~C) Fraud or dishonesty in furnishing documentation for evaluation of the program; or~~

~~D) Failure to continue to meet the criteria of an approved program as set out in this Section.~~

~~2) The officials in charge of a veterinary medicine and surgery program whose approval is being reconsidered by the Division shall be given written notice prior to action by the Division and those officials may either submit written comments or request a hearing before the Veterinarian Licensing and Disciplinary Board (the Board).~~

~~c) Program Evaluation~~

~~1) An applicant from a program that has not been evaluated will be requested by the Division to provide documentation concerning the criteria in this Section.~~

~~2) Once the Division has received the documentation or after 6 months have elapsed from the date of application, whichever is later, the Division will evaluate the program based on all documentation forwarded from the school and any additional information the Division has received that it deems to be reliable.~~

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

**Section 1500.10 Application for Examination by Graduates of Approved Programs**

a) An applicant for examination for licensure to practice veterinary medicine and surgery who is a graduate of an approved program of veterinary medicine and surgery that meets the requirements set forth in Section 1500.5 shall file an application with the Division or its designated testing service on forms supplied by the Division at least 60 days prior to an examination date. The application shall include:

1) Certification of graduation from an approved program of veterinary medicine and surgery;

2) The required fee specified in Section 1500.47~~ of this Part~~; and

3) Certification of licensure from all jurisdictions in which the applicant has ever been licensed and is currently licensed, if applicable, stating:

A) The time during which the applicant was licensed in that jurisdiction, including the date of original issuance of the license;

B) A description of the licensure examination in that jurisdiction;

C) Whether the file on the applicant contains any record of any disciplinary actions taken or pending.

b) Examination Prior to Graduation~~Granduation~~

1) An applicant enrolled in an approved veterinary program will be admitted to an examination prior to graduation if he/she provides certification from the college of veterinary medicine from which the applicant is expected to graduate. If certification of graduation is not received within 90 days after the scheduled graduation date, the results of the examination shall be void.

2) The results of the examination shall be made available to the applicant but no license shall be issued until the Division has received certification of the applicant's graduation, within 90 days after the scheduled graduation date specified in subsection (b)(1).

3) In the case of failure of the examination, the applicant must submit his/her certificate of graduation to the Division or its designated testing service prior to taking the next examination.

c) An applicant who has taken and passed the examination pursuant to Section 1500.20 in another jurisdiction shall file an application in accordance with subsection (a) and have the examination scores submitted to the Division directly from the testing entity.

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

**Section 1500.11 Application by Graduates of Unapproved Programs**

a) An applicant for examination who is a graduate of an unapproved program of veterinary medicine and surgery shall file an application, on forms supplied by the Division, and shall be accompanied by the following:

1) A verification of enrollment in either the Program for the Assessment of Veterinary Education Equivalence (PAVE) from the American Association of Veterinary State Boards or from the American Veterinary Medical Association Educational Commission of Foreign Veterinary Graduates (ECFVG) indicating that the applicant has met all of the requirements for certification except for completion of clinical skills assessment;

2) The required fee specified in Section 1500.47;

3) Certification of licensure from all jurisdictions in which the applicant has ever been licensed and is currently licensed, if applicable, stating:

A) The time during which the applicant was licensed in that jurisdiction, including the date of original issuance of the license;

B) A description of the licensure examination in that jurisdiction;

C) Whether the file on the applicant contains any record of disciplinary actions taken or pending;

4) For applicants who submit any document in a foreign language, an original, notarized English translation.

b) An applicant for licensure who is a graduate of an unapproved program of veterinary medicine and surgery must hold a certificate from ECFVG or PAVE~~the American Veterinary Medical Association Educational Commission of Foreign Veterinary Graduates (ECFVG) or Program for the Assessment of Veterinary Education Equivalence (PAVE)~~. Application shall be filed on forms supplied by the Division and shall be accompanied by the following:

1) An original certificate from ECFVG or PAVE indicating completion of the proficiency examination or the completion of 1 year of clinical experience.

2) The required fee specified in Section 1500.47.

3) Certification of licensure from all jurisdictions in which the applicant has ever been licensed and is currently licensed, if applicable, stating:

A) The time during which the applicant was licensed in that jurisdiction, including the date of original issuance of the license;

B) A description of the licensure examination in that jurisdiction;

C) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

4) For applicants who submit any document in a foreign language, an original, notarized English translation.

c) Examination prior to graduation

1) An applicant enrolled in an unapproved veterinary program will be admitted to an examination prior to graduation if he/she provides certification from the college of veterinary medicine from which the applicant is expected to graduate and verification of enrollment from ECFVG or PAVE. If certification of graduation is not received within 90 days after the scheduled graduation date, the results of the examination shall be void.

2) The results of the examination shall be made available to the applicant but no license shall be issued until the Division has received certification of the applicant's graduation and an original certificate from ECFVG or PAVE.

3) In the case of failure of the examination, the applicant must submit his/her certificate of graduation to the Division or its designated testing service prior to taking the next examination.

d) At the time a foreign graduate obtains the ECFVG or PAVE certificate and applies for licensure in Illinois, the scores shall be sent to the Division directly from the reporting entity. The passing score on the examinations shall be the passing scores established by the testing entity. Prior to January 1994, the passing score on the examination was a converted score of 75 based on 1.5 standard deviations below the mean.

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

**Section 1500.30 Endorsement**

a) An applicant who is licensed under the laws of another jurisdiction of the United States shall file an application with the Division, together with:

1) A certification from the licensing authority of all jurisdictions in which the applicant has ever been licensed and is currently licensed, stating:

A) The time during which the applicant was licensed;

B) Whether the file on the applicant contains any record of disciplinary actions taken or pending;

~~C) A brief description of the examination and the grades received;~~

2) Proof of successful completion of a licensing examination substantially equivalent to requirements in force in Illinois on the date of the initial licensure;

3) Certification of graduation from an approved program of veterinary medicine and surgery; and

4)~~3)~~ The required fee set forth in Section 1500.47.

b) The Division shall examine each application to determine compliance with Section 13 of the Act. The applicant may be required to appear before the Board:

1) To clarify or explain information contained on the submitted documentation; or

2) To determine the substantial equivalence of the applicant's qualifications to the licensing requirements in this State.

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

**Section 1500.35 Restoration**

a) A licensee seeking restoration of a license that has been expired for 5 years or less shall have the license restored upon payment of the fee specified in Section 1500.47 and proof of completion of the CE~~continuing education~~ requirements set forth in Section 1500.25 for a single renewal period.

b) A licensee seeking restoration of a license that has been expired or on inactive status for more than 5 years shall file an application, on forms supplied by the Division, together with the fee specified in Section 1500.47 and proof of 40 hours of approved CE~~continuing education~~ (e.g., certificate of attendance or

completion) in accordance with Section 1500.25. The licensee shall also submit:

1) Sworn evidence of active veterinarian practice in another jurisdiction. This evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of active practice; or

2) An affidavit attesting to military service as provided in Section 15 of the Act; or

3) Other evidence of experience within the profession other than active practice (such as research, teaching or publishing) during the time when the license was expired; or

4) 20 hours of approved CE~~continuing education~~ for each year the license was expired completed during the 2 years proceeding application for restoration. These hours will be in addition to the 40 hours stated in subsection (b).

c) A licensee seeking restoration of a license that has been on inactive status for 5 years or less shall file an application, on forms provided by the Division, together with proof of completion of CE~~continuing education~~ requirements for a single renewal period and the current renewal fee.

d) Any person seeking restoration of a license within 2 years after discharge from military service pursuant to Section 12~~15~~ of the Act will be required to pay only the current renewal fee and will not be required to submit proof of meeting the CE~~continuing education~~ requirements.

e) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division or the Board because of a lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking restoration shall be requested to:

1) Provide such information as may be necessary; and/or

2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts

in information.

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

**Section 1500.45 Renewals**

a) Every license as a veterinarian issued under the Act shall expire on January 31 of each odd numbered year. The holder of a license may renew the license ~~or certificate~~ during the month preceding the expiration date by paying the required fee and completion of the CE~~continuing education~~ requirements set forth in Section 1500.25.

b) It is the responsibility of each licensee~~registrant~~ to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to pay the renewal fee.

c) Practicing after a license has expired shall be considered the unlicensed practice of veterinary medicine and subject an individual to discipline pursuant to Section 25 of the Act.

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

**Section 1500.47 Fees**

The following fees shall be paid to the Department and are not refundable:

a) Application Fees. The fee for application for a veterinary license is $100. In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service shall result in the forfeiture of the examination fee.

b) Renewal Fees. The fee for the renewal of a license shall be calculated at the rate of $50 per year.

c) General Fees

1) The fee for the restoration of a license other than from inactive status is $50 plus payment of all lapsed renewal fees, but not to exceed $300.

2) The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license that has been lost or destroyed, or for the issuance of a license with a change of name or address, other than during the renewal period, is $20. No fee is required for name and address changes on Division records when no duplicate license is issued.

3) The fee for a certification of a licensee's record for any purpose is $20.

~~4) The fee to have the scoring of an examination authorized by the Division reviewed and verified is $20 plus any fees charged by the applicable testing service.~~

4)~~5)~~ The fee for a wall certificate showing licensure shall be the actual cost of producing the certificate.

5)~~6)~~ The fee for a roster of persons licensed as veterinarians in this State shall be the actual cost of producing the roster.

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

**Section 1500.48 Unlicensed Veterinary Assistants**

As set forth in Section 3 of the Act, supervising veterinarians assume responsibility for the professional care given to an animal by a person working under his or her direction in either an immediate, direct or indirect supervision arrangement. This Section sets forth the required levels of supervision for unlicensed veterinary assistants.

a) An unlicensed veterinary assistant is prohibited from performing the following:

1) cut down with needle;

2) central line without cut down;

3) dental extractions;

4) gingival resection;

5) skin closure;

6) cast application (this prohibition does not include the setting of bones);

7) fine needle aspiration;

8) puncture abscess with needle;

9) clamping calves' tails;

10) docking sheep/pig tails;

11) floating teeth;

12) dehorning calves;

13) castrating any animal; and

14) blocked male cat urinary catheterization.

b) An unlicensed veterinary assistant may perform the following only under the immediate supervision of a veterinarian, as defined in Section 3 of the Act:

1) anesthesia induction;

2) anesthesia endotracheal intubation;

3) anesthesia maintenance;

4) anesthesia monitor signs;

5) dental prophylaxis;

6) local nerve blocks;

7) splint application;

8) female canine urinary catheterization;

8) decapitation for rabies test submission;

9) necropsy − tissue sample collection; and

10) cystocentesis.

c) An unlicensed veterinary assistant may perform the following under the immediate or direct supervision of a veterinarian, as defined in Section 3 of the Act:

1) administer IV catheter;

2) administer chemotherapy;

3) remove sutures, drains or staples;

4) implant microchips;

5) bandage application;

6) male canine urinary catheterization;

7) acquire or process radiological images;

8) venipuncture;

9) obtain objective patient data without diagnosis;

10) administer nonrabies vaccines;

11) intramuscular and subcutaneous injections;

12) intravenous injections into uncatheterized or catheterized veins;

13) docking sheep/pig tails; and

14) dehorning calves.

d) An unlicensed veterinary assistant may perform the following under the indirect, direct or immediate supervision of a veterinarian, as defined in Section 3 of the Act:

1) trim normal hooves;

2) process laboratory samples;

3) bacterial streak and culture; and

4) animal restraint.

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

**Section 1500.50 Standards of Professional Conduct**

~~a)~~In determining what constitutes dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public, the Board or hearing officer shall consider the following standards as they relate to the person who is the subject of the proposed disciplinary action. The standards shall include, but not be limited to:

a)~~1)~~ Being convicted of any crime, an essential element of which is larceny, embezzlement, obtaining money, property or credit by false pretenses or by means of a confidence game, dishonesty, fraud, misstatement or moral turpitude;

b)~~2)~~ Wilfully violating or knowingly assisting in the violation of any law relating to the use or dispensing of any medicine or drug as specified in Section 25~~17~~ of the Act;

c)~~3)~~ Wilfully administering or prescribing illegal drugs for animals;

d)~~4)~~ Wilfully administering or prescribing prescription drugs illegally. Illegally means:

1)~~A)~~ In violation of the rules governing a competition or exhibition of animals, including but not limited to the rules of the Illinois Racing Board (11 Ill. Adm. Code 509), the American Kennel Club and the American Show Horse Association;

2)~~B)~~ Contrary to State or federal law with regard to food producing animals;

e)~~5)~~ Wilfully preparing or signing false statements in order to induce payment for medical or ancillary services by insurance companies;

f)~~6)~~ Wilfully making or causing to be made any false report to the Division ~~of Professional Regulation~~ regarding compliance with CE~~continuing education~~ requirements;

g)~~7)~~ Wilfully omitting to make or file any report or record or wilfully making or filing or causing to be made or filed any false report or record pertaining to a veterinarian's practice as required by any State agency;

h)~~8)~~ Failing to possess and apply the knowledge and use the skill and care in treating a condition that is ordinarily used by a reasonably well-qualified veterinarian in the locality in which he/she practices or in similar localities in similar cases and circumstances;

i)~~9)~~ Delegating of patient care responsibility to any individual when the veterinarian has reason to believe that the person may not be competent;

j)~~10)~~ Misrepresenting as to educational background, training, credentials, competence or veterinary medical staff memberships;

k)~~11)~~ Failing to maintain adequate medical records, including but not limited to the following:

1)~~A)~~ Patient identification;

2)~~B)~~ Client identification;

3)~~C)~~ Dated reason for visit and pertinent history;

4)~~D)~~ Physical exam findings;

5)~~E)~~ Diagnostic, medical, surgical or therapeutic procedures performed;

6)~~F)~~ All medical treatment must include identification of each medication given in the practice, together with the date, dosage, and route of administration and frequency and duration of treatment;

7)~~G)~~ All medicines dispensed or prescribed must be recorded, including directions for use and quantity;

8)~~H)~~ Any changes in medications or dosages, including telephonically or electronically initiated changes, must be recorded;

9)~~I)~~ If a necropsy is performed, the record must reflect the findings;

10)~~J)~~ Patient records must be maintained for a minimum of 5 years from the date of the last known contact;

11)~~K)~~ Copies of patient records must be released to the client upon written request;

l)~~12)~~ Failing to properly supervise subordinate health professional and paraprofessional staff under his/her supervision and control in patient care responsibilities; or

m)~~13)~~ Committing of any other act or omission that violates veterinarian's responsibility to a client according to accepted veterinary standards of practice.

~~b)~~ ~~In determining what constitutes gross malpractice resulting in serious injury or death of a patient, the Board or hearing officer shall consider the following standards as they relate to the person who is the subject of the proposed disciplinary action. The standards shall include but not be limited to:~~

~~1)~~ ~~A consideration whether the act or acts of the person are of a flagrant or glaringly obvious nature, or are repetitiously committed and resulted in a breach of the veterinary standards of practice;~~

~~2)~~ ~~A consideration that the act or acts committed constituted a breach of veterinary standards of practice to possess and apply the knowledge and use the skill and care in treating a condition that is ordinarily used by a reasonably well-qualified veterinarian in the locality in which he/she practices or in similar localities in similar cases and circumstances;~~

~~3) A consideration that the act or acts committed, if committed by a person who holds himself/herself out as a specialist and undertakes service in a particular branch of medical, surgical or other healing service, must possess and apply the knowledge and use the skill and care that reasonably competent specialists in the same field, practicing in the same locality or in similar localities, ordinarily would use in the same or similar cases and circumstances;~~

~~4) A consideration that a mere mistake that is not indicative of a lack of knowledge, skill and care does not constitute malpractice. Nor is a bad or unexpected result evidence of malpractice unless the result would not ordinarily occur in the absence of malpractice.~~

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

**Section 1500.55 Advertising**

a) Licensees~~Persons licensed to practice veterinary medicine and surgery in the State of Illinois~~ may advertise in any medium or other form of public communication in a manner that is truthful and is not fraudulent, deceptive, inherently misleading or proven to be misleading in practice. Advertising shall contain all information necessary to make the communication not misleading and shall not contain any false or misleading statement or otherwise operate to deceive. The form of communication shall be designed to communicate the information to the public in a direct, dignified and readily comprehensible manner.

b) Information that may be contained in the~~such~~ advertising shall include:

1) Licensee's~~Registrant's~~ name, address, office hours and telephone number;

2) Schools attended;

3) Announcement of the opening of, change of or return to practice;

4) Announcement of additions to or deletions from professional staff;

5) Licensee's~~Registrant's~~ hospital affiliations~~affiliation(s)~~;

6) Areas of specialization,~~;~~ including Board certification, professional society

memberships and any limitations or concentration of practice;

7) Credit arrangements and acceptance of credit cards;

8) Foreign language ability;

9) Usual and customary fees for routine professional services that~~which~~ must include statement that fees may be adjusted due to complications or unforeseen circumstances;

10) Description of offices in which the licensee~~registrant~~ practices (e.g., kennel or laboratory facilities on the premises, convenience of parking); and

11) Other information about the licensee~~registrant~~, the licensee's~~registrant's~~ practice, or the types of practice in which the licensee~~registrant~~ will accept employment, that a reasonable person might regard as relevant in determining whether to seek the licensee's~~registrant's~~ services.

c) If an advertisement is communicated to the public over television or radio, it shall be prerecorded and approved for broadcast by the licensee~~registrant~~, and a recording of the actual transmission, including videotape, shall be retained by the licensee~~registrant~~ for a period of at least ~~five (~~5~~)~~ years.

d) Information that may be untruthful, fraudulent, deceptive, inherently misleading or has proven to be misleading in practice includes that which:

1) Contains a misrepresentation of fact or omits a material fact required to prevent deception;

2) Guarantees favorable results or creates false or unjustified expectations of favorable results;

3) Takes advantage of the potential client's fears, anxieties, vanities or other emotions;

4) Contains testimonials and/or exaggerations pertaining to the quality of veterinarian care;

5) Describes as available products or services that are not permitted by the laws of this State and/or applicable federal laws; and

6) Advertises professional services that the licensee~~registrant~~ is not licensed to render.

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

**Section 1500.70 Granting Variances**

a) The Director may grant variances from this Part in individual cases when he/she finds that:

1) The provision from which the variance is granted is not statutorily mandated;

2) No party will be injured by the granting of the variance; and

3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

b) The Director shall notify the ~~Veterinary Licensing and Disciplinary~~ Board of the granting of the variance, and the reasons for granting the variance, at the next meeting of the Board.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Certified Veterinary Technicians

2) Code Citation: 68 Ill. Adm. Code 1505

3)

| Section Numbers: | Proposed Actions: |
|---|---|
| 1505.10 | Amendment |
| 1505.20 | Amendment |
| 1505.30 | Amendment |
| 1505.40 | Amendment |
| 1505.50 | Amendment |
| 1505.52 | Amendment |
| 1505.55 | Amendment |
| 1505.60 | Amendment |
| 1505.70 | Amendment |

4) Statutory Authority: Implementing the Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)]

5) A Complete Description of the Subjects and Issues Involved: PA 98-339, effective December 31, 2013, is the sunset reauthorization of the Veterinary Medicine and Surgery Practice Act of 2004; this proposed rulemaking implements its provisions. Section 1505.30 corrects the process for application for licensure by endorsement to accurately match the requirements set forth in the Act. Section 1505.40 more clearly sets forth the requirements for a person seeking restoration of a license following military service. Section 1505.60 sets forth the appropriate scope of activities and supervision required for certified veterinary technicians. Overall, clean up and consistency changes are made.

6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking: None

7) Will this rulemaking replace any emergency rule currently in effect? No

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

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? No

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786

217/785-0813
fax: 217/557-4451

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Those providing the services of veterinary technicians

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

C) Types of professional skills necessary for compliance: Veterinary technician skills are required for licensure.

14) Regulatory Agenda on which this rulemaking was summarized: July 2015

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1505
CERTIFIED VETERINARY TECHNICIANS

Section
1505.10 Application for Examination
1505.20 Examination
1505.30 Endorsement
1505.40 Restoration
1505.50 Renewals
1505.52 Fees
1505.55 Continuing Education
1505.60 Certified~~Permissible Functions for~~ Veterinary Technicians Functions
1505.70 Granting Variances

AUTHORITY: Implementing the Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 10 Ill. Reg. 19500, effective November 5, 1986; transferred from Chapter I, 68 Ill. Adm. Code 505 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1505 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2918; amended at 18 Ill. Reg. 11180, effective June 30, 1994; amended at 24 Ill. Reg. 501, effective December 31, 1999; amended at 26 Ill. Reg. 12300, effective July 24, 2002; amended at 31 Ill. Reg. 15792, effective November 13, 2007; amended at 36 Ill. Reg. 13876, effective September 7, 2012; amended at 39 Ill. Reg. _____, effective _____.

**Section 1505.10 Application for Examination**

a) An applicant for a certificate as a certified veterinary technician shall file an application, on forms supplied by the Department of Financial and Professional Regulation-Division of Professional Regulation (Division), at least 60 days prior to an examination date. The application shall include:

1) Certification of graduation from a veterinary technician program

accredited by the American Veterinary Medical Association, Committee on Veterinary Technician Education and Activities~~Council on Education~~;

2) Certification of licensure from state of original and current licensure, if applicable, stating:

A) The time during which the applicant was licensed in that jurisdiction, including the date of original issuance of the license;

B) A description of the licensure examination in that jurisdiction;

C) Whether the file on the applicant contains any record of disciplinary actions taken or pending; and

3) The required fee set forth in Section 1505.52.

b) Examination Prior to Graduation

1) An applicant enrolled in an approved veterinary technician program will be admitted to the May or December examination prior to graduation if he/she provides certification from a veterinary technician program from which the applicant is expected to graduate. If certification of graduation is not received within 90 days after the scheduled graduation date, the results of the examination shall be void.

2) The results of the examination shall be made available to the applicant but no license shall be issued until the Division has received certification of the applicant's graduation, within 90 days after the scheduled graduation date specified in subsection (b)(1).

3) In the case of failure of the examination, the applicant must submit his/her certificate of graduation to the Division or its designated testing service prior to taking the next examination.

c) Applicants who have successfully completed the Veterinary Technician National Examination prepared by the Professional Examination Service in another state will receive credit for that examination if the applicant passed the examination according to the testing entity's standard. The examination score report must be forwarded to the Division from the American Association of Veterinary State

Boards (AAVSB) or the Veterinary Information Verifying Agency (VIVA)~~Interstate Reporting Service~~.

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

**Section 1505.20 Examination**

a) The written examination for certification as a certified veterinary technician shall be the Veterinary Technician National Examination administered by Professional Examination Service.

b) The passing grade on the examination shall be the passing score established by the testing entity.

c) Prior to January 1, 1994, the passing grade on the examination was a standard score of 75.

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

**Section 1505.30 Endorsement**

a) An applicant who is certified as a veterinary technician under the laws of another state or territory of the United States shall file an application with the Division, together with:

1) A certification from the licensing authority of the state or territory of original licensure stating:

A) The time during which the applicant was licensed in that state;

B) Whether the file on the applicant contains any record of disciplinary actions taken or pending;

~~C) A brief description of the examination and the grades received. If the examination is the examination prepared by the Professional Examination Service, the grades must be forwarded directly to the Division from Interstate Reporting Service and must reflect the grade received in the state of original licensure;~~

2) Proof of successful completion of a licensing examination substantially equivalent to requirements in force in Illinois on the date of the examination;

3) Certification of licensure from the state in which the applicant is currently licensed if it is other than the state of original licensure;

4)~~3)~~ A completed Certification of Education form that must be signed by the dean or registrar of the school from which the applicant received his/her professional training; and

5)~~4)~~ The required fee set forth in Section 1505.52.

b) The Division shall examine each application to determine compliance with Section 13 of the Veterinary Medicine and Surgery Practice Act of 2004 (the Act) [225 ILCS 115]. The applicant may be required to appear before the Veterinary Licensing and Disciplinary Board (the Board) to clarify or explain information contained on the submitted documentation in order for the Board to determine the substantial equivalence of the applicant's qualifications to the licensing requirements in this State at the time of licensure.

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

**Section 1505.40 Restoration**

a) A veterinary technician seeking restoration of a certificate that has expired for less than 5 years shall have the certificate restored upon payment of the fees required by Section 1505.52(c)(1) and proof of completion of the CE requirements set forth in Section 1505.55~~. However, a veterinary technician seeking restoration of a certification within 2 years after termination of military service as provided in Section 15 of the Act shall, upon submission of an affidavit attesting to such service, be excused from the payment of any fees~~.

b) A veterinary technician seeking restoration of a certificate that has expired or been on inactive status for more than 5 years shall file an application, on forms supplied by the Division, together with the fee required by Section 1505.52(c)(1) and proof of 15 hours of CE~~continuing education~~ (e.g., certificate of attendance or completion) in accordance with Section 1505.55. The veterinary technician shall also submit:

1) Sworn evidence of active practice in another jurisdiction. The evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the person was authorized to practice during the term of the active practice; or

2) Two affidavits attesting to the applicant's practice as a veterinary technician in a jurisdiction where licensure is not required; or

3) An affidavit attesting to military service as provided in Section 15 of the Act; or

4) Evidence of experience within the profession other than active practice (such as research, teaching or publishing) during the time in which the certificate was expired; or

5) 8 hours of approved CE~~continuing education~~ for each year the license was expired completed during the 2 years proceeding application for restoration. These hours will be in addition to the 15 hours stated in subsection (b).

c) A veterinary technician seeking restoration of a certificate that has been on inactive status for less than 5 years shall have the certificate restored upon filing an application, on forms provided by the Division, and paying the current renewal fee.

d) After January 31, 1997, a veterinary technician seeking restoration of a license shall be required to complete the CE~~continuing education~~ requirements set forth in Section 1505.55 for one renewal period.

e) Any person seeking restoration of a license within 2 years after discharge from military service pursuant to Section 12 of the Act will be required to pay only the current renewal fee and will not be required to submit proof of meeting the CE requirements.

f) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division or the Board because of a lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking restoration shall be

requested to:

1) Provide such information as may be necessary; and/or

2) Appear for an interview before the Board to explain the relevance or sufficiency of course work or experience, clarify information, or clear up any discrepancies or conflicts in information.

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

**Section 1505.50 Renewals**

a) Each ~~certificate as a~~ veterinary technician certificate issued under the ~~Veterinary Medicine and Surgery Practice~~ Act shall expire on January 31 of each odd-numbered year. The holder of the certificate may renew the certificate during the month preceding the expiration date by paying the required fee.

b) For the January 31, 1997 renewal and every renewal thereafter, a licensee shall be required to meet the CE~~continuing education~~ requirements set forth in Section 1505.55.

c) It is the responsibility of each certified veterinary technician to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to pay the renewal fee.

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

**Section 1505.52 Fees**

The following fees shall be paid to the Department and are not refundable:

a) Application Fees. The fee for application for a ~~certificate as a~~ veterinary technician certificate is $50. In addition, applicants for an examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service shall result in the forfeiture of the examination fee.

b) Renewal Fees. The fee for the renewal of a veterinary technician certificate shall be calculated at the rate of $25 per year.

c) General Fees

1) The fee for the restoration of a veterinary technician certificate other than from inactive status is $50 plus payment of all lapsed renewal fees, but not to exceed $150.

2) The fee for the issuance of a duplicate certificate, for the issuance of a replacement certificate for a certificate that has been lost or destroyed, or for the issuance of a certificate with a change of name or address, other than during the renewal period, is $20. No fee is required for name and address changes on Division records when no duplicate certificate is issued.

3) The fee for a certification of a registrant's record for any purpose is $20.

4) The fee to have the scoring of an examination authorized by the Division reviewed and verified is $20 plus any fees charged by the applicable testing service.

5) The fee for a wall certificate showing registration shall be the actual cost of producing the certificate.

6) The fee for a roster of ~~persons~~ certified ~~as~~ veterinary technicians in this State shall be the actual cost of producing the roster.

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

**Section 1505.55 Continuing Education**

a) Continuing Education Hours Requirements

1) Each person who applies for renewal of a veterinary~~certificate as a veterinarian~~ technician certificate is required to complete 15 hours of CE~~continuing education (CE)~~ relevant to veterinary medicine and surgery during the prerenewal period.

2) A prerenewal period is the 24 months preceding the expiration date of the license~~January 1 in the year of the renewal~~.

3) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of the certificate.

4) CE credit hours used to satisfy the CE requirements of another state may be applied to fulfillment of the CE requirements of the State of Illinois.

5) CE credit hours used to satisfy this requirement may be achieved through self study courses offered by an approved provider.

b) Approved CE Providers

1) CE credit may be earned for verified attendance at or participation in any program given by one of the following:

A) An approved veterinary program, as provided in 68 Ill. Adm. Code 1500.5, or a veterinary technician program;

B) The American Veterinary Medical Association Committee on Veterinary Technician Education and Activities (CVTEA);

C) The Illinois State Veterinary Medical Association or any other state or provincial veterinary medical association or any of its constituent organizations;

D) The American Animal Hospital Association;

E) National Registry of Approved Continuing Education (RACE) of the American Association of Veterinary State Boards (AAVSB);

F) Programs provided by, or appropriate for, veterinary specialty organizations; and

G) United States Department of Agriculture (USDA) or any organization approved by USDA to offer the USDA Recertification Course.

2) Courses Requirements

A) All courses or programs shall:

i) Be a minimum of 1 hour in duration. An hour is defined as 50 to 60 minutes of contact time;

ii) Contribute to the advancement, extension and enhancement of professional skills and/or scientific knowledge in the practice of veterinarian medicine;

iii) Provide experiences that contain scientific integrity, relevant subject matter and course materials;

iv) Be developed and presented by persons with education and/or experience in the subject matter of the program; and

v) Specify the number of CE hours that may be applied toward Illinois CE requirements for licensure renewal.

B) The Division may periodically review approved providers to ensure compliance.

c) The certificate holder shall maintain CE records for 4 years.

d) Certification of Compliance with CE Requirements

1) Each renewal applicant shall certify, on a renewal application, full compliance with the CE requirements set forth in subsection (a).

2) The Division may require additional evidence demonstrating compliance with CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.

e) Continuing Education Earned in Other Jurisdictions

1) If an individual has earned or is seeking CE hours offered in another jurisdiction for a program not approved by the Division for which the

individual will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a $25 processing fee, prior to participation in the program or within 90 days prior to expiration of the certificate. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in this Section.

2) If an individual fails to submit an out-of-state CE approval form within the required time frame, late approval may be obtained by submitting the approval request form with the $25 processing fee plus a $50 per hour of CE late fee not to exceed $250. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in this Section.

f) Waiver of CE Requirements

1) Any renewal applicant seeking renewal of a certificate without having fully complied with these CE requirements shall file with the Division a renewal application, a statement setting forth the facts concerning noncompliance, a request for waiver of the CE requirements on the basis of those facts and, if desired, a request for an interview before the Board. If the Division finds from the statement or any other evidence submitted, that good cause has been shown for granting a waiver of the CE requirements, or any part thereof, the Division shall waive enforcement of CE requirements for the renewal period for which the applicant has applied. At that time, the renewal applicant will be requested to submit the required renewal fee.

2) Good cause shall be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:

A) Full time service in the armed forces of the United States of America during a substantial part of the prerenewal period;

B) An incapacitating illness; or

C) Undue hardship (e.g., prolonged hospitalization, being disabled or unable to practice as a veterinary technician for a majority of the

duration of the renewal cycle) as determined by the Board. Every attempt should be made by the applicant to comply with CE through self-study.

3) If an interview is requested at the time the request for waiver is filed with the Division, the renewal applicant shall be given at least 20 days written notice of the date, time and place of the interview by certified mail, return receipt requested.

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

**Section 1505.60 Certified~~Permissible Functions for~~ Veterinary Technicians Functions**

a) A certified veterinary technician ~~(technician)~~ shall provide veterinary service under the control, direction and supervision of a licensed veterinarian, who is responsible for the services performed by the technician.

b) The duties of a certified veterinary technician shall not include the making of a diagnosis or prognosis, prescribing or writing prescriptions for drugs, medication or any other material for the care of treatment of any animal or performing any kind of surgery upon any animal.

c) A certified veterinary technician is prohibited from performing the following:

1) dental extractions;

2) gingival resection;

3) clamping calves' tails;

4) docking sheep/pig tails;

5) floating teeth;

6) dehorning calves;

7) castrating any animals; and

8) urinary catheterization for a blocked male cat.

d) A certified veterinary technician shall only perform cast application under the immediate supervision of a veterinarian, as defined in Section 3 of the Act. This subsection does not apply to the setting of bones.

e) A certified veterinary technician shall perform the following tasks under the direct or immediate supervision of a veterinarian, as defined in Section 3 of the Act:

1) anesthesia induction;

2) anesthesia endotracheal intubation;

3) anesthesia maintenance;

4) anesthesia monitor signs;

5) cut down with needle;

6) central line without cut down;

7) dental prophylaxis;

8) skin closure;

9) perform local nerve blocks;

10) splint application;

11) female canine urinary catheterization;

12) fine needle aspiration;

13) puncture abscess with needle;

14) decapitation for rabies tests submission;

15) dehorning calves; and

16) docking sheep/pig tails.

f) A certified veterinary technician shall perform the following tasks under the indirect, direct or immediate supervision of a veterinarian, as defined in Section 3 of the Act:

1) IV catheter;

2) administer chemotherapy;

3) removal of sutures, drains or staples;

4) microchip implant;

5) bandage application;

6) male canine urinary catheterization;

7) trim normal hooves;

8) necropsy – tissue sample collection;

9) acquire or process radiological images;

10) venipuncture;

11) obtain objective patient data without diagnosis;

12) cystocentesis;

13) process laboratory samples;

14) bacterial streak and culture;

15) administer nonrabies vaccines;

16) intramuscular and subcutaneous injections;

17) intravenous injections into uncatheterized or catheterized veins; and

18) animal restraint.

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

**Section 1505.70 Granting Variances**

a) The Director of the Division of Professional Regulation (Director), with the authority granted by the Secretary, may grant variances ~~from this Part~~ in individual cases when he/she finds that:

1) The provision from which the variance is granted is not statutorily mandated;

2) No party will be injured by the granting of the variance; and

3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

b) The Director shall notify the ~~Veterinary Licensing and Disciplinary~~ Board of the granting of the variance, and the reasons for granting the variance, at the next meeting of the Board.

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Accident and Health Reserves

2) Code Citation: 50 Ill. Adm. Code 2004

3) Section Number: 2004.10 Proposed Action: Amendment

4) Statutory Authority: Implementing Section 353a and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/353a and 401]

5) A Complete Description of the Subjects and Issues Involved: The proposed amendment to Part 2004 will require all companies transacting in this State the kinds of business enumerated in clause (b) of Class 1 and clause (a) of Class 2 of Section 4 of the Code [215 ILCS 5/4] to use of the current Accounting Practices and Procedures (APPM) standards found within the most recent version of the APPM manual, which is updated on an annual basis. The Part currently provides that companies refer to the applicable standards prescribed by the APPM as of March 2008. There have been amendments to the APPM subsequent to 2008, and it is necessary that Section 2004 reflect the current standards referenced in the most recent version of the APPM. The proposed amendment to Part 2004 will also provide guidance with respect to the specific APPM standards to apply for reserves for policies issued and claims incurred prior to 2008. Moreover, the proposed amendment to Part 2004 will also provide companies with the knowledge that for claims incurred on or after 2002 and before the effective date of this Part, companies may elect to calculate reserves for all open claims using a more recent standard under the limitations described in the APPM. This language is also found within the APPM, but is necessary to add to Part 2004 to address the 2002 through the present time period.

6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking: None

7) Will this rulemaking replace any emergency rule 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 rulemakings pending on this Part? No

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

| | | |
|---|---|---|
| Lynn Grossman, Assistant General Counsel<br>Department of Insurance<br>122 S. Michigan Ave., 19th Floor<br>Chicago IL 60601-3251<br><br>312/814-5926<br>fax: 312/814-2862 | or | Susan Anders, Rules Coordinator<br>Department of Insurance<br>320 West Washington, 4th Floor<br>Springfield IL 62767-0001<br><br>217/558-0957<br>fax: 217/524-9033 |

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small insurers transacting in this State the kinds of business enumerated in clause (b) of Class 1 and clause (a) of Class 2 of Section 4 of the Code [215 ILCS 5/4], and it applies to all accident and health policies for which reserve standards are prescribed under Section 353a of the Code.

B) Reporting, bookkeeping or other procedures required for compliance: This amendment clarifies prior requirements and provides changes to requirements for the reserve calculation for policies issued and claims incurred after the effective date.

C) Types of professional skills necessary for compliance: The amendment deals with reserves, so actuarial skills would be necessary for compliance. The Department will not require any additional staff to determine compliance with this Part.

14) Regulatory Agenda on which this rulemaking was summarized: July 2015

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER z: ACCIDENT AND HEALTH INSURANCE

PART 2004
ACCIDENT AND HEALTH RESERVES

Section
2004.5 Authority
2004.7 Definitions
2004.10 Application and Effective Date
2004.20 Active Life Reserves – Individual Policies
2004.30 Active Life Reserves – Group Policies
2004.40 Claim Reserves – Present Value of Amounts Not Yet Due on Claims
2004.50 Policies Issued Prior to Operative Date of Section 353a

AUTHORITY: Implementing Section 353a and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/353a and 401].

SOURCE: Filed December 14, 1965, effective December 28, 1965; codified at 7 Ill. Reg. 4219; amended at 26 Ill. Reg. 3074, effective February 19, 2002; transferred from the Department of Insurance to the Department of Financial and Professional Regulation pursuant to Executive Order 2004-6 on July 1, 2004; amended at 30 Ill. Reg. 19360, effective November 29, 2006; amended at 32 Ill. Reg. 13191, effective July 25, 2008; recodified from the Department of Financial and Professional Regulation to the Department of Insurance pursuant to Executive Order 2009-04 at 39 Ill. Reg. 2804; amended at 39 Ill. Reg. _____, effective _____.

**Section 2004.10 Application and Effective Date**

a) This Part applies to all companies transacting in this State the kinds of business enumerated in clause (b) of Class 1 and clause (a) of Class 2 of Section 4 of the Code [215 ILCS 5/4], and it applies to all accident and health policies for which reserve standards are prescribed under Section 353a of the Code. The standards established by this Part will no longer be applicable to policies issued and claims incurred on or after January 1, 2002. After that date, applicable standards are as prescribed by the National Association of Insurance Commissioners (NAIC) in the Accounting Practices and Procedures Manual (APPM) (2301 McGee Street, Suite 800, Kansas City MO 64108-2662) ~~(Accounting Practices and Procedures Manual – as of March 2008, no subsequent dates or editions)~~.

b) Policies issued and claims incurred on or after January 1, 2002 and before November 29, 2006 are subject to the standards prescribed in the March 2001 APPM. Policies issued and claims incurred on or after November 29, 2006 and before July 25, 2008 are subject to the standards prescribed in the March 2006 APPM. Policies issued and claims incurred on or after July 25, 2008 and before the effective date of Section 2004.10 are subject to the standards prescribed in the March 2008 APPM. Policies issued and claims incurred on or after the effective date of Section 2004.10 are subject to the standards prescribed in the APPM.

c) For claims incurred on or after January 1, 2002 and before the effective date of Section 2004.10, the insurer may elect to calculate reserves for all open claims using a more recent standard under the limitations described in the APPM, but once a more recent standard is elected, then all future valuations must be on that basis.

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Regulations for the Letting of Concessions, Farm Leases, Sale of Buildings and Facilities, and Demolitions

2) Code Citation: 17 Ill. Adm. Code 150

3)

| Section Number: | Proposed Action: |
|---|---|
| 150.20 | Amendment |

4) Statutory Authority: Implementing and authorized by Sections 805-235, 805-300 and 805-330 of the Civil Administrative Code of Illinois [20 ILCS 805/805-235, 805-300 and 805-330]

5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to change the length of leases that contain CRP acreage.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rule currently in effect? No

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

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

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

217/782-1809

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agenda's because: The Department did not anticipate the need for this rulemaking at the time the agendas were published.

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER a: LANDS

PART 150
REGULATIONS FOR THE LETTING OF CONCESSIONS, FARM LEASES, SALE OF BUILDINGS AND FACILITIES, AND DEMOLITIONS

Section
150.10 Concessions
150.20 Agricultural Management Leases
150.30 Sale of Buildings and Facilities
150.40 Demolition
150.50 Criteria for Selection

AUTHORITY: Implementing and authorized by Sections 805-235, 805-300 and 805-330 of the Civil Administrative Code of Illinois [20 ILCS 805/805-235, 805-300 and 805-330].

SOURCE: Adopted at 5 Ill. Reg. 7512, effective July 6, 1981; codified at 5 Ill. Reg. 10625; amended at 6 Ill. Reg. 13326, effective October 20, 1982; amended at 16 Ill. Reg. 4839, effective March 17, 1992; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 32 Ill. Reg. 9295, effective June 13, 2008; amended at 39 Ill. Reg. _____, effective _____.

**Section 150.20 Agricultural Management Leases**

a) Agricultural management leases are for a period of: ~~not more than four years.~~

1) not more than 15 years, if the land is to be enrolled in the United States Department of Agriculture Conservation Reserve Program; or

2) not more than four years for all other agricultural management leases.

b) Agricultural management leases shall be let by sealed competitive bids, except these leases may be negotiated under any of the following conditions:

1) when land has been recently purchased with an agreement that the previous owner will farm the property for the next one to two years (as part of the land transaction);

2) when the tract is less than 50 acres or completely surrounded by other private land;

3) when property acquired by lease or purchase is acquired late in the season;

4) when crops are already planted by a previous owner or tenant; or

5) when the Department of Natural Resources purchases less than fee simple interest in a property for development purposes.

c) Notices of the available agricultural management leases shall be placed in a local newspaper prior to a sealed competitive bid letting.

d) A public informational meeting shall be held at the site of the available agricultural management lease prior to the bid letting.

e) The bids shall be opened at a public bid opening.

f) The best qualified highest bidder shall be given the right to enter into an agricultural management lease. Factors taken into consideration in determining a qualified bidder shall include, but not be limited to, criteria contained in Section 150.50.

g) If no bids are placed or if no qualified bidders place bids, a negotiated lease with a qualified lessee may be sought.

h) At the end of an agricultural management lease period, the lease may be renegotiated with the present leaseholder if the leaseholder has not violated lease covenants or has quickly corrected such violations after notification by the Farm Lease Program Administrator. In such a case, no competitive bidding on the agricultural management lease will be offered.

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: White-Tailed Deer Hunting By Use of Bow and Arrow

2) Code Citation: 17 Ill. Adm. Code 670

3)

| Section Number: | Proposed Action: |
|---|---|
| 670.30 | Amendment |

4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.5, 2.20, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.5, 2.20, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36]

5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to add young hunters that possess a Youth Hunting License and an archery deer permit to the list of hunters eligible to use a crossbow during the archery deer hunting season; to require that eligible youth who desire to take advantage of the new crossbow regulation must be under the direct supervision of a parent, grandparent, or guardian who is 21 years of age or older; to require that the adult supervisor accompanying the youth (while hunting with a crossbow) must possess both a valid Illinois hunting license and a valid archery permit; and to provide that accompaniment by a parent, grandparent, or guardian shall serve as evidence that express permission of an adult was granted to obtain the deer permit.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: PA 99-308, effective August 7, 2015

7) Will this rulemaking replace any emergency rule currently in effect? Yes

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

9) Does this rulemaking contain incorporations by reference? No

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

| Section Number: | Proposed Action: | *Illinois Register* Citation: |
|---|---|---|
| 670.20 | Amendment | 39 Ill. Reg. 8873; July 6, 2015 |

11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

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:

Robert G. Mool, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: The Department did not anticipate the need for this rulemaking at the time the agendas were published.

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment for this Part and begins on Page 13125:

PROCUREMENT POLICY BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Rulemaking and Organization

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

3)

| Section Numbers: | Proposed Actions: |
|---|---|
| 3000.290 | Amendment |
| 3000.APPENDIX A | Amendment |

4) Statutory Authority: Implementing and authorized by the Illinois Administrative Procedure Act [5 ILCS 100] and the Illinois Procurement Code [30 ILCS 500]

5) A Complete Description of the Subjects and Issues Involved: The Procurement Policy Board is amending this Part to address office location changes.

6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None

7) Will this rulemaking replace any emergency rule currently in effect? No

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

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.

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

Mr. Will Blount
Executive Director
Procurement Policy Board
222 South College Street, Suite 231
Springfield IL 62704

email: will.blount@illinois.gov

217/785-3988

All written comments received within 45 days after this issue of the *Illinois Register* 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: No new requirements are being imposed.

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: The need for this rulemaking was not anticipated at the time the Agendas were published.

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

PROCUREMENT POLICY BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER LX: PROCUREMENT POLICY BOARD

PART 3000
RULEMAKING AND ORGANIZATION

SUBPART A: RULEMAKING

Section
3000.100 Adoption and Filing
3000.110 Development of Rules
3000.120 Consideration by Board
3000.130 Public Comments
3000.140 Special Hearing
3000.150 Adoption

SUBPART B: ORGANIZATION

Section
3000.200 Composition of Board
3000.210 Officers
3000.220 Personnel Committee
3000.230 Appointment of Executive Director
3000.240 Duties of Executive Director
3000.250 Duties of Staff
3000.260 Organization
3000.270 Personnel Chart
3000.280 Availability
3000.290 Office Location

3000.APPENDIX A Personnel Organization Chart

AUTHORITY: Implementing and authorized by the Illinois Administrative Procedure Act [5 ILCS 100] and the Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted at 23 Ill. Reg. 6901, effective June 1, 1999; amended at 39 Ill. Reg. _____, effective _____.

PROCUREMENT POLICY BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART B: ORGANIZATION

**Section 3000.290 Office Location**

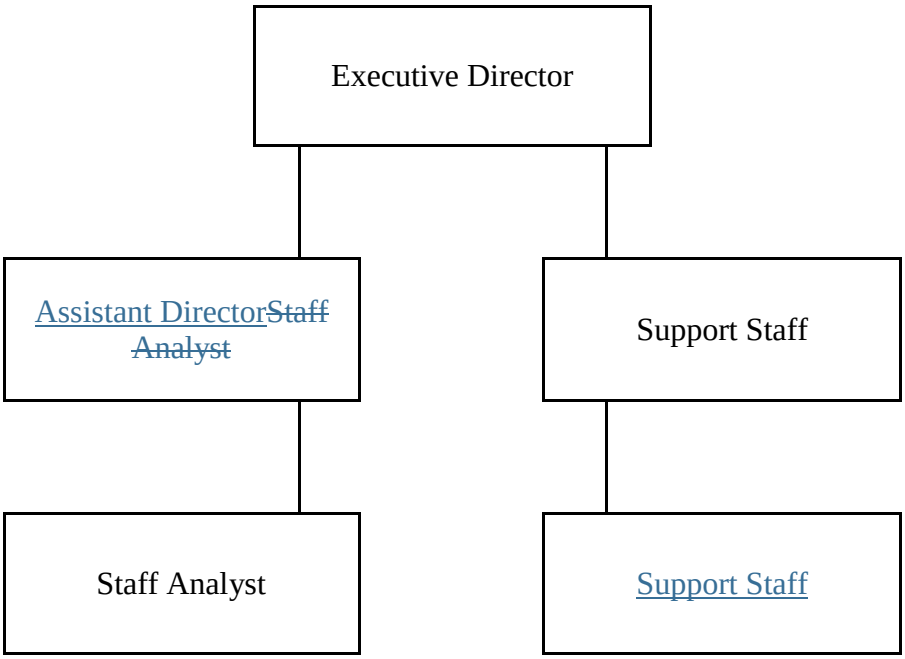
The Office of the Board is located at 222 South College Street, Suite 231,~~511 West Capitol, Suite 102,~~ Springfield, Illinois 62704.

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

PROCUREMENT POLICY BOARD

NOTICE OF PROPOSED AMENDMENTS

**Section 3000.APPENDIX A Personnel Organization Chart**




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

PROCUREMENT POLICY BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Freedom of Information

2) Code Citation: 2 Ill. Adm. Code 3001

3)

| Section Numbers: | Proposed Actions: |
|---|---|
| 3001.10 | Renumbered |
| 3001.20 | Renumbered |
| 3001.100 | Repealed |
| 3001.101 | Renumbered/Amendment |
| 3001.102 | Renumbered/Amendment |
| 3001.110 | Repealed |
| 3001.200 | Repealed |
| 3001.201 | New Section |
| 3001.202 | New Section |
| 3001.203 | New Section |
| 3001.210 | Repealed |
| 3001.300 | Repealed |
| 3001.301 | New Section |
| 3001.302 | New Section |
| 3001.303 | New Section |
| 3001.310 | Repealed |
| 3001.400 | Repealed |
| 3001.401 | New Section |
| 3001.402 | New Section |
| 3001.403 | New Section |
| 3001.404 | New Section |
| 3001.405 | New Section |
| 3001.406 | New Section |
| 3001.407 | New Section |
| 3001.410 | Repealed |
| 3001.420 | Repealed |
| 3001.501 | New Section |
| 3001.502 | New Section |
| 3001.503 | New Section |
| 3001.APPENDIX A | Amendment |

4) Statutory Authority: Implementing and authorized by the Freedom of Information Act [5 ILCS 140 and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15]

PROCUREMENT POLICY BOARD

NOTICE OF PROPOSED AMENDMENTS

5) A Complete Description of the Subjects and Issues Involved: The Procurement Policy Board is amending this Part for consistency with the Freedom of Information Act [5 ILCS 140].

6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None

7) Will this rulemaking replace any emergency rule currently in effect? No

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

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.

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

Mr. Will Blount
Executive Director
Procurement Policy Board
222 South College Street, Suite 231
Springfield IL 62704

217/785-3988
email: will.blount@illinois.gov

All written comments received within 45 days after this issue of the *Illinois Register* 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: No new requirements are being imposed.

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not anticipated at the time Agendas were published.

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

PROCUREMENT POLICY BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER LX: PROCUREMENT POLICY BOARD

PART 3001
ACCESS TO RECORDS OF THE PROCUREMENT POLICY BOARD
~~FREEDOM OF INFORMATION~~

SUBPART A: INTRODUCTION

Section
3001.10 Summary and Purpose (Renumbered)
3001.20 Definitions (Renumbered)
3001.100 Person to Whom Requests are Submitted (Repealed)
3001.101~~10~~ Summary and Purpose
3001.102~~20~~ Definitions
3001.110 Form and Content of Requests (Repealed)

SUBPART B: CLASSIFICATION OF RECORDS~~REQUEST PROCEDURES~~

Section
3001.200 Timeline for Freedom of Information Officer's Response (Repealed)
3001.201 Records that Will Be Disclosed
3001.202 Records that Will Be Withheld from Disclosure
3001.203 Statutory Exemptions
3001.210 Types of Responses to Requests for Public Records (Repealed)

SUBPART C: PROCEDURES FOR REQUESTING RECORDS FROM THE AGENCY~~FREEDOM OF INFORMATION OFFICER'S RESPONSE TO REQUESTS FOR PUBLIC RECORDS~~

Section
3001.300 Appeal of a Denial (Repealed)
3001.301 Submittal of Requests for Records
3001.302 Information To Be Provided in Requests for Records
3001.303 Requests for Records for Commercial Purposes
3001.310 Executive Director's Response to Appeal (Repealed)

SUBPART D: AGENCY RESPONSE TO REQUESTS FOR RECORDS

PROCUREMENT POLICY BOARD

NOTICE OF PROPOSED AMENDMENTS

~~PROCEDURES FOR APPEAL OF A DENIAL~~

Section
3001.400 Copies of Public Records (Repealed)
3001.401 Timeline for Agency Response
3001.402 Requests for Records that the Agency Considers Unduly Burdensome
3001.403 Requests for Records that Require Electronic Retrieval
3001.404 Denials of Requests for Records
3001.405 Requests for Review of Denials – Public Access Counselor
3001.406 Circuit Court Review
3001.407 Administrative Review
3001.410 Inspection of Records (Repealed)
3001.420 General Materials Available from the Office of the Board (Repealed)

SUBPART E: PROCEDURES FOR PROVIDING
~~PUBLIC~~ RECORDS TO REQUESTORS

Section
3001.501 Inspection of Records
3001.502 Copying of Records; Fees
3001.503 Reduction and Waiver of Fees

3001.APPENDIX A Fee Schedule for Duplication and Certification of Public Records

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

SOURCE: Adopted at 23 Ill. Reg. 6887, effective June 1, 1999; amended at 39 Ill. Reg. _____, effective _____.

SUBPART A: INTRODUCTION

**Section 3001.10 Summary and Purpose (Renumbered)**

(Source: Section 3001.10 renumbered to Section 3001.101 at 39 Ill. Reg. _____, effective _____)

**Section 3001.20 Definitions (Renumbered)**

PROCUREMENT POLICY BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Section 3001.20 renumbered to Section 3001.102 at 39 Ill. Reg. _____, effective_____)

**Section 3001.100 Person to Whom Requests are Submitted (Repealed)**

~~Requests for public records shall be submitted to:~~

~~Freedom of Information Officer~~
~~Procurement Policy Board~~
~~511 West Capitol, Suite 102~~
~~Springfield IL 62704~~

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

**Section 3001.101~~10~~ Summary and Purpose**

a) This Part states the policy of the Procurement Policy Board (Agency) for making its records available for reasonable public inspection while, at the same time, protecting legitimate interests in confidentiality.

b) This Part:

1) Establishes the following classifications for records in the Agency's possession:

A) Records that shall be disclosed; and

B) Records that shall be withheld from disclosure.

2) Contains the procedures by which requesters may obtain records in the Agency's possession; and

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

~~a) This Part is established to further the policy of the State of Illinois whereby *all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms* of the Freedom of~~

~~Information Act [5 ILCS 140/1]. The purpose of this Part is to support the policy of providing public access to the public records in the possession of the Procurement Policy Board (Board) while, at the same time, protecting legitimate privacy interests and maintaining administrative efficiency.~~

~~b)~~ ~~This Part creates a procedure by which the public may request and obtain public records. Therefore, it is being filed in accordance with Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and Section 3(g) of the Freedom of Information Act [5 ILCS 140/3(g)].~~

(Source: Section 3001.101 renumbered from 3001.10 and amended at 39 Ill. Reg. _____, effective _____)

**Section 3001.102~~20~~ Definitions**

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

"Agency" means the Procurement Policy Board, as established by the Code.

"Code" means the Illinois Procurement Code [30 ILCS 500].

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

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

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

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

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

"Director" means the Executive Director of the Procurement Policy Board.

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

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

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

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

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

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

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

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

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

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

~~a) Terms used in this Part shall have the same meaning as in Section 2 of the Freedom of Information Act [5 ILCS 140/2].~~

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

~~c) "Freedom of Information Officer" means the individual responsible for receiving and responding to requests for public records.~~

~~d) "Requestor" means a person who submits a request for public records in accordance with this Part.~~

(Source: Section 3001.102 renumbered from 3001.20 and amended at 39 Ill. Reg. ____, effective _____)

**Section 3001.110 Form and Content of Requests (Repealed)**

~~a) Requests for public records shall be in writing.~~

~~b) The requestor shall provide the following information in a request for public records:~~

~~1) The requestor's full name, address and telephone number.~~

~~2) A brief description of the public records sought, being as specific as possible.~~

~~3) A statement of whether the request is for inspection of public records, copies of public records, or both.~~

~~4) A statement of whether the records need to be certified.~~

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

SUBPART B: CLASSIFICATION OF RECORDS~~REQUEST PROCEDURES~~

**Section 3001.200 Timeline for Freedom of Information Officer's Response (Repealed)**

~~a) *The* Freedom of Information Officer *shall respond to a written request for public records within 7 working days after the receipt of such request* pursuant to Section 3(c) of FOIA.~~

~~b) The Freedom of Information Officer will *either comply with or deny a written request for public records within 7 working days after its receipt*. The Freedom of Information Officer may extend the 7 day period an additional 7 working days for any of the reasons specified in Section 3(d)(i)-(vii) of FOIA. The Freedom of Information Officer will *notify by letter the person making the written request within 7 working days (after receipt of the request) of the reasons for the delay and the date by which the records will be made available or denial will be forthcoming*. [5 ILCS 140/3(c)]~~

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

**Section 3001.201 Records that Will Be Disclosed**

Upon request meeting the requirements of this Part, the Agency shall disclose to the requester all records requested, except that it shall not disclose certain records as provided in Section 3001.202 or 3001.203. Records covered under this Section shall include, but are not be limited to:

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

b) *Payrolls. Certified payroll records submitted to the Agency under Section 5(a)(2) of the Prevailing Wage Act* [820 ILCS 130] *are records subject to inspection and copying in accordance with the provisions of FOIA; except that contractors' and employees' addresses, telephone numbers, and Social Security numbers will be redacted by the Agency prior to disclosure.* (Section 2.10 of FOIA)

c) *Criminal history records. The following documents maintained by the Agency pertaining to criminal history record information are records subject to inspection and copying by the public pursuant to FOIA:*

1) *Court records that are public;*

2) *Records that are otherwise available under State or local law; and*

3) *Records in which the requesting party is the individual identified, except as provided under* Section 3001.202(a)(5)(F). (Section 2.15(b) of FOIA)

d) *Settlement agreements. All settlement agreements entered into by or on behalf of the Agency are records subject to inspection and copying by the public, provided that information exempt from disclosure under* Section 3001.202 or 3001.203 of this Part *may be redacted.* (Section 2.20 of FOIA)

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

**Section 3001.202 Records that Will Be Withheld from Disclosure**

*When a request is made to inspect or copy a record that contains information that is otherwise exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the Agency shall make the remaining information available for inspection and copying.* (Section 7(1) of FOIA)

a) *Subject to this requirement and Section 7 of FOIA, the following shall be exempt from inspection and copying:*

1) *Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law;* (Section 7(1)(a) of FOIA)

2) *Private information, unless disclosure is required by another provision of FOIA, a State or federal law or a court order;* (Section 7(1)(b) of FOIA)

3) *Files, documents, and other data or databases maintained by one or more law enforcement agencies and specifically designed to provide information to one or more law enforcement agencies regarding the physical or mental status of one or more individual subjects*; (Section 7(1)(b-5) of FOIA)

4) *Personal information contained within records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy;* (Section 7(1)(c) of FOIA)

5) *Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, but only to the extent that disclosure would:*

A) *Interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;*

B) *Interfere with active administrative enforcement proceedings conducted by the public body that is the recipient of the request;*

C) *Create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing;*

D) *Unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the Agency will provide traffic accident reports, the identities of witnesses to traffic accidents, and rescue reports, except when disclosure would interfere with an active criminal investigation;*

E) *Disclose unique or specialized investigative techniques other than those generally used and known, or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct, and disclosure would result in demonstrable harm to the Agency;*

F) *Endanger the life or physical safety of law enforcement personnel or any other person; or*

G) *Obstruct an ongoing criminal investigation by the agency that is the recipient of the request;* (Section 7(1)(d) of FOIA)

6) *Records that relate to or affect the security of correctional institutions and detention facilities;* (Section 7(1)(e) of FOIA)

7) *Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the Agency. The exemption provided in this* subsection (a)(7) *extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents;* (Section 7(1)(f) of FOIA)

8) *Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the*

*records requested. All trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this* subsection (a)(8) *does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this* subsection (a)(8) *does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm. Nothing in this* subsection (a)(8) *shall be construed to prevent a person or business from consenting to disclosure;* (Section 7(1)(g) of FOIA)

9) *Proposals and bids for any contract, grant, or agreement, including information that if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contract or agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made;* (Section 7(1)(h) of FOIA)

10) *Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by the Agency when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this* subsection (a)(10) *does not extend to requests made by news media as defined in* Section 3001.102 *when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare or legal rights of the general public*; (Section 7(1)(i) of FOIA)

11) *The following information pertaining to educational matters:*

A) *Test questions, scoring keys, and other examination data used to administer an academic exam;*

B) *Information received by a primary or secondary school, college, or university under its procedure for the evaluation of faculty members by their academic peers;*

C) *Information concerning a school's or university's adjudication of student disciplinary cases, but only to the extent that disclosure would unavoidably reveal the identity of the student; and*

D) *Course materials or research materials used by faculty members.* (Section 7(1)(j) of FOIA)

12) *Architects' plans and engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and for projects constructed or developed with public funds, including but not limited to power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security;* (Section 7(1)(k) of FOIA)

13) *Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act* [5 ILCS 120] *until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act;* (Section 7(1)(l) of FOIA)

14) *Communications between the Agency and an attorney or auditor representing the Agency that would not be subject to discovery in litigation, and materials prepared or compiled by or for the Agency in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the Agency, and materials prepared or compiled with respect to internal audits of the Agency;* (Section 7(1)(m) of FOIA)

15) *Records relating to the Agency's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed;* (Section 7(1)(n) of FOIA)

16) *Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section;* (Section 7(1)(o) of FOIA)

17) *Records relating to collective negotiating matters between the Agency and its employees or representatives, except that any final contract or agreement shall be subject to inspection and copying;* (Section 7(1)(p) of FOIA)

18) *Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment;* (Section 7(1)(q) of FOIA)

19) *The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act* [735 ILCS 30]*, records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt only until a sale is consummated;* (Section 7(1)(r) of FOIA)

20) *Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool. Insurance or self-insurance (including any intergovernmental risk management association or self-insurance pool) claims, loss or risk management information, records, data, advice or communications;* (Section 7(1)(s) of FOIA)

21) *Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or*

*insurance companies, unless disclosure is otherwise required by State law;* (Section 7(1)(t) of FOIA)

22) *Information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act* [5 ILCS 175]; (Section 7(1)(u) of FOIA)

23) *Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this* subsection (a)(23) *may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations;* (Section 7(1)(v) of FOIA)

24) *Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility, by a power generator, or by the Illinois Power Agency;* (Section 7(1)(x) of FOIA)

25) *Information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency Act* [20 ILCS 3855] *and Section 16-111.5 of the Public Utilities Act* [220 ILCS 5] *that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission;* (Section 7(1)(y) of FOIA)

26) *Information about students exempted from disclosure under Section 10-20.38 or 34-18.29 of the School Code, and information about undergraduate students enrolled at an institution of higher education exempted from disclosure under Section 25 of the Illinois Credit Card Marketing Act of 2009* [110 ILCS 26]; (Section 7(1)(z) of FOIA)

27) Information the disclosure of which is exempted under the Viatical Settlements Act of 2009 [215 ILCS 158]; (Section 7(1)(aa) of FOIA)

28) Information regarding interments, entombments, or inurnments of human remains that are submitted to the Cemetery Oversight Database under the Cemetery Care Act [760 ILCS 100] or the Cemetery Oversight Act [225 ILCS 411], whichever is applicable. (Section 7(1)(bb) of FOIA)

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

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

**Section 3001.203 Statutory Exemptions**

*To the extent provided for by the following statutes, the following shall be exempt from inspection and copying:*

a) *All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act* [20 ILCS 700].

b) *Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act* [75 ILCS 70].

c) *Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.*

d) *Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act* [410 ILCS 325].

e) *Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act* [420 ILCS 44].

f) *Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act* [30 ILCS 535].

g) *Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act* [110 ILCS 979].

h) *Information the disclosure of which is exempted under the State Officials and Employees Ethics Act* [5 ILCS 430] *and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.*

i) *Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code* [65 ILCS 5].

j) *Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act* [20 ILCS 2605].

k) *Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code* [625 ILCS 5].

l) *Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act* [210 ILCS 28].

m) *Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act* [765 ILCS 77], *except to the extent authorized under that Article.*

n) *Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act* [725 ILCS 124]. *This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.*

o) *Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act* [410 ILCS 525].

p) *Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act* [70 ILCS 3615] *or the St. Clair County Transit District under the Bi-State Transit Safety Act* [45 ILCS 111].

q) *Information prohibited from being disclosed by the Personnel Records Review Act* [820 ILCS 40].

r) *Information prohibited from being disclosed by the Illinois School Student Records Act* [105 ILCS 10].

s) *Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act* [220 ILCS 5]. (Section 7.5 of FOIA)

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

**Section 3001.210 Types of Responses to Requests for Public Records (Repealed)**

~~a) The Freedom of Information Officer shall respond to a request for public information in writing, in one of three ways:~~

~~1) Approve the request.~~

~~2) Approve in part and deny in part.~~

~~3) Deny the request.~~

~~b) The response shall be signed by the Freedom of Information Officer.~~

~~c) Upon approval of a request for public records, the Freedom of Information Officer shall either provide the materials immediately, give notice that materials shall be made available upon payment of reproduction costs, give notice of the time and place for inspection of records, or request that the requestor contact the Freedom of Information Officer to schedule a time and place for the inspection of records.~~

~~d) Categorical requests considered by the Freedom of Information Officer to be unduly burdensome shall be denied pursuant to Section 3(f) of FOIA. Before making this determination, the Freedom of Information Officer shall provide an opportunity to the requestor to confer and reduce the request to manageable proportions. The Freedom of Information Officer shall consider a request to be unduly burdensome if the burden on the Office of the Board outweighs the public interest in the information. *Repeated requests for the same public records by the same person shall be deemed unduly burdensome* pursuant to Section 3(f) of FOIA.~~

~~e) *A denial of a request for public records shall be made in writing and shall state the reasons for the denial and the names and titles of the individuals responsible for the decision* pursuant to Section 9(a) of FOIA. *Denials of requests determined to be unduly burdensome shall also explain the extent to which compliance with the request would unduly burden the operations of the Office* of the Board pursuant to Section 3(f) of FOIA. *Each notice of denial shall inform the requestor of his/her right to appeal* to the Executive Director [5 ILCS 140/9].~~

~~f) *Failure to respond to a written request within 7 working days after its receipt* by the Office of the Board *shall be considered by the requestor to be a denial of the request* [5 ILCS 140/3(c)].~~

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

SUBPART C: PROCEDURES FOR REQUESTING RECORDS FROM THE AGENCY~~FREEDOM OF INFORMATION OFFICER'S RESPONSE TO REQUESTS FOR PUBLIC RECORDS~~

**Section 3001.300 Appeal of a Denial (Repealed)**

~~a) A requestor whose request has been denied by the Freedom of Information Officer may appeal the denial to the Executive Director pursuant to Section 10 of FOIA. The notice of appeal shall be made in writing and sent to:~~

~~Board Chair~~
~~Procurement Policy board~~
~~108 Statehouse~~
~~Springfield IL 62706~~

~~b) The notice of appeal shall include a copy of the original request, a copy of the denial received by the requestor and a statement of the reasons why the appeal should be granted. If the appeal is filed because the requestor did not receive a response to a written request for information, the notice of appeal shall state that this is the reason for the appeal.~~

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

**Section 3001.301 Submittal of Requests for Records**

a) Any request for public records should be submitted in writing to the applicable FOI Officer or Officers at the Agency.

b) The Agency has one FOI Officer, located at the headquarters of the Procurement Policy Board.

c) Contact information for the FOI Officer can be found online at http://www2.illinois.gov/PPB/Pages/foia.aspx.

d) FOIA requests may be submitted via mail, e-mail, fax, or hand delivery. Requests should be mailed or hand delivered to:

Procurement Policy Board
222 South College Street, Suite 231
Springfield IL 62704
Attn.: FOI Officer

e) E-mailed requests should be sent to ppb@illinois.gov, contain the request in the body of the e-mail, and indicate in the subject line of the e-mail that it contains a FOIA request. Faxed FOIA requests should be faxed to 217-557-9927, Attn: FOI Officer.

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

**Section 3001.302 Information To Be Provided in Requests for Records**

A request for records should include:

a) The complete name, mailing address and telephone number of the requester;

b) As specific a description as possible of the records sought. Requests that the Agency considers unduly burdensome or categorical may be denied. (See Section 3(g) of FOIA and Section 3001.402 of this Part);

c) A statement as to the requested medium and format for the Agency to use in providing the records sought: for example, paper, specific types of digital or magnetic media, or videotape;

d) A statement as to the requested manner for the Agency to use in providing the records sought: for example, inspection at Agency headquarters or providing paper or electronic copies;

e) A statement as to whether the requester needs certified copies of all or any portion of the records, including reference to the specific documents that require certification; and

f) A statement as to whether the request is for a commercial purpose.

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

**Section 3001.303 Requests for Records for Commercial Purposes**

a) *It is a violation of FOIA for a person to knowingly obtain a record for a commercial purpose without disclosing that it is for a commercial purpose, if requested to do so by the Agency.* (Section 3.1(c) of FOIA)

b) *The Agency shall respond to a request for records to be used for a commercial purpose within 21 working days after receipt. The response shall:*

1) *Provide to the requester an estimate of the time required by the Agency to provide the records requested and an estimate of the fees to be charged, which the Agency may require the person to pay in full before copying the requested documents;*

2) *Deny the request pursuant to one or more of the exemptions set out in* Section 3001.202 or 3001.203;

3) *Notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions; or*

4) *Provide the records requested.* (Section 3.1(a) of FOIA)

c) *Unless the records are exempt from disclosure, the Agency shall comply with a request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes.* (Section 3.1(b) of FOIA)

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

**Section 3001.310 Executive Director's Response to Appeal (Repealed)**

~~a) Upon receipt of the notice of appeal the Executive Director shall review the public record requested and shall determine whether such record is available for public inspection and copying. The Executive Director *shall notify the person making the appeal of such determination within 7 working days after the notice of appeal* is received, pursuant to Section 10(a) of FOIA.~~

~~b) If the Executive Director determines the public record is exempt from public inspection the Executive Director *shall notify the requestor in writing of the denial and the reasons for the denial and shall inform the requestor of his/her rights to judicial review under Section 11 of FOIA* [5 ILCS 140/9(a)].~~

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

SUBPART D: AGENCY RESPONSE TO REQUESTS FOR RECORDS ~~PROCEDURES FOR APPEAL OF A DENIAL~~

**Section 3001.400 Copies of Public Records (Repealed)**

~~a) Copies of public records shall be provided to the requestor only upon payment of any charges that are due except as provided in subsection (c) of this Section.~~

~~b) Charges for the certification and copies of public records shall be assessed in accordance with the "Fee Schedule for Duplication of Public Records" (see Appendix A of this Part).~~

~~c)~~ ~~*Charges may be waived in any case where the Freedom of Information Officer determines that the waiver serves the public interest* pursuant to Section 6(b) of FOIA. The Freedom of Information Officer will base this determination on the requestor's ability to pay the charges and whether the requestor's organization serves the citizens of Illinois as a whole.~~

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

**Section 3001.401 Timeline for Agency Response**

a) Except as stated in subsection (b) or (c), the Agency will respond to any written *request for records within 5 business days after its receipt of the request. Failure to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt shall be considered a denial of the request. If the Agency fails to respond to a request within the requisite periods in this* subsection (a) *but thereafter provides the requester with copies of the requested records, it will not impose a fee for such copies. If the Agency fails to respond to a request received, it will not treat the request as unduly burdensome as provided under* Section 3001.402. (Section 3(d) of FOIA) A written request from the Agency to provide additional information shall be considered a response to the FOIA request.

b) *The time limits prescribed in* subsection (a) *may be extended for not more than 5 business days from the original due date for any of the following reasons:*

1) *The requested records are stored in whole or in part at locations other than the office having charge of the requested records;*

2) *The request requires the collection of a substantial number of specified records;*

3) *The request is couched in categorical terms and requires an extensive search for the records responsive to it;*

4) *The requested records have not been located in the course of routine search and additional efforts are being made to locate them;*

5) *The requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 or 7.5 of FOIA or should be revealed only with appropriate deletions;*

6) *The request for records cannot be complied with by the Agency within the time limits prescribed by* subsection (a) *without unduly burdening or interfering with the operations of the Agency; or*

7) *There is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of the request.* (Section 3(e) of FOIA)

c) *The person making a request and the Agency may agree in writing to extend the time for compliance for a period to be determined by the parties. If the requester and the Agency agree to extend the period for compliance, a failure by the Agency to comply with any previous deadlines shall not be treated as a denial of the request for the records.* (Section 3(e) of FOIA)

d) *When additional time is required for any of the reasons* set forth in subsection (b), *the Agency will, within 5 business days after receipt of the request, notify the person making the request of the reasons for the extension and the date by which the response will be forthcoming. Failure to respond within the time permitted for extension shall be considered a denial of the request. If the Agency fails to respond to a request within the time permitted for extension but thereafter provides the requester with copies of the requested public records, it may not impose a fee for those copies. If the Agency issues an extension and subsequently fails to respond to the request, it will not treat the request as unduly burdensome under Section 3001.402.* (Section 3(f) of FOIA)

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

**Section 3001.402 Requests for Records that the Agency Considers Unduly Burdensome**

a) *The Agency will fulfill requests calling for all records falling within a category unless compliance with the request would unduly burden the Agency, there is no way to narrow the request, and the burden on the Agency outweighs the public*

*interest in the information. Before invoking this exemption, the Agency will extend to the requester an opportunity to confer with it in an attempt to reduce the request to manageable proportions.* (Section 3(g) of FOIA) The amended request must be in writing.

b) If the Agency determines that a request is unduly burdensome, *it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the Agency. Such a response shall be treated as a denial of the request for information.* (Section 3(g) of FOIA)

c) *Repeated requests for records that are unchanged or identical to records previously provided or properly denied under this Part from the same person shall be deemed unduly burdensome.* (Section 3(g) of FOIA)

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

**Section 3001.403 Requests for Records that Require Electronic Retrieval**

a) A request for records that requires electronic retrieval will be treated the same as any other request for records, with the same timeline and extensions as allowed for other records.

b) The Agency will retrieve and provide electronic records only in a format and medium that is available to the Agency.

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

**Section 3001.404 Denials of Requests for Records**

a) The Agency will deny requests for records when:

1) Compliance with the request would unduly burden the Agency, as determined pursuant to Section 3001.402, and the requester has not reduced the request to manageable proportions; or

2) The records are exempt from disclosure pursuant to Section 7 or 7.5 of FOIA or Section 3001.202 or 3001.203 of this Part.

b) The denial of a request for records must be in writing.

1) The notification shall include a description of the records denied; *the reason for the denial, including a detailed factual basis for the application of any exemption claimed; and the names and titles or positions of each person responsible for the denial* (Section 9(a) of FOIA);

2) *Each notice of denial shall also inform such person of the right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor* (Section 9(a) of FOIA); and

3) *When a request for records is denied on the grounds that the records are exempt under Section 7* or 7.5 *of FOIA, the notice of denial shall specify the exemption claimed to authorize the denial and the specific reasons for the denial, including a detailed factual basis and a citation to the supporting legal authority* (Section 9(b) of FOIA).

c) A requester may treat the Agency's failure to respond to a request for records within 5 business days after receipt of the written request as a denial for purposes of the right to review by the Public Access Counselor.

d) If the Agency has given written notice pursuant to Section 3001.401(d), failure to respond to a written request within the time permitted for extension may be treated as a denial for purposes of the right to review by the Public Access Counselor.

e) *Any person making a request for records shall be deemed to have exhausted his or her administrative remedies with respect to that request if the Agency fails to act within the time periods provided in* Section 3001.401. (Section 9(c) of FOIA)

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

**Section 3001.405 Requests for Review of Denials − Public Access Counselor**

a) *A person whose request to inspect or copy a record is denied by the Agency may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the date of the final denial.* (Section 9.5(a) of FOIA)

b) If the Agency *asserts that the records are exempt under* Section 3001.202(a)(4) or (a)(7), *it will, within the time periods provided for responding to a request, provide written notice to the requester and the Public Access Counselor of its intent to deny the request in whole or in part. The notice will include:*

1) *A copy of the request for access to records;*

2) *The proposed response from the Agency;* and

3) *A detailed summary of the Agency's basis for asserting the exemption.* (Section 9.5(b) of FOIA)

c) *Upon receipt of a notice of intent to deny from the Agency, the Public Access Counselor shall determine whether further inquiry is warranted.* The Public Access Counselor shall process the notification of intent to deny as detailed in Section 9.5(b) of FOIA. *Times for response or compliance by the Agency* under Section 3001.401 *will be tolled until the Public Access Counselor concludes his or her inquiry.* (Section 9.5(b) of FOIA)

d) *Within 7 working days after the Agency receives a request for review from the Public Access Counselor, the Agency shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor.* (Section 9.5(c) of FOIA)

e) *Within 7 working days after it receives a copy of a request for review and request for production of records from the Public Access Counselor, the Agency may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. The Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy.* (Section 9.5(d) of FOIA)

f) *The requester may, but is not required to, respond in writing to the answer within 7 working days and shall provide a copy of the response to the Agency.* (Section 9.5(d) of FOIA)

g) *In addition to the request for review, and the answer and response thereto, if any, a requester or the Agency may furnish affidavits or records concerning any matter germane to the review.* (Section 9.5(e) of FOIA)

h) *A binding opinion from the Attorney General shall be binding upon both the requester and the Agency, subject to administrative review under* Section 3001.407 (Section 9.5(f) of FOIA)

i) *If the Attorney General decides to exercise his or her discretion to resolve a request for review by mediation or by a means other than issuance of a binding opinion, the decision not to issue a binding opinion shall not be reviewable.* (Section 9.5(f) of FOIA)

j) *Upon receipt of a binding opinion concluding that a violation of FOIA has occurred, the Agency shall either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under* Section 3001.407. *If the opinion concludes that no violation of FOIA has occurred, the requester may initiate administrative review under* Section 3001.407. (Section 9.5(f) of FOIA)

k) *If the Agency discloses records in accordance with an opinion of the Attorney General, the Agency is immune from all liabilities by reason thereof and shall not be liable for penalties under FOIA.* (Section 9.5(f) of FOIA)

l) *If the requester files suit under* Section 3001.406 *with respect to the same denial that is the subject of a pending request for review, the requester shall notify the Public Access Counselor, and the Public Access Counselor shall so notify the Agency.* (Section 9.5(g) of FOIA)

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

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

PROCUREMENT POLICY BOARD

NOTICE OF PROPOSED AMENDMENTS

**Section 3001.406 Circuit Court Review**

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

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

**Section 3001.407 Administrative Review**

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

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

**Section 3001.410 Inspection of Records (Repealed)**

~~a) Records of the Board shall be available unless otherwise exempt under Section 7 of FOIA, during the hours of 8:30 a.m. through 5 p.m. Monday through Friday (except for State holidays) at 108 Statehouse, Springfield, Illinois 62706. Requestors must contact the Freedom of Information Officer to schedule an appointment to inspect requested records.~~

~~b) An employee of the Board may be present throughout the inspection. A requestor will be prohibited from bringing bags, briefcases or other containers into the inspection room.~~

~~c) Documents that the requestor wishes to have copied shall be segregated during the course of the inspection. All copying shall be done by Board employees.~~

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

**Section 3001.420 General Materials Available from the Office of the Board (Repealed)**

~~The following materials shall be made available by the Office of the Board without charge~~

~~pursuant to Sections 4 and 5 of FOIA:~~

~~a) *A brief description of the organizational structure and budget of* the Office of the Board.~~

~~b) *A brief description of the means for requesting information and public records.*~~

~~c) *A list of types and categories of public records maintained by* the Office of the Board.~~

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

SUBPART E: PROCEDURES FOR PROVIDING
~~PUBLIC~~ RECORDS TO REQUESTORS

**Section 3001.501 Inspection of Records**

a) The Agency may make available records for personal inspection at the Agency's headquarters office located at 222 South College Street, Suite 231, Springfield IL 62704, or at another location agreed to by both the Agency and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record. The Agency may provide records in duplicate forms, including, but not limited to, paper copies, data processing printouts, videotape, microfilm, audio tape, reel to reel microfilm, photographs, computer disks and diazo.

b) *When a person requests a copy of a record maintained in an electronic format, the Agency shall furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the records in the specified electronic format, then the Agency shall furnish it in the format in which it is maintained by the Agency, or in paper format at the option of the requester.* (Section 6(a) of FOIA)

c) A requester may inspect records by appointment only, scheduled subject to space availability. The Agency will schedule inspection appointments to take place during normal business hours, which are 8:30 a.m. to 4:30 p.m. Monday through Friday, exclusive of State holidays. If the requester must cancel the viewing appointment, the requester shall so inform the Agency as soon as possible before the appointment.

d) In order to maintain routine Agency operations, the requester may be asked to leave the inspection area for a specified period of time.

e) The requester will have access only to the designated inspection area.

f) Requesters shall not be permitted to take briefcases, folders or similar materials into the room where the inspection takes place. An Agency employee may be present during the inspection.

g) The requester shall segregate and identify the documents to be copied during the course of the inspection.

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

**Section 3001.502 Copying of Records; Fees**

a) In accordance with Section 3001.503, unless a fee is otherwise fixed by statute, the Agency will provide copies of records and certifications of records in accordance with the fee schedule set forth in Appendix A.

b) *In calculating its actual cost for reproducing records or for the use of the equipment of the Agency to reproduce records, the Agency will not include the costs of any search for and review of the records or other personnel costs associated with reproducing the records.* (Section 6(b) of FOIA)

c) In order to expedite the copying of records that the Agency cannot copy, due to the volume of the request or the operational needs of the Agency, in the timelines established in Section 3001.401, the requester may provide, at the requester's expense, the copy machine, all necessary materials, and the labor to copy the public records at the Agency headquarters in Section 3001.501, or at another location agreed to by both the Agency and the requester. No original record shall be removed from State-controlled premises except under constant supervision of the agency responsible for maintaining the record.

d) Copies of records will be provided to the requester only upon payment of any fees due. *The Agency may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium, but the Agency will not charge the requester for the costs of any search for and review of the*

*records or other personnel costs associated with reproducing the records.* (Section 6(a) of FOIA) Payment must be by check or money order sent to the Agency, payable to "Treasurer, State of Illinois".

e) If a contractor is used to inspect or copy records, the following procedures shall apply:

1) The requester, rather than the Agency, must contract with the contractor;

2) The requester is responsible for all fees charged by the contractor;

3) The requester must notify the Agency of the contractor to be used prior to the scheduled on-site inspection or copying;

4) Only Agency personnel may provide records to the contractor;

5) The Agency must have verification that the requester has paid the Agency, if payment is due, for the copying of the records before providing the records to the contractor; and

6) The requester must provide to the Agency the contractor's written agreement to hold the records secure and to copy the records only for the purpose stated by the requester.

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

**Section 3001.503 Reduction and Waiver of Fees**

a) *Fees may be reduced or waived by the Agency if the requester states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. In making this determination, the Agency will consider the following:*

1) *Whether the principal purpose of the request is to disseminate information regarding the health, safety, welfare or legal rights of the general public; and*

2) *Whether the principal purpose of the request is personal or commercial benefit. For purposes of this subsection (a), "commercial benefit" shall*

*not apply to requests made by news media when the principal purpose of the request is to access and disseminate information regarding the health, safety, welfare or legal rights of the general public.* (Section 6(c) of FOIA)

b) The Agency will provide copies of records without charge to federal, State and municipal agencies, Constitutional officers and members of the General Assembly, and not-for-profit organizations providing evidence of good standing with the Secretary of State's Office.

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

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

PROCUREMENT POLICY BOARD

NOTICE OF PROPOSED AMENDMENTS

**Section 3001.APPENDIX A Fee Schedule for Duplication and Certification of Public Records**

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

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

| ~~Type of Duplication~~ | ~~Per Copy Charge~~ |
|---|---|
| ~~Paper copy from paper original~~ | ~~.25~~ |
| ~~Paper copy from microfilm original~~ | ~~.50~~ |
| ~~Certification fee~~ | ~~$1.00~~ |

PROCUREMENT POLICY BOARD

NOTICE OF PROPOSED AMENDMENTS

~~Some records possessed by the Board are in book or pamphlet form. The charge for such materials shall be the cost of such materials incurred by the Board.~~

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

PROCUREMENT POLICY BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: General Policies

2) Code Citation: 2 Ill. Adm. Code 3002

3)

| Section Numbers: | Proposed Actions: |
|---|---|
| 3002.100 | Amendment |
| 3002.200 | Amendment |
| 3002.300 | Amendment |
| 3002.400 | Amendment |
| 3002.500 | Amendment |
| 3002.510 | New Section |
| 3002.600 | Amendment |
| 3002.800 | Amendment |
| 3002.900 | Amendment |
| 3002.910 | New Section |
| 3002.1000 | Amendment |
| 3002.1200 | Amendment |
| 3002.1250 | New Section |
| 3002.1300 | Amendment |
| 3002.1400 | Amendment |
| 3002.1500 | New Section |
| 3002.1600 | New Section |
| 3002.1700 | New Section |

4) Statutory Authority: Implementing and authorized by the Illinois Administrative Procedure Act [5 ILCS 100] and the Illinois Procurement Code [30 ILCS 500]

5) A Complete Description of the Subjects and Issues Involved: The Procurement Policy Board is amending this Part to address changes to the Procurement Code [30 ILCS 500] under PA 96-795 and PA 97-895 as well as internal operational changes.

6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None

7) Will this rulemaking replace any emergency rule currently in effect? No

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

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.

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

Mr. Will Blount
Executive Director
Procurement Policy Board
222 South College Street, Suite 231
Springfield IL 62704

email: will.blount@illinois.gov
217/785-3988

All written comments received within 45 days after this issue of the *Illinois Register* 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: No new requirements are being imposed.

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: The need for this rulemaking was not anticipated at the time Agendas were published.

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

PROCUREMENT POLICY BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER LX: PROCUREMENT POLICY BOARD

PART 3002
GENERAL POLICIES

Section
3002.100 Authority and Purpose
3002.200 Definitions
3002.300 Agenda
3002.400 Meetings of the Board
3002.410 Open Meetings Act Compliance
3002.500 Board Review
3002.510 Potential Conflict of Interest/Violation of the Procurement Code Review
3002.600 Publication of Notices, Proposals and Action by the Board
3002.700 Comments from the Public
3002.800 Rulemaking Requests~~Petition~~ to the Board by the Public
3002.900 ~~Submission of~~ Complaints from the Public
3002.910 Submission of Comments, Alleged Conflicts of Interest, Rulemaking or Procurement Policy Review Requests or Complaints
3002.1000 Obtaining Other Information
3002.1100 Coordination with State Agencies and the General Assembly
3002.1200 Coordination with the Joint Committee, Administrative Code Division and CPOs
3002.1250 Small Purchases
3002.1300 Proposed Contract Review
3002.1400 Procurement Communications~~Communication~~ Reporting
3002.1500 Proposed Extension or Renewal Review
3002.1600 Proposed Lease Review
3002.1700 Professional Development and Training

AUTHORITY: Implementing and authorized by the Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted at 23 Ill. Reg. 6895, effective June 1, 1999; amended at 25 Ill. Reg. 14390, effective October 24, 2001; amended at 29 Ill. Reg. 812, effective January 1, 2005; amended at 32 Ill. Reg. 1153, effective February 1, 2008; emergency amendment at 35 Ill. Reg. 1146, effective January 1, 2011, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 35 Ill. Reg. 3843, effective February 17, 2011, for the remainder of the

150 days; amended at 35 Ill. Reg. 7209, effective April 19, 2011; amended at 39 Ill. Reg. _____, effective _____.

**Section 3002.100 Authority and Purpose**

*The Board shall have the authority and responsibility to review, comment upon, and recommend, consistent with the Procurement Code, rules and practices governing the procurement, management, control, and disposal of supplies, services, professional and artistic services, construction, and real property and capital improvement leases procured by the State. The Board shall also have the authority to recommend a program for professional development and provide opportunities for training in procurement practices and policies to Chief Procurement Officers (CPOs) and their staffs in order to ensure that all procurement is conducted in an efficient, professional, and appropriately transparent manner.* [30 ILCS 500/5-5].

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

**Section 3002.200 Definitions**

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

"Administrative Code Division" means the unit of the Office of the Secretary of State Index Department that publishes the Illinois Administrative Code and the Illinois Register and with which rules are filed.

"Board" means the Procurement Policy Board.

"Certificate of Action" means a certificate issued by the Board that states any action taken by the Board that creates or changes procurement policy.

"Code" means the Illinois Procurement Code [30 ILCS 500].

"Joint Committee" means the Joint Committee on Administrative Rules created by Section 5-90(a) of the Act.

"Lease" means all types of State lease agreements, regardless of what they may be called, for leases of real property, where the State is the lessee, including renewals, renegotiated leases, and amendments to leases.

"Policy" means a statement of general applicability regarding procurement, which

affects:

~~(1)~~ an existing procurement guideline, course of conduct, or best practice established by statute or administrative rule;~~,~~

~~(2)~~ a proposal for a procurement rule or statute;~~,~~ or

~~(3)~~ any other established procurement guideline, course of conduct, or best practice or a proposal to establish a procurement guideline, course of conduct, or best practice.

"Rule" means *each agency statement of general applicability that implements, applies, interprets or prescribes law or policy*, and that affects the private rights of or procedures available to persons or entities outside the agency, *but does not include statements concerning only the internal management of an agency and not affecting private rights or procedures available to persons or entities outside the agency, informal advisory rulings issued under Section 5-150 of the Act, intra-agency memoranda or the prescription of standardized forms* [5 ILCS 100/1-70].

"Illinois Procurement Bulletin" or "Procurement Bulletin" means that publication enumerated in Article 15 of the Code.

"State Agency" means each type of entity enumerated in Section 1-15.100 of the Code.

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

**Section 3002.300 Agenda**

The agenda of meetings and hearings held by the Board will be set by the Board and will be made available to the public as well as published in each volume of the Procurement Bulletin and on the Board's official website at http://ppb.illinois.gov.

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

**Section 3002.400 Meetings of the Board**

a) Introduction

PROCUREMENT POLICY BOARD

NOTICE OF PROPOSED AMENDMENTS

1) The Illinois Open Meetings Act [5 ILCS 120] sets forth the public policy of the State of Illinois that public bodies exist to aid in the conduct of the people's business and that the people have a right to be informed as to the conduct of their business. It is also the *public policy of the State that its citizens be given advance notice of and the right to attend all meetings at which any business of a public body is discussed or acted upon in any way* [5 ILCS 120/1].

2) It is the intent of the Act:

A) to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly;

B) to *protect the citizen's right to know; and*

C) that *provisions for exceptions to the open meeting requirements be strictly construed against closed meetings*. [5 ILCS 120/1]

3) By means of this Section, the Board has established procedures to conduct its business in accordance with the Open Meetings Act.

b) Definitions

1) "Employee" – *A person employed by the Board whose relationship with the Board constitutes an employer-employee relationship under the usual common law rules, and who is not an independent contractor*. [5 ILCS 120/2(d)]

2) "Executive Director" – The Executive Director of the Procurement Policy Board.

3) "Meeting" – *Any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication*, of 3 members of the Board held for the purpose of discussing Board business. [5 ILCS 120/1.02]

4) "Public Building" − Any building or portion of a building owned or leased by any public body and which the general public can access.

5) "Recording Secretary" – The Executive Director of the Procurement Policy Board or his or her designee.

c) Quorum Requirements for Meetings by Physical Presence
The Board may conduct business only if there is a quorum established at a meeting. A quorum for the Board is 3 members of the Board. Three members must be physically present at a single location to constitute a quorum for purposes of conducting business of the Board. If, however, an open meeting of the Board is held simultaneously at one of its offices (or if its offices lack equipment for video conferencing, in another location in a Public Building) and one or more other locations in a Public Building, which may include other of its offices, through an interactive video conference, and, if public notice is provided as required under the Open Meetings Act for all locations, members physically present in those locations all count toward determining a quorum. Action by the Board may only be taken so long as a quorum is present at the time the action is taken.

d) Attendance by a Means Other Than Physical Presence

1) If a quorum of the members of the Board is physically present as required by subsection (c), *a majority of the Board may allow a member to attend the meeting* (and participate in any discussion, vote or other action of the Board) *by other means if the member is prevented from physically attending because of*:

A) *personal illness or disability;*

B) *employment purposes or the business of the Board; or*

C) *a family or other emergency.* [5 ILCS 120/7]

2) *If a member wishes to attend a meeting by other means, the member must notify the Recording Secretary before the meeting unless advance notice is impractical.* [5 ILCS 120/7] Other means shall include audio or video conference or any additional means as from time to time allowed by statute.

3) If a quorum is established pursuant to subsection (c), a member attending by phone conference or other means allowed by this subsection (d) is not required to be located in a Public Building.

4) The limitations of this subsection (d) shall not apply to closed meetings of the Board.

e) Meetings; Public Notice; Agenda; Regular Meetings; Special Meetings

1) Time of Meeting Generally. *All open meetings shall be held at specified times and places that are convenient and open to the public. No open meeting shall be held on a legal holiday unless the regular meeting day falls on that holiday*. [5 ILCS 120/2.01]

2) Public Notice by Posting. Public notice shall be given by posting a copy of an agenda for each regular meeting at the principal office of the Board and at the location where the meeting is to be held at least 48 hours in advance of the holding of the meeting. The Board shall also post on its official website (http://ppb.illinois.gov) the agenda of any regular meetings of the Board. (See 5 ILCS 120/2.02(a).)

3) News Media Requests. Any news medium may file with the Executive Director an annual request for public notice of all meetings of the Board, and copies of the notice to be posted shall be given to that news media. (See 5 ILCS 120/2.02(b).) The Executive Director shall maintain an updated list of all news media that have filed an annual request and shall be responsible for seeing that the news media receive the notices mandated by the Open Meetings Act and by this subsection (e)(3).

4) Regular Meetings. The Board shall hold regular meetings throughout the year, in accordance with a schedule developed by the Executive Director. Public notice shall be given of the schedule of regular meetings at the beginning of each fiscal or calendar year, stating the regular dates, times and places of each meeting.

A) Agenda of Regular Meetings. *An agenda for each regular meeting shall be posted* in accordance with subsection (e)(2) *at least 48 hours in advance of the holding of the meeting*. However, *this requirement shall not preclude the consideration of items not*

*specifically set forth in the agenda*. [5 ILCS 120/2.02(a)] Action may be taken on a non-agenda item only if germane to a subject on the agenda. The validity of an action that is germane to a subject on the agenda shall not be affected by other errors or omissions in the agenda.

B) Schedule of Regular Meetings. At the beginning of each calendar or fiscal year, the Executive Director shall prepare and make available a schedule of all regular meetings for the fiscal or calendar year, listing the times and places of the meetings.

C) Cancellation or Change in Regular Meeting Date. *If a regular meeting is cancelled or if a change is made in a regular meeting date, at least 10* calendar *days' notice of the change shall be given by publication in* the official State newspaper or *newspaper in general circulation in the area in which the Board functions. Notice of the change shall also be posted at the principal office of the Board. Notice of the change shall also be given to news media which has filed with the Executive Director an annual request for notice of meetings*. [5 ILCS 120/2.03] A regular meeting of the Board may be cancelled or changed by the Chair.

D) Change in Location. The Chair may change the location of any regular meeting. Notice of the change shall be given in the same manner as a cancellation or change in a regular meeting as set forth in subsection (e)(4)(C). If the location change is only a change in the room number of the same Public Building, then no notice is necessary other than a posted notice placed at the originally scheduled room no later than at the time of the beginning of the scheduled meeting.

5) Special Meetings. Special meetings may be called by the Chair or at the request of any 2 of the members. The Chair shall designate the location of the special meeting, which shall be in a Public Building in the State of Illinois. Public notice of any special meeting shall be given at least 48 hours before the meeting.

A) Agenda of Special Meetings. An agenda of a special meeting shall also be included with the public notice of such meeting. *However, the validity of any action taken by the Board that is germane to a subject on the agenda shall not be affected by other errors or omissions in the agenda*. [5 ILCS 120/2.02(a)]

B) News Media Notice. *Any news medium* that has filed an annual request for notice *shall be given the same notice of any special meeting in the same manner as is given to members of the Board, provided that the news medium has given the Executive Director an address or telephone number within Illinois at which the notice may be given*. [5 ILCS 120/2.02(b)]

6) Rescheduled or Reconvened Meetings. Public notice of any rescheduled or reconvened meeting shall be given at least 48 hours before the meeting.

A) Exception to Notice Requirement. *No public notice is required to be given of any reconvened meeting* when *the meeting was open to the public and either*:

i) *the meeting is to be reconvened within 24 hours; or*

ii) *an announcement of the time and place of the reconvened meeting is made at the original meeting and there is no change in the agenda.* [5 ILCS 120/2.02(a)]

B) Agenda of Rescheduled or Reconvened Meeting. An agenda of a rescheduled or reconvened meeting shall also be included with the public notice of the meeting. However, *the validity of any action taken by the Board that is germane to a subject on the agenda shall not be affected by other errors or omissions in the agenda*. [5 ILCS 120/2.02(a)]

C) News Medium Notice. *Any news medium that has filed an annual request for notice shall be given the same notice of any rescheduled or reconvened meeting in the same manner as is given to members of the Board, provided that the news medium has given the Executive Director an address or telephone number within* Illinois *at which the notice may be given*. [5 ILCS 120/2.02(b)]

7) Emergency Meeting. Any emergency meeting may be called by the Chair or by request of any 2 members. The Chair shall designate the location of the emergency meeting, which shall be in a Public Building in the State of Illinois. *Notice of an emergency meeting shall be given as soon as is practicable. In any event, prior to an emergency meeting being held, notice shall be given to any news medium that has filed an annual request for notice*. [5 ILCS 120/2.02(a)] *Any news medium* that *has filed an annual request for notice shall be given the same notice of any emergency meeting in the same manner as is given to members of the Board, provided that the news medium has given the Executive Director an address or telephone number within* Illinois *at which* the *notice may be given*. [5 ILCS 120/2.02(b)]

f) Recording of Meeting

1) *Any person may record by tape, film or other means the proceedings at* any open *meeting*, provided oral or written notice is given to the Executive Director or the Chair prior to the start of the meeting. Recording the proceedings shall be subject to the provisions of subsection (f)(2) and *the provisions of Section 8-701 of the Code of Civil Procedure* [735 ILCS 120/8-701]. [5 ILCS 120/2.05] If notice has been given to the Executive Director or the Chair that a person will be recording the proceedings, the Executive Director or the Chair shall announce at the time the meeting is called to order that notice has been received that the proceedings of the meeting are being recorded.

2) *If any witness at any meeting required to be open under the Open Meetings Act refuses to testify on the grounds that he or she may not be compelled to testify if any portion of his or her testimony is to be broadcast or televised or if motion pictures are to be taken, then the authority holding the meeting shall prohibit any such recording during the testimony of the witness. Nothing in this* subsection (f) *shall be construed to extend the right to refuse to testify at any meeting not subject to the provisions of Section 8-701 of the Code of Civil Procedure*. [5 ILCS 120/2.05]

3) All regular and special meeting of the Board are open to the public.

A) An individual, group of individuals, or organization requesting to address the Board shall place their request with the Executive Director prior to the meeting.

B) The chair shall recognize the individuals, groups or organizations at the appropriate time on the agenda.

C) Members of the public are requested to introduce themselves and state who they are representing, if anyone.

D) A limit of 10 minutes will be allotted once per meeting for presentation to the Board. The Board may allot more time, ask questions, or begin discussion of the issue presented.

g) Closed Meetings

1) Subject. The Board may hold closed meetings to consider subjects set forth in Section 2(c) of the Open Meetings Act, including but not limited to:

A) *The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the Board, including hearing testimony on a complaint lodged against an employee to determine its validity* [5 ILCS 120/2(c)(1)];

B) *Collective negotiating matters between the Board and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees* [5 ILCS 120/2(c)(2)];

C) The purchase or lease or sale of real property owned by the Board or being sought for the use of the Board and the setting of the sale or rent amount;

D) Emergency *security procedures and the use of personnel and equipment to respond to actual danger to the safety of employees, staff, or public property*, provided that a description of the actual danger shall be made a part of the motion to close the meeting [5 ILCS 120/2(c)(8)];

E) *Litigation, when an action against, affecting or on behalf of the Board has been filed and is pending before a court or administrative tribunal, or when the Board finds that an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting* [5 ILCS 120/2(c)(11)];

F) *The classification and discussion of matters classified as confidential or continued confidential by the State Government Suggestion Award Board* (see 20 ILCS 405/405-130) [5 ILCS 120/2(c)(20)]; and

G) *Discussion of minutes of closed meetings, whether for purposes of approval by the Board of the minutes or for purposes of semiannual review of the minutes* [5 ILCS 120/2(c)(21)].

2) Procedure

A) Vote. Upon the majority vote of a quorum present of the Board at an open meeting, the Board may hold a meeting closed to the public or may close a portion of a meeting to the public. The motion to close a meeting, or a portion of a meeting, shall state a citation to the specific exemption set forth in Section 2 of the Open Meetings Act. The vote of each member shall be taken by roll call vote, shall be publicly disclosed, and shall be recorded and entered into the minutes of the meeting.

B) Subject. Only topics specified in the vote to close may be considered during the closed meeting.

C) Series of Meetings. *A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, provided each meeting in the series involves the same particular matters and is scheduled to be held within no more than 3 months after the vote*. [5 ILCS 120/2a]

h) Minutes of Meetings

PROCUREMENT POLICY BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Open Meetings

A) Content. The Board shall keep written minutes of all open meetings. The minutes shall include:

i) the date, time and place of the meeting;

ii) the members of the Board recorded as either present or absent, and whether the members were physically present or present by means of video or audio conference; and

iii) a summary of discussion on all matters proposed, deliberated or decided, and a record of any votes taken.

B) Public Inspection. The minutes of any open meeting shall be available for public inspection within 7 calendar days after the approval of the minutes by the Board.

C) Electronic Recording. An electronic recording may be taken of a meeting by the Board for the sole purpose of assisting in the preparation of accurate minutes of the meeting. The recording itself shall not be retained and is not intended to be kept as the official record of the meeting. The written minutes as approved by the members of the Board shall be the only official record of the meeting intended to be preserved. The electronic recording is only for temporary purposes and is not appropriate for presenting for purposes of the Illinois State Records Act [5 ILCS 160] or the Illinois Freedom of Information Act [5 ILCS 140].

2) Closed Meetings

A) Content. The Board shall keep both a verbatim recording and written minutes of all closed meetings. The minutes shall include:

i) the date, time and place of the meeting;

ii) the members of the Board recorded as either present or absent; and

iii) a summary of discussion on all matters proposed, deliberated or decided, and a record of any votes taken.

B) Public Inspection. The minutes of any closed meeting shall be available for public inspection only after the Board determines that it is no longer necessary to protect the public interest or the privacy of an individual by keeping the minutes confidential.

C) Semiannual Review. The Board shall semiannually review minutes of all closed meetings. At a meeting at which semiannual review occurs, a determination shall be made, and reported in an open session, that either:

i) *the need for confidentiality still exists as to all or a part of those minutes; or*

ii) *the minutes or portions thereof no longer require confidential treatment and are available for public inspection.* (See 5 ILCS 120/2.06.)

i) Voting
Voting at any open meeting shall be by voice vote. No secret ballot shall be utilized.

~~All hearings of the Board are open to the public. The Board will accept and consider written comments by members of the public prior to Board meetings, time permitting.~~

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

**Section 3002.500 Board Review**

a) *Reviews, Studies, and Hearings. The Board may review, study, and hold public hearings concerning the implementation and administration of* the *Code. Each Chief Procurement Officer, State Purchasing Officers* (SPO)*, Procurement Compliance Monitor* (PCM)*, and State agency shall cooperate with the Board, provide information to the Board, and be responsive to the Board in the Board's conduct of its reviews, studies, and hearings.* [30 ILCS 500/5-5(b-5)] The Board may request the CPO, SPO, PCM or State agency to provide existing documents or other information from its records relevant to the review or study. If such a

request is made, the CPO, SPO, PCM or State agency shall promptly, but in no event later than 7 calendar days after receipt of the request, provide to the Board, by electronic or other means satisfactory to the Board, documentation or other requested information in the possession of the CPO, SPO, PCM or State agency concerning the review or study. The Board may grant a time extension if requested in writing by the CPO, SPO, PCM or State agency.

b) The Board may conduct reviews of procurement policy requested by members of the public, State agencies and the General Assembly. Upon receipt of a request to conduct a review, the Board will respond to the requestor within 10 business days as to the disposition of the request. Procurement policy review requests should be addressed to Board members or the Executive Director. Each request for procurement policy review must include at a minimum:

1) The names and addresses of the persons or groups requesting the procurement policy review;

2) The specific issue related to the procurement review request;

3) The specific reasons the requestor believes that the Board should take action; and

4) Any additional facts or documentation necessary to assist the Board in its procurement policy review.

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

**Section 3002.510 Potential Conflict of Interest/Violation of the Procurement Code Review**

a) *A Chief Procurement Officer* (CPO) *or State Purchasing Officer* (SPO) *shall notify the Board if an alleged conflict of interest or violation of the Code is identified, discovered, or reasonably suspected to exist.*

1) The CPO or SPO shall notify the Board in writing, prior to contract execution. The notification shall contain the following information:

A) A statement of all relevant facts pertaining to the alleged conflict of interest or violation of the Code;

B) The conflict of interest review request form prescribed by the Board;

C) A statement of all conclusions relevant to the alleged conflict of interest or violation of the Code;

D) A copy of all relevant documents, including, but not limited to, the disclosure and conflict of interest documents filed by the vendor, related internal memorandums, all correspondence related to the potential conflict of interest, etc.; and

E) A copy of the contract, when a contract exists.

2) *A recommendation of the Board shall be delivered to the appropriate CPO and Executive Ethics Commission within 7 calendar days and must be published in the next volume of the Procurement Bulletin.*

3) *Any person or entity may notify the Board of an alleged conflict of interest or violation of the Code* pursuant to Section 3002.910.

4) *In the event that an alleged conflict of interest or violation of the Code that was not originally disclosed with the bid, offer, or proposal is identified and filed with the Board, the Board shall provide written notice of the alleged conflict of interest or violation to the bidder, offeror, potential contractor, contractor, or subcontractor on that contract* via the United States Postal Service. *If the alleged conflict of interest or violation is by the subcontractor, written notice shall also be provided to the bidder, offeror, potential contractor, or contractor* via the United States Postal Service. *The bidder, offeror, potential contractor, contractor, or subcontractor shall have 15 calendar days to provide a written response to the notice, and a hearing before the Board on the alleged conflict of interest or violation shall be held upon request by the bidder, offeror, potential contractor, contractor, or subcontractor. The requested hearing date and time shall be determined by the Board, but in no event shall the hearing occur later than 15 calendar days after the date of the request.* [30 ILCS 500/5-5(h)]

b) The Board shall forward its recommendations to void a contract, bid or offer to the Executive Director of the Executive Ethics Commission, the appropriate CPO,

and the appropriate Agency Director or Department Head within 7 calendar 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;

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; and

5) A copy of all documents relied upon by the Board in making its recommendation.

c) *The Executive Ethics Commission must hold a public hearing within 30 calendar days after receiving the Board's recommendation if the Procurement Policy Board makes a recommendation to void a contract or void a bid or offer and the CPO selected or intends to award the contract to the bidder, offeror or potential contractor. A CPO is prohibited from awarding a contract before a hearing if the Board recommendation does not support a bid or offer.* [30 ILCS 500/50-35(d)]

d) *After providing notice and a hearing as required by* this Section, *the Board shall refer any alleged violations of* the *Code to the Executive Inspector General in addition to or instead of issuing a recommendation to void a contract.* [30 ILCS 500/5-5(i)]

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

**Section 3002.600 Publication of Notices, Proposals and Action by the Board**

All notices, proposals and certificates of action issued by the Board shall be published on the Board's official website (http://ppb.illinois.gov)~~in the Illinois Procurement Bulletin as provided for in Section 15-10 of the Code [30 ILCS 500/15-10]~~.

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

**Section 3002.800 Rulemaking Requests~~Petition~~ to the Board by the Public**

Members of the public may request that~~petition~~ the Board adopt, modify~~for adoption, modification~~ or repeal ~~of the~~ rules of the Board as provided under Section 5-145 of the Act [5 ILCS 100/5-145]. The Board will consider these requests~~such petitions~~ and inform the requester~~petitioner~~ of the disposition of the request~~petition~~ in writing. These requests~~Such petitions~~ must be in writing and must contain the following information:

a) The names and addresses of the persons or groups presenting the request~~petition~~;

b) The specific rules of the Board that the requester~~petitioner~~ believes should be modified or repealed or the specific language the requester~~petitioner~~ believes should be adopted as a rule by the Board;

c) A description of the effect of the rules or lack of rules on the persons or groups presenting the request~~petition~~;

d) The specific reasons the requester~~petitioner~~ believes that the Board should take the rulemaking action; and

e) Any additional facts or documentation necessary to explain and support the request~~petition~~.

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

**Section 3002.900 ~~Submission of~~ Complaints from the Public**

Interested persons or groups may submit complaints to the Board. Complaints should be addressed to Board members or the Executive Director~~, Procurement Policy Board, 511 West Capitol, Suite 102, Springfield, Illinois 62704~~. Each complaint must include at a minimum:

a) The names and addresses of the persons or groups presenting the complaint;

b) The specific issue of the complaint;

c) The specific reasons the complainant believes that the Board should take action; and

d) Any additional facts or documentation necessary to explain and support the complaint.

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

**Section 3002.910 Submission of Comments, Alleged Conflicts of Interest, Rulemaking or Procurement Policy Review Requests or Complaints**

Comments, alleged conflicts of interest, rulemaking requests or complaints may be submitted via mail, e-mail, fax or hand delivery.

a) Mailed or hand delivered comments, alleged conflicts of interest, rulemaking requests or complaints should be sent to:

Procurement Policy Board
222 South College Street, Suite 231
Springfield IL 62704

b) E-mailed comments, alleged conflicts of interest, rulemaking requests or complaints should be sent to ppb@illinois.gov, contain the comment, alleged conflict of interest, rulemaking request or complaint in the body of the e-mail, and indicate in the subject line of the e-mail that it contains a comment, alleged conflict of interest, rulemaking request or complaint.

c) Faxed comments, alleged conflicts of interest, rulemaking requests or complaints should be faxed to 217/557-9927.

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

**Section 3002.1000 Obtaining Other Information**

Other information about the operation and programs of the Procurement Policy Board may be obtained by addressing specific questions to the Executive Director, Procurement Policy Board, 222 South College Street, Suite 231,~~511 West Capitol, Suite 102,~~ Springfield, Illinois 62704.

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

**Section 3002.1200 Coordination with Joint Committee, Administrative Code Division and**

**CPOs**

a) When the Board proposes or is required to review rules, it will do so prior to or contemporaneously with the Joint Committee, Administrative Code Division and CPO reviews in order to facilitate timely promulgation of the rules. Rules reviewed contemporaneously by the Board must be submitted to the Board no later than the time they are filed with the Secretary of State for First Notice publication. Proposed rules or amendments to rules are placed on the Board agenda for consideration by the Board. The Board may call representatives of the agency making the proposed rule amendments, the SPO or CPO to provide testimony. All agency representatives, SPOs and CPOs shall cooperate with the Board's request for information. At the hearing, the Board will vote on whether to object to the proposed rules and, following the vote, the Board will issue a certificate of objection/no objection to JCAR.

b) Proposed policies or amendments to current policies are placed on the Board agenda for consideration by the Board. The Board may call representatives of the agency making the proposed policy amendments, the SPO or CPO to provide testimony. All agency representatives, SPOs and CPOs shall cooperate with the Board's request for information. If the Board objects to the proposed policies or amendments, the CPO may submit revisions to the Board for reconsideration if necessary.

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

**Section 3002.1250 Small Purchases**

a) At the initiative of the Board, or at the request of one or more CPOs, the Board may by majority vote authorize the CPOs to promulgate rules to increase the small purchase thresholds for supplies, services other than for professional and artistic services, or construction. The Board may authorize different levels for different CPOs. Each CPO may promulgate rules to adopt an increase up to and including the levels authorized by the Board. When considering an increase, the Board shall take into account the impact on competition, efficiency and administrative and other costs. The current small purchase thresholds authorized by the Board are:

1) Commodities and Services: $50,000 (plus the annual change in the CPI-U)

2) Construction: $70,000 (plus the annual change in the CPI-U)

b) The current maximums are posted on the Board website (http://ppb.illinois.gov).

c) The small purchase maximum *for professional and artistic contracts that are nonrenewable and one year or less in duration is $19,999*. [30 ILCS 500/35-35(a)]

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

**Section 3002.1300 Proposed Contract Review**

As required by Section 5-30 of the Code, unless the Board waives the~~such~~ review, except for contracts entered into for small and emergency procurements and contracts for professional and artistic services that are nonrenewable, one year or less in duration, and have a value of less than $20,000, the~~certain~~ proposed contract~~State issued contracts~~ shall not be entered into until the Board's review of the contract during a 30-day contract review period beginning the date the notice of award or letting of the contract is published in the Illinois Procurement Bulletin. For the purposes of this Section, the letting of the contract or the notice of award is deemed to occur on the date of publication in the Illinois Procurement Bulletin. The Board shall use the following guidelines for conducting a review.

a) For each contract award the Board wishes to review, it shall state its policy concern or objective in writing and whether that~~such~~ concern or objective relates to the particular proposed contract or another issue under its procurement review authority.

b) The Board shall complete conflict of interest disclosures for all matters that it identifies for review.

c) The Board may request the agency~~Agency~~ to provide existing documents from its records relevant to the proposed contract and any policy determinations that guided the agency's~~Agency's~~ decision to enter into that contract. If such a request is made, *the contracting agency shall promptly, but in no event later than 7 calendar days after receipt of the request, provide to the Board, by electronic or other means satisfactory to the Board, documentation* or other requested information *in the possession of the contracting agency concerning the proposed contract.* [30 ILCS 500/5-30(a)]

d) In developing policy recommendations as part of its review, the Board may request information from industry experts. Requests may include, but are not limited to, market information, demonstration materials, analytical research, operational guidelines, and performance data. Until ~~such time as~~ the procurement process is complete and contract with the vendor signed, the Board shall obtain the written approval of the CPO~~chief procurement officer~~ before requesting information from vendors participating in the procurement process for the subject contract. After the contract with a vendor is signed, no approval from the CPO~~chief procurement officer~~ is required for the Board to request information from the vendors participating in that procurement. The Board shall notify the agency~~Agency~~ of these~~such~~ requests and~~,~~ allow the agency~~Agency~~ to provide additional information~~ and provide the Agency with copies of any records collected in this research~~.

e) As part of its review, the Board may conduct interviews, meetings, polling, or hearings to determine facts relevant to the review. No person participating in the Board's review shall publicly disclose confidential information regarding the procurement process or contract subject to review. The CPO~~chief procurement officer~~ shall~~may~~ provide ~~such~~ confidential information to the Board upon the Board establishing appropriate procedures to safeguard the confidentiality of the information. ~~If the Board wishes to interview any person involved in preparing or analyzing the bid or solicitation or any person responding to such bid or solicitation, it shall first obtain written approval from the chief procurement officer.~~ The Board will accept written documentation provided by participants of these events and reduce to writing all other information that is provided.

f) The Board shall make the agency~~Agency~~ aware of its findings prior to publication in the Procurement Bulletin. The agency~~Agency~~ shall be given the opportunity to respond prior to the Board's final determination and publishing.

g) The Board shall publish its final determination in the appropriate volume~~an edition~~ of the Procurement Bulletin upon conclusion of its review and on the Board's official website at http://ppb.illinois.gov.

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

**Section 3002.1400 Procurement Communications Reporting**

PROCUREMENT POLICY BOARD

NOTICE OF PROPOSED AMENDMENTS

As required by Section 50-39 of the Procurement Code, any State employee, as defined in 2 Ill. Adm. Code 1620.825(g), who receives a written or oral communication that imparts or requests material information or makes a material argument regarding potential action concerning a procurement matter, including, but not limited to, an application, a contract, or a project, shall report the communication to the ~~Procurement Policy~~ Board (with respect to the Illinois Power Agency, see subsection (b)). "Material" is defined by 2 Ill. Adm. Code 1620.825(b)(1).

a) As soon as is practicable, but in no event more than 30 calendar days after receipt of the communication or the first in a series of related communications~~Upon receipt of a communication~~ described in and required to be reported pursuant to 2 Ill. Adm. Code 1620.825, the State employee shall report the communication to the Procurement Policy Board using the electronic Procurement Communications Reporting System available ~~on the Procurement Policy Board's official website~~ at http://pcrs.illinois.gov. Reports shall ~~be filed monthly and~~ include at least the following:

1) the date and time of each communication;

2) the identity of each person from whom the written or oral communication was received, the individual or entity represented by that person, and any action that person requested or recommended;

3) the identity and job title of the person to whom each communication was made;

4) if a response is made, the identity and job title of the person making each response;

5) a detailed summary of the points made by each person involved in the communication;

6) the duration of the communication;

7) the location or locations of all persons involved in the communication and, if the communication occurred by telephone, the telephone numbers for the callers and recipients of the communication; and

8) any other pertinent information. No trade secrets or other proprietary or confidential information shall be included in any communication reported

to the Board. The ~~Procurement Policy~~ Board shall publish each report submitted to its website within 7 calendar days. A State employee who knowingly and intentionally violates this requirement shall be subject to suspension or discharge. If a violation is known or suspected, the ~~Procurement Policy~~ Board will turn each suspected report over to the Office of the Executive Inspector General.

b) Regarding communications received by a State employee of the Illinois Power Agency as defined in 2 Ill. Adm. Code 1620.826, as soon as is practicable, but in no event more than 30 calendar days after receipt of the communication or the first in a series of related communications described in subsection (c), the initiator of communications shall, and the recipient of the communication may, report the communication to the Board using the form prescribed by the Board available on the Board's official website (http://ppb.illinois.gov) under IPA Communications Reports. Reports shall include at least the items described in subsection (a).

c~~b~~) Any State employee engaging in material communication with a registered lobbyist shall make every attempt to obtain the written statement of the lobbyist regarding the communication that took place, as required by Section 50-39(c) of the Code. Executive Ethics Commission rule 2 Ill. Adm. Code 1620.825(b)(1) defines materiality. Should the lobbyist fail to provide the State employee with a written report within 30 calendar days, the employee shall attach a document stating the dates of attempted request for information and affirmation he/she made every attempt to obtain the required lobbyist report. This document shall be provided, in place of the lobbyist report required by Section 50-39(c) of the Code, to the Illinois Procurement Policy Board. Each State employee shall provide this form in portable document format (PDF) attached specifically to the lobbyist communication in question within the 30 day window following any communication with a registered lobbyist.

d) Reports shall be signed and may be submitted via mail, e-mail or fax or hand delivered.

1) Mailed or hand delivered reports shall be sent to:

Procurement Policy Board
222 South College Street, Suite 231
Springfield IL 62704

2) E-mailed requests shall be sent to ppb@illinois.gov and contain the report as an attachment to the e-mail and indicate in the subject line of the e-mail that it contains an IPA communication report.

3) Faxed reports shall be faxed to 217-557-9927.

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

**Section 3002.1500 Proposed Extension or Renewal Review**

As required by Section 20-60 of the Code, *the* CPO *shall file* certain *proposed extensions or renewals of a contract with the Board prior to entering into any extension or renewal if the cost associated with the extension or renewal exceeds $249,999. If the Board objects to the proposed extension or renewal within 30 calendar days* after publication of the notice of award or letting of the extension or renewal in the Illinois Procurement Bulletin, *a hearing before the Board must occur prior to entering into the extension or renewal*. The Board shall use the following guidelines for requiring a hearing before the Board. The Board may call representatives of the agency requesting the extension or renewal, the SPO or CPO to provide testimony. All agency representatives, SPOs and CPOs shall cooperate with the Board's request for information.

a) For each extension or renewal to which the Board objects, it shall state its policy concern or objective in writing and whether that concern or objective relates to the particular proposed extension or renewal or another issue under its procurement review authority.

b) The Board may request the agency to provide existing documents from its records relevant to the proposed contract and any policy determinations that guided the agency's decision to enter into that contract.

c) In developing policy recommendations as part of its review, the Board may request information from industry experts. Requests may include, but are not limited to, market information, demonstration materials, analytical research, operational guidelines, and performance data. The Board shall notify the agency of the requests and allow the agency to provide additional information.

d) As part of its review, the Board may conduct interviews, meetings, polling or hearings to determine facts relevant to the review. No person participating in the Board's review shall publicly disclose confidential information regarding the procurement process or contract subject to review. The CPO shall provide the

confidential information to the Board upon the Board establishing appropriate procedures to safeguard the confidentiality of the information. The Board will accept written documentation provided by participants of these events and reduce to writing all other information that is provided.

e) The Board shall make the agency aware of its findings prior to publication in the Procurement Bulletin. The agency shall be given the opportunity to respond prior to the Board's final determination and publishing.

f) The Board shall publish its final determination in the appropriate edition of the Procurement Bulletin and on the Board's official website (http://ppb.illinois.gov) upon conclusion of its review.

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

**Section 3002.1600 Proposed Lease Review**

a) Leases of 10,000 or More Square Feet or Annual Rent of $100,000 or More. As required by Section 40-20(e) of the Code, *upon receipt of any proposed lease* or lease renewal *of real property of 10,000 or more square feet or any proposed lease* or lease renewal *of real property with annual rent payments of $100,000 or more, the Board shall have 30 calendar days to review the proposed lease* or lease renewal. *If the Board does not object in writing within 30 calendar days, the proposed lease* or lease renewal *shall become effective according to its terms as submitted. The leasing agency shall make any and all materials available to the Board to assist in the review process*. For purposes of this Section, the filing of the lease with the Board is deemed to occur on the date of publication in the Illinois Procurement Bulletin. The leasing agency shall provide all required documentation to the Board prior to the publication of the award in the Bulletin.

1) For each lease or lease renewal to which the Board objects within 30 calendar days after publication of the notice in the Bulletin, it shall state its concern or objective in writing.

2) In developing policy recommendations as part of its review, the Board may request information from industry experts. Requests may include, but are not limited to, market information, demonstration materials, analytical research, operational guidelines, and performance data. The Board shall

notify the agency of the requests and allow the agency to provide additional information.

3) As part of its review, the Board may conduct interviews, meetings, polling or hearings to determine facts relevant to the review. No person participating in the Board's review shall publicly disclose confidential information regarding the procurement process or lease or lease renewal subject to review. The leasing agency shall provide the confidential information to the Board upon the Board establishing appropriate procedures to safeguard the confidentiality of the information. The Board will accept written documentation provided by participants of these events and reduce to writing all other information that is provided.

4) The agency shall be given the opportunity to submit to the Board revisions to the lease or lease renewal for reconsideration. The filing of the revisions is deemed to occur on the date of publication of the revisions in the Bulletin. The leasing agency shall provide all required documentation to the Board prior to publication in the Bulletin. If the Board does not object in writing to the revised lease or lease renewal within 30 calendar days, the proposed lease or lease renewal shall become effective according to its terms as submitted.

5) *An option to renew may be exercised only when a State Purchasing Officer determines in writing that:*

A) *renewal is in the best interest of the State; and*

B) *notice of the exercise of the option is published in the appropriate volume of the Procurement Bulletin at least 60 days prior to the exercise of the option.* [30 ILCS 500/40-25(b)]

b) All leases of less than 10,000 square feet with annual rent of less than $100,000, including leases of less than one year that cannot be renewed and leases for specialized space available at only one location, shall be reviewed under Section 5-30 of the Code and Section 3002.1300 of this Part.

c) Extension of a lease in lieu of award by the request for information process may occur *provided that:*

1) *the* CPO *determines in writing that the renewal or extension is in the best interest of the State;*

2) *the* CPO *submits his or her written determination*, any other required documentation, and the *renewal or extension to the Board* prior to publication in the Procurement Bulletin;

3) *the Board does not object in writing to the renewal or extension within 30 calendar days after its submission; and*

4) *the* CPO *publishes the renewal or extension in the appropriate volume of the Procurement Bulletin.* [30 ILCS 500/40-15(b)(5)] The leasing agency shall provide all required documentation to the Board prior to the publication of the award in the Bulletin.

d) Renewal of leases of less than 10,000 square feet with annual rent of less than $100,000 shall be reviewed under Section 5-30 of the Code and Section 3002.1300 of this Part provided that:

1) *the State Purchasing Officer determines in writing that renewal is in the best interest of the State; and*

2) *notice of the exercise of the option is published in the appropriate volume of the Procurement Bulletin at least 60 days prior to the exercise of the option.* [30 ILCS 500/40-25(b)]

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

**Section 3002.1700 Professional Development and Training**

As required by Section 5-5(b) of the Code, *the Board shall also have the authority to recommend a program for professional development and provide opportunities for training in procurement practices and policies to CPOs and their staffs in order to ensure that all procurement is conducted in an efficient, professional, and appropriately transparent manner.* Contingent on available funds, the Board shall coordinate training and will notify the CPOs and their staffs when training is available. The Board may also make the training available to agency procurement staff as funds allow.

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Motor Vehicle Accident Prevention Courses For Liability Insurance Premium Reduction

2) Code Citation: 50 Ill. Adm. Code 8000

3)

| Section Number: | Proposed Action: |
|---|---|
| 8000.40 | Amendment |

4) Statutory Authority: 215 ILCS 5/143.29

5) A Complete Description of the Subjects and Issues Involved: This rulemaking will allow the Secretary of State to approve an instructor for a motor vehicle accident prevention course if the instructor had a lapse in their driver's license for a period of less than 30 days. Similar provisions are already in place for applicants to drive a school bus, senior transport vehicle or religious organization vehicle.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this proposed rulemaking replace an emergency rule currently in effect? No

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

9) Does this rulemaking contain incorporations by reference? No

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

| Section Number: | Proposed Action: | *Illinois Register* Citation: |
|---|---|---|
| 8000.30 | Amendment | 39 Ill. Reg. 9915; July 17, 2015 |

11) Statement of Statewide Policy Objective: The rulemaking will not create or enlarge a State mandate.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Text of the prepared amendments is posted on the Secretary of State's website, www.sos.il.us/departments/index/home as part of the Illinois Register. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

Jennifer Egizii
Office of the Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield IL 62723

217/557-4462

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because the need for this rulemaking was not anticipated at the time the agendas were prepared.

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

TITLE 50: INSURANCE
CHAPTER IV: SECRETARY OF STATE

PART 8000
MOTOR VEHICLE ACCIDENT PREVENTION COURSES
FOR LIABILITY INSURANCE PREMIUM REDUCTION

Section
8000.10 Introduction
8000.20 Course and Sponsoring Agency Approval
8000.30 Delivery Agency Approval
8000.40 Course Instructor Approval
8000.50 Retroactive Approval
8000.60 Denial, Suspension, and Withdrawal of Approval - Hearing
8000.70 Sponsoring Agency Course Administration
8000.80 Delivery Agency Course Administration
8000.90 Course Advertising
8000.100 Records of Certification of Course Completion

AUTHORITY: Implementing and authorized by Section 143.29 of the Illinois Insurance Code [215 ILCS 5/143.29].

SOURCE: Adopted at 6 Ill. Reg. 7480, effective July 1, 1982; amended and codified at 7 Ill. Reg. 9928, effective August 3, 1983; amended at 8 Ill. Reg. 23717, effective November 28, 1984; amended at 39 Ill. Reg. _____, effective _____.

**Section 8000.40 Course Instructor Approval**

All instructors must be approved by the Program Administrator prior to their conducting an approved course.

a) In order to be approved, an instructor must:

1) have the delivery agency submit to the Program Administrator a completed application on a form prescribed by the Secretary. The~~Such~~ application shall certify that the instructor has successfully completed the sponsoring agency's instructor preparation course and has been approved by the~~such~~ agency as an instructor of the approved course and shall certify that the instructor has experience in communication skills, working

knowledge of curriculum topics, ability to organize material for presentation and ability to make accurate assessments of driving attitude and behavior; and

2) have held a valid driver's~~drivers~~ license for a period of at least two ~~(2)~~ consecutive years immediately prior to the date of application. A lapse in the renewal of the driver's license of 30 days or less shall not render the applicant ineligible. The Secretary of State may, in his or her discretion, grant a waiver for a lapse in the renewal of the driver's license in excess of 30 days. An instructor's driving privileges must not have been suspended or revoked for one ~~(1)~~ or more traffic violations within the past seven ~~(7)~~ years.

b) An instructor's approval must be renewed every two ~~(2)~~ years by having the delivery agency submit a completed application for approval to the Program Administrator.

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Issuance of Licenses

2) Code Citation: 92 Ill. Adm. Code 1030

3)

| Section Number: | Proposed Action: |
|---|---|
| 1030.22 | Amendment |

4) Statutory Authority: 625 ILCS 5/6-521

5) A Complete Description of the Subjects and Issues Involved: The Federal Motor Carrier Safety Administration has amended the federal rule that requires CDL holders operating in non-excepted interstate commerce to obtain a medical examiner's certificate. These CDL holders now may only be examined by and obtain a medical examiner's certificate from physicians listed on the National Registry of Certified Medical Examiners. The physician's national registry number must be included on the medical examiner's certificate submitted to the Secretary of State.

The rule also adds a "K" restriction, which alerts truck enforcement inspectors and law enforcement that the driver is authorized to operate a commercial motor vehicle intrastate only.

This rulemaking also sets forth the process to be used if the Department receives notification from a medical examiner or the Federal Motor Carrier Safety Administration that a medical certificate or information used to obtain a medical certificate is fraudulent.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this proposed rulemaking replace an emergency rule currently in effect? No

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

9) Does this rulemaking contain incorporations by reference? No

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

| Section Numbers: | Proposed Actions: | *Illinois Register* Citation: |
|---|---|---|
| 1030.1 | Amendment | 39 Ill. Reg. 8773; June 26, 2015 |
| 1030.16 | Amendment | 39 Ill. Reg. 8773; June 26, 2015 |

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

| | | |
|---|---|---|
| 1030.150 | New Section | 39 Ill. Reg. 8773; June 26, 2015 |
| 1030.85 | Amendment | 39 Ill. Reg. 11889; August 28, 2015 |

11) Statement of Statewide Policy Objective: The rulemaking will not create or enlarge a State mandate.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Text of the prepared amendments is posted on the Secretary of State's website, www.sos.il.us/departments/index/home as part of the Illinois Register. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Jennifer Egizii
Office of the Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield IL 62723

217/557-4462

13) Initial Regulatory Flexibility Analysis:

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

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

iii) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because the need for this rulemaking was not anticipated at the time the agendas were prepared.

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1030
ISSUANCE OF LICENSES


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

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

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

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

SOURCE: Filed March 30, 1971; amended at 3 Ill. Reg. 7, p. 13, effective April 2, 1979; amended at 4 Ill. Reg. 27, p. 422, effective June 23, 1980; amended at 6 Ill. Reg. 2400, effective

February 10, 1982; codified at 6 Ill. Reg. 12674; amended at 9 Ill. Reg. 2716, effective February 20, 1985; amended at 10 Ill. Reg. 303, effective December 24, 1985; amended at 10 Ill. Reg. 15130, effective September 2, 1986; amended at 10 Ill. Reg. 18182, effective October 14, 1986; amended at 11 Ill. Reg. 9331, effective April 28, 1987; amended at 11 Ill. Reg. 18292, effective October 23, 1987; amended at 12 Ill. Reg. 3027, effective January 14, 1988; amended at 12 Ill. Reg. 13221, effective August 1, 1988; amended at 12 Ill. Reg. 16915, effective October 1, 1988; amended at 12 Ill. Reg. 19777, effective November 15, 1988; amended at 13 Ill. Reg. 5192, effective April 1, 1989; amended at 13 Ill. Reg. 7808, effective June 1, 1989; amended at 13 Ill. Reg. 12880, effective July 19, 1989; amended at 13 Ill. Reg. 12978, effective July 19, 1989; amended at 13 Ill. Reg. 13898, effective August 22, 1989; amended at 13 Ill. Reg. 15112, effective September 8, 1989; amended at 13 Ill. Reg. 17095, effective October 18, 1989; amended at 14 Ill. Reg. 4570, effective March 8, 1990; amended at 14 Ill. Reg. 4908, effective March 9, 1990; amended at 14 Ill. Reg. 5183, effective March 21, 1990; amended at 14 Ill. Reg. 8707, effective May 16, 1990; amended at 14 Ill. Reg. 9246, effective May 16, 1990; amended at 14 Ill. Reg. 9498, effective May 17, 1990; amended at 14 Ill. Reg. 10111, effective June 11, 1990; amended at 14 Ill. Reg. 10510, effective June 18, 1990; amended at 14 Ill. Reg. 12077, effective July 5, 1990; amended at 14 Ill. Reg. 15487, effective September 10, 1990; amended at 15 Ill. Reg. 15783, effective October 18, 1991; amended at 16 Ill. Reg. 2182, effective January 24, 1992; emergency amendment at 16 Ill. Reg. 12228, effective July 16, 1992, for a maximum of 150 days; emergency expired on December 13, 1992; amended at 16 Ill. Reg. 18087, effective November 17, 1992; emergency amendment at 17 Ill. Reg. 1219, effective January 13, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2025, effective February 1, 1993; amended at 17 Ill. Reg. 7065, effective May 3, 1993; amended at 17 Ill. Reg. 8275, effective May 24, 1993; amended at 17 Ill. Reg. 8522, effective May 27, 1993; amended at 17 Ill. Reg. 19315, effective October 22, 1993; amended at 18 Ill. Reg. 1591, effective January 14, 1994; amended at 18 Ill. Reg. 7478, effective May 2, 1994; amended at 18 Ill. Reg. 16457, effective October 24, 1994; amended at 19 Ill. Reg. 10159, effective June 29, 1995; amended at 20 Ill. Reg. 3891, effective February 14, 1996; emergency amendment at 20 Ill. Reg. 8358, effective June 4, 1996, for a maximum of 150 days; emergency amendment repealed in response to an objection of the Joint Committee on Administrative Rules at 20 Ill. Reg. 14279; amended at 21 Ill. Reg. 6588, effective May 19, 1997; amended at 21 Ill. Reg. 10992, effective July 29, 1997; amended at 22 Ill. Reg. 1466, effective January 1, 1998; emergency amendment at 23 Ill. Reg. 9552, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13947, effective November 8, 1999; amended at 24 Ill. Reg. 1259, effective January 7, 2000; emergency amendment at 24 Ill. Reg. 1686, effective January 13, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 6955, effective April 24, 2000; emergency amendment at 24 Ill. Reg. 13044, effective August 10, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18400, effective December 4, 2000; amended at 25 Ill. Reg. 959, effective January 5, 2001; amended at 25 Ill. Reg. 7742, effective June 5, 2001; amended at 25 Ill. Reg. 12646, effective September 24, 2001; emergency

amendment at 25 Ill. Reg. 12658, effective September 24, 2001, for a maximum of 150 days; emergency expired February 20, 2002; amended at 26 Ill. Reg. 9961, effective June 24, 2002; amended at 27 Ill. Reg. 855, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 7340, effective April 14, 2003, for a maximum of 150 days; emergency expired September 10, 2003; emergency amendment at 27 Ill. Reg. 16968, effective October 17, 2003, for a maximum of 150 days; emergency expired March 14, 2004; emergency amendment at 28 Ill. Reg. 384, effective January 1, 2004, for a maximum of 150 days; emergency expired May 29, 2004; amended at 28 Ill. Reg. 8895, effective June 14, 2004; amended at 28 Ill. Reg. 10776, effective July 13, 2004; amended at 29 Ill. Reg. 920, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2469, effective January 31, 2005, for a maximum of 150 days; emergency expired June 29, 2005; amended at 29 Ill. Reg. 9488, effective June 17, 2005; amended at 29 Ill. Reg. 12519, effective July 28, 2005; amended at 29 Ill. Reg. 13237, effective August 11, 2005; amended at 29 Ill. Reg. 13580, effective August 16, 2005; amended at 30 Ill. Reg. 910, effective January 6, 2006; amended at 30 Ill. Reg. 5621, effective March 7, 2006; amended at 30 Ill. Reg. 11365, effective June 15, 2006; emergency amendment at 30 Ill. Reg. 11409, effective June 19, 2006, for a maximum of 150 days; emergency expired November 15, 2006; amended at 31 Ill. Reg. 4782, effective March 12, 2007; amended at 31 Ill. Reg. 5096, effective March 15, 2007; amended at 31 Ill. Reg. 5864, effective March 29, 2007; amended at 31 Ill. Reg. 6370, effective April 12, 2007; amended at 31 Ill. Reg. 7643, effective May 16, 2007; amended at 31 Ill. Reg. 11342, effective July 18, 2007; amended at 31 Ill. Reg. 14547, effective October 9, 2007; amended at 31 Ill. Reg. 14849, effective October 22, 2007; amended at 31 Ill. Reg. 16543, effective November 27, 2007; amended at 31 Ill. Reg. 16843, effective January 1, 2008; emergency amendment at 32 Ill. Reg. 208, effective January 2, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 6544, effective April 4, 2008; amended at 33 Ill. Reg. 2391, effective January 21, 2009; amended at 33 Ill. Reg. 8489, effective June 5, 2009; amended at 33 Ill. Reg. 9794, effective June 29, 2009; amended at 33 Ill. Reg. 11620, effective July 22, 2009; amended at 33 Ill. Reg. 14185, effective September 28, 2009; amended at 34 Ill. Reg. 563, effective December 22, 2009; amended at 34 Ill. Reg. 9457, effective June 23, 2010; amended at 34 Ill. Reg. 15418, effective September 22, 2010; amended at 34 Ill. Reg. 19071, effective November 22, 2010; amended at 35 Ill. Reg. 2197, effective January 21, 2011; amended at 35 Ill. Reg. 4692, effective March 3, 2011; amended at 35 Ill. Reg. 19664, effective November 23, 2011; amended at 36 Ill. Reg. 3924, effective February 27, 2012; amended at 36 Ill. Reg. 7255, effective April 26, 2012; amended at 36 Ill. Reg. 14755, effective September 18, 2012; amended at 37 Ill. Reg. 7776, effective May 22, 2013; amended at 37 Ill. Reg. 14176, effective September 1, 2013; amended at 37 Ill. Reg. 19342, effective November 28, 2013; amended at 38 Ill. Reg. 7946, effective March 28, 2014; emergency amendment at 38 Ill. Reg. 8429, effective April 4, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 12515, effective July 1, 2014; amended at 38 Ill. Reg. 16366, effective July 21, 2014; amended at 38 Ill. Reg. 20039, effective October 1, 2014; amended at 39 Ill. Reg. 1182, effective January 5, 2015; amended at 39 Ill.

Reg. 5083, effective March 23, 2015; amended at 39 Ill. Reg. 8028, effective May 21, 2015; amended at 39 Ill. Reg. 11531, effective July 28, 2015; amended at 39 Ill. Reg. _____, effective _____.

**Section 1030.22 Medical Examiner's Certificate – CLP or CDL Holders**

a) Every person who holds a CLP or CDL must meet the requirements set forth in 49 CFR 383.71(a)(2) through (a)(9) and (h) (October 1, 2014) and self-certify with the Department as ~~Departmentas~~ one of the following:

1) Non-excepted interstate (NI) – Operates or expects to operate in interstate commerce, is both subject to and meets the qualification requirements under 49 CFR 391 (2011), and is required to obtain a medical examiner's certificate by 49 CFR 391.45 (October 1, 2014);

2) Excepted interstate (EI) – Operates or expects to operate in interstate commerce, but engages exclusively in transportation or operations excepted under 49 CFR 390.3(f), 391.2, 391.68 or 398.3 (October 1, 2014) from all or parts of the qualification requirements of 49 CFR 391 (October 1, 2014), and is therefore not required to obtain a medical examiner's certificate by 49 CFR 391.45 (October 1, 2014);

3) Non-excepted intrastate (NA) – Operates or expects to operate only in intrastate commerce and is both subject to and meets the qualification requirements under 49 CFR 391 (October 1, 2014), as incorporated by reference at 92 Ill. Adm. Code 391.2000, and is required to obtain a medical examiner's certificate by 49 CFR 391.45 (October 1, 2014). (See 92 Ill. Adm. Code 391.2000(c) for intrastate exceptions.); or

4) Excepted intrastate (EA) – Operates in intrastate commerce, but engages exclusively in transportation or operations excepted from all or parts of the State driver qualification requirements and is therefore not required to obtain a medical examiner's certificate by 49 CFR 391.45 (October 1, 2014).

b) Every applicant for a CLP or CDL, including a renewal and upgraded CLP or CDL, must self-certify as set forth in subsection (a).

c) Failure, by a current CDL holder, to self-certify with the Department by January 30, 2014 will result in the cancellation of the CDL privileges.

d) Pursuant to 49 CFR 383.73(a)(5) (October 1, 2014), the Department shall require a CLP or CDL holder to submit a medical examiner's certificate when the driver self-certifies to non-excepted interstate (NI) driving operations (see subsection (a)(1)).

e) Intrastate drivers subject to subsection (a)(3) are not required to submit a medical examiner's certificate to the Secretary when the driver self-certifies to NA driving privileges.

f) The medical examiner's certificate must be submitted on a form approved by the Department and contain the following information:

1) Signature of medical examiner;

2) Medical examiner's telephone number;

3) Date of issuance of the medical examiner's certificate;

4) Medical examiner's full name;

5) Medical examiner's specialty;

6) Medical examiner's license/certificate number and issuing state;

7) Driver's signature;

8) Driver's license number and issuing state;

9) Driver's residence address;

10) Expiration date of the medical examiner's certificate;

11) Medical Examiner's National Registry Number.~~If the driver changes self-certification status after the original certification, the medical examiner's certificate must also contain the following information:~~

~~A) Self-certification of driver;~~

~~B) Driver's signature and date of self-certification;~~

g) The Department shall require a CLP or CDL holder to submit a medical variance when the medical examiner's certificate indicates a medical variance is required.

h) Within 10 calendar days after the receipt of a medical examiner's certificate, medical variance or notification from FMCSA that a medical variance was removed or rescinded, the Department shall update the CDLIS driver record.

i) If the Department receives notification that a CLP or CDL holder has been granted a medical variance and the most recent medical certificate on file with the Department does not contain a medical variance, the CLP or CDL holder shall be required to submit a current medical examiner's certificate reflecting the variance and to appear at a CDL facility to have a corrected CLP or CDL issued. If, within 20 days after notification by the Department, the CLP or CDL holder fails to submit an updated medical examiner's certificate or to have a corrected CLP or CDL issued, the driver's CLP or CDL privileges will be cancelled pursuant to IVC Section 6-201(a)(12).

j) All CLP or CDL holders who have certified to non-excepted interstate (NI) driving must maintain on file with the Department a current medical examiner's certificate and, if applicable, a medical variance.

1) The Department shall notify the driver in writing at least 90 days prior to the expiration of his or her medical examiner's certificate and/or medical variance that a new certificate and/or variance must be filed with the Department. ~~The notice may include a blank medical examiner's certificate.~~

2) The Department shall, within 10 days after the expiration of the driver's medical examiner's certificate and/or medical variance, update the medical certification status to "not certified".

3) Failure of the CLP or CDL holder to submit a new medical examiner's certificate and/or medical variance within 30 days after the expiration date of the most recent medical examiner's certificate and/or medical variance

on file will result in the cancellation of the CLP or CDL privileges pursuant to IVC Section 6-201(a)(12).

A) The cancellation shall take effect on the 31st day after the expiration of the medical examiner's certificate and/or medical variance.

B) The cancellation order shall remain in effect until the driver:

i) Provides a current and completed medical examiner's certificate and, if applicable, a medical variance; or

ii) Appears at a CDL facility, downgrades to a non-CDL license and has a corrected driver's license issued; or

iii) Changes the self-certification to excepted interstate, excepted intrastate or non-excepted intrastate.

4) If the commercial driving privileges are cancelled and a current and completed medical examiner's certificate and/or medical variance is subsequently received, the cancellation shall be rescinded.

k) If the Department receives notification from FMCSA that it has removed or rescinded a medical variance, the Department shall change the medical certification status to "not certified" on the CDLIS driving record and immediately cancel the CLP or CDL privileges.

1) The Department shall notify the driver that one of the following requirements must be met in order to clear the cancellation:

A) Provide a current and completed medical examiner's certificate that indicates a variance is no longer necessary; or

B) Appear at a CDL facility, downgrade to a non-CDL license and have a corrected driver's license issued; or

C) Change self-certification to excepted interstate, excepted intrastate or non-excepted intrastate.

2) If the commercial driving privileges are cancelled and a current and completed medical examiner's certificate and medical variance is subsequently received, the cancellation shall be rescinded.

l) If the Department receives notification from FMCSA that it has removed or rescinded a medical examiner's certificate, the Department shall change the medical certification status to "not certified" on the CDLIS driving record and immediately cancel the CLP or CDL privileges.

1) The Department shall notify the driver that one of the following requirements must be met in order to clear the cancellation:

A) Provide a current and completed medical examiner's certificate; or

B) Appear at a CDL facility, downgrade to a non-CDL license and have a corrected driver's license issued; or

C) Change self-certification to excepted interstate, excepted intrastate or non-excepted intrastate.

2) If the commercial driving privileges are cancelled and a current and completed medical examiner's certificate and, if applicable, medical variance is subsequently received, the cancellation shall be rescinded.

m) The Department shall not accept an incomplete medical examiner's certificate. If a driver submits an incomplete medical examiner's certificate, the Department shall notify the driver, in writing, that the submitted medical examiner's certificate was incomplete and direct the driver to provide a completed medical examiner's certificate. Failure of the CLP or CDL holder to submit a completed medical examiner's certificate to the Department within 30 days will result in the cancellation of the CLP or CDL privileges pursuant to IVC Section 6-201(a)(12). ~~The cancellation order shall take effect on the 31st day and shall remain in effect until the driver:~~

1) The cancellation order shall take effect on the 31st day and shall remain in effect until the driver:

A)~~1)~~ Provides a current and completed medical examiner's certificate and, if applicable, a medical variance; or

B)~~2)~~ Appears at a CDL facility, downgrades to a non-CDL license and has a corrected driver's license issued; or

C)~~3)~~ Changes the self-certification to excepted interstate, excepted intrastate or non-excepted intrastate.

2) If the commercialcial driving privileges are cancelled and a current and completed medical examiner's certificate and, if applicable, medical variance are subsequently received, the cancellation shall be rescinded.

n) The Department shall require a CLP or CDL holder to obtain a corrected driver's license with a restriction if the CLP or CDL holder submits a medical examiner's certificate that indicates the driver is medically approved to operate a CMV conditioned upon a restriction.

1) Failure to appear at a CDL facility within 20 days to add the proper restriction to the CLP or CDL and pay the appropriate fee for a corrected driver's license will result in the cancellation of CLP or CDL privileges pursuant to IVC Section 6-201(a)(11).

2) If the CLP or CDL privileges are canceled and the driver subsequently appears at a CDL facility, has the restriction added to the driver's license and has a corrected CLP or CDL issued, the cancellation shall be cleared.

o) If the Department receives notification from a medical examiner or FMCSA that a medical certificate or information used to obtain a medical certificate is fraudulent, the Department shall change the medical certification status to "not certified" on the CDLIS driving record and immediately cancel the CDL privileges.

1) The Department shall notify the driver that one of the following requirements must be met in order to clear the cancellation:

A) Provide a current and completed medical examiner's certificate; or

B) Appear at a CDL facility, downgrade to a non-CDL license and have a corrected driver's license issued.

2) If the commercial driving privileges are cancelled and the driver appears at a CDL facility to downgrade to a non-CDL, the cancellation shall be cleared.

3) If the commercial driving privileges are cancelled and a subsequent current and completed medical examiner's certificate is subsequently received, an investigation shall be conducted to determine the authenticity of the subsequent medical certificate. Upon conclusion of the investigation, if it is determined that the subsequent medical certificate is authentic and is not based on any fraudulent information, and that the driver is medically fit to operate a commercial motor vehicle, the cancellation shall be cleared. If the investigation concludes the subsequent medical certificate is not authentic or was based on fraudulent information, or the driver is not medically fit to operate a commercial motor vehicle, the cancellation shall stand and the Department shall review the case for fraud sanctions.

p) Effective July 14, 2014, every person who holds a CLP or CDL and has self-certified to NA or EA operations must have a K restriction on his or her driver's license/driving record, in accordance with Section 1030.92.

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: General Provisions

2) Code Citation: 23 Ill. Adm. Code 2700

3) Section Number: 2700.60 Proposed Action: Amendment

4) Statutory Authority: Implementing the Higher Education Student Assistance Act [110 ILCS 947]; Title IV of the Higher Education Act of 1965, as amended (20 USC 1070 et seq., as amended by P.L. 105-244); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)]

5) A Complete Description of the Subjects and Issues Involved: ISAC seeks to allow the audits to be scheduled using a risk based approach and considering available resources.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

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

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

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

Deerfield IL 60015

847/948-8500, ext. 18032
email: lynn.hynes@isac.illinois.gov
fax: 847-831-8299

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 2015

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2700
GENERAL PROVISIONS

Section
2700.10 Summary and Purpose
2700.15 Incorporations by Reference
2700.20 Definitions
2700.30 General Institutional Eligibility Requirements
2700.40 General Applicant Eligibility Requirements
2700.50 Determining Applicant Eligibility
2700.55 Use, Security and Confidentiality of Information
2700.60 Audits and Investigations
2700.70 Appeal Procedures
2700.80 Contractual Agreement Requirements

AUTHORITY: Implementing the Higher Education Student Assistance Act [110 ILCS 947]; Title IV of the Higher Education Act of 1965, as amended (20 USC 1070 et seq., as amended by P.L. 105-244); and authorized by Section 20(f) of the Higher Education Student Assistance Act [110 ILCS 947/20(f)].

SOURCE: Adopted at 9 Ill. Reg. 20783, effective January 1, 1986; amended at 11 Ill. Reg. 3167, effective January 29, 1987; amended at 11 Ill. Reg. 14099, effective August 10, 1987; amended at 12 Ill. Reg. 11510, effective July 1, 1988; amended at 13 Ill. Reg. 8626, effective July 1, 1989; transferred from Chapter IX, 23 Ill. Adm. Code 1700 (State Scholarship Commission) to Chapter XIX, 23 Ill. Adm. Code 2700 (Illinois Student Assistance Commission) pursuant to P.A. 86-168, effective July 1, 1989, at 13 Ill. Reg. 17854; amended at 14 Ill. Reg. 10538, effective July 1, 1990; amended at 16 Ill. Reg. 11206, effective July 1, 1992; amended at 17 Ill. Reg. 10541, effective July 1, 1993; amended at 18 Ill. Reg. 10282, effective July 1, 1994; amended at 19 Ill. Reg. 8343, effective July 1, 1995; amended at 20 Ill. Reg. 9170, effective July 1, 1996; amended at 21 Ill. Reg. 11066, effective July 18, 1997; amended at 22 Ill. Reg. 11072, effective July 1, 1998; amended at 23 Ill. Reg. 7550, effective July 1, 1999; amended at 24 Ill. Reg. 9121, effective July 1, 2000; amended at 25 Ill. Reg. 8383, effective July 1, 2001; amended at 26 Ill. Reg. 9980, effective July 1, 2002; amended at 27 Ill. Reg. 10320, effective July 1, 2003; amended at 29 Ill. Reg. 9884, effective July 1, 2005; amended at 30 Ill. Reg. 11600, effective July 1, 2006; amended at 31 Ill. Reg. 9478, effective July 1, 2007; amended at 32 Ill. Reg.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

10269, effective July 1, 2008; amended at 33 Ill. Reg. 9742, effective July 1, 2009; amended at 34 Ill. Reg. 8543, effective July 1, 2010; amended at 37 Ill. Reg. 9497, effective July 1, 2013; amended at 38 Ill. Reg. 13356, effective July 1, 2014; amended at 39 Ill. Reg. 8390, effective July 1, 2015; amended at 39 Ill. Reg. _____, effective _____.

**Section 2700.60 Audits and Investigations**

a) ISAC shall audit participating institutions of higher learning. All postsecondary ~~Postsecondary~~ institutions participating in ISAC gift assistance programs shall be audited for compliance with ISAC administered gift assistance programs on a schedule that is determined based on a risk assessment and the availability of ISAC resources. The factors used to determine when a review will be scheduled may include, but are not limited to, the following: dollar amounts awarded to the school for ISAC gift assistance programs, time elapsed since the last ISAC review, the institution's external or internal audit findings in the area of financial aid administration, ED findings or issues noted, results of investigations conducted by parties such as Inspectors General or Attorneys General, substantial increases in students awarded ISAC gift assistance, evidence that the institution is experiencing difficulty meeting the requirements of ISAC's rules or federal regulations, or issues in past audits conducted by ISAC~~once every three years (schedule permitting) unless more frequent audits appear to be necessary due to circumstances such as: substantial increases in student enrollment, evidence that the institution is experiencing difficulty meeting the requirements of ISAC's rules or federal regulations, or discrepancies in past audits conducted by ISAC~~. Secondary institutions may be audited when ISAC has a complaint indicating an audit is appropriate. Audits shall usually be announced, but ISAC reserves the right to make unannounced audits.

b) ISAC shall have access to all records related to ISAC programs. These records include, but are not limited to: admission records, financial records, registration records, attendance and enrollment records, financial aid transcripts, grades, academic transcripts and records maintained in accordance with ED verification procedures.

c) ~~ISAC audits shall be conducted in accordance with generally accepted audit standards as promulgated by the U.S. General Accounting Office publication "Standards for Audit of Governmental Organizations, Program Activities and Functions," where applicable. d)~~The institution shall be extended an opportunity to review and comment on the auditor's preliminary findings before the final audit

report is submitted to the institution's chief executive officer. Audit findings may be appealed in accordance with Section 2700.70~~,~~ (Appeal Procedures).

d~~e~~) If an audit identifies gift assistance funds that~~which~~ were claimed on behalf of ineligible students, the funds shall be repaid to ISAC by the institution.

~~f)~~ ~~ISAC may visit institutions to conduct investigations related to fraud and abuse of its programs. Campus administrators and/or campus security police may be consulted as part of any ongoing investigation.~~

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED RULES

1) Heading of the Part: Grant Program for Exonerees

2) Code Citation: 23 Ill. Adm. Code 2743

3)

| Section Numbers: | Proposed Actions: |
|---|---|
| 2743.10 | New Section |
| 2743.15 | New Section |
| 2743.20 | New Section |
| 2743.30 | New Section |
| 2743.40 | New Section |

4) Statutory Authority: Implementing and authorized by Section 62 of the Higher Education Student Assistance Act [110 ILCS 947/62]

5) A Complete Description of the Subjects and Issues Involved: The rules govern the administration of the Grant Program for Exonerees. Rules for the program set forth the applicant eligibility requirements, program procedures and institutional procedures for Illinois residents who have received a gubernatorial pardon on the basis of innocence or have received a certificate of innocence from a circuit court to receive grants that would cover tuition and fees at an Illinois Public university or community college, plus (for recipients who have not yet received a high school diploma or equivalent) costs associated with obtaining a high school equivalency certificate.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: PA 99-199, effective January 1, 2016

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

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

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED RULES

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments in writing within 45 days after publication to:

Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015

847/948-8500, ext. 18032
email: lynn.hynes@isac.illinois.gov
fax: 847/831-8299

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 2015

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

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2743
GRANT PROGRAM FOR EXONEREES

Section
2743.10 Summary and Purpose
2743.15 Definitions
2743.20 Applicant Eligibility
2743.30 Program Procedures
2743.40 Institutional Procedures

AUTHORITY: Implementing and authorized by Section 62 of the Higher Education Student Assistance Act [110 ILCS 947/62].

SOURCE: Adopted at 39 Ill. Reg. _____, effective _____.

**Section 2743.10 Summary and Purpose**

a) The Grant Program for Exonerees (Program) provides direct grant assistance to an individual who has received a pardon from the Governor of the State of Illinois stating that the pardon is issued on the grounds of innocence of the crime for which the individual was imprisoned or an individual who has received a certificate of innocence from a circuit court pursuant to Section 2-702 of the Code of Civil Procedure [735 ILCS 5]. Grants are limited based on funding levels appropriated by the Illinois General Assembly.

b) This Part establishes rules that govern the Program. Additional rules and definitions are contained in 23 Ill. Adm. Code 2700 (General Provisions).

**Section 2743.15 Definitions**

"Exonerated Person" – An individual who has received a pardon from the Governor of the State of Illinois stating that the pardon is issued on the grounds of innocence of the crime for which the individual was imprisoned, or an individual who has received a certificate of innocence from a circuit court.

"Grant Funds" –

Full or part-time tuition and mandatory fees at a public university or community college for undergraduate or graduate study.

The costs associated with obtaining a high school equivalency certificate from an Illinois Community College Board-approved provider. These costs shall include payment of the cost of the high school equivalency test and up to one retest on each test module; and

Any administrative fees that may be required in order to obtain an Illinois high school equivalency certificate or an official transcript of test scores after successful completion of the high school equivalency test.

**Section 2743.20 Applicant Eligibility**

a) A qualified applicant shall:

1) be a resident of Illinois;

2) have received:

A) a pardon issued on the grounds of innocence; or

B) a certificate of innocence from a circuit court;

3) be an exonerated person who:

A) has not yet received a high school diploma or a high school equivalency certificate and is completing a high school equivalency preparation course through an Illinois Community Board-approved provider and/or is seeking an Illinois high school equivalency certificate; or

B) is enrolled at an ISAC-approved public university or community college in an eligible degree or certificate program (see 34 CFR 668.8) for either a semester or quarter term, throughout the institution's tuition refund/withdrawal adjustment period;

4) maintain satisfactory academic progress as determined by the institution; and

5) not have to demonstrate financial need to receive this grant.

b) In any regular school year in which the qualified applicant accepts or receives financial assistance through the Monetary Award Program (23 Ill. Adm. Code 2735), the qualified applicant shall not be eligible for assistance under this Part.

**Section 2740.30 Program Procedures**

a) All applicants must complete annually an ISAC application for the Grant Program for Exonerees.

1) Applications are available at ISAC's website and ISAC's Springfield, Deerfield and Chicago offices.

2) If the application is incomplete, ISAC will notify the applicant, who will have an opportunity to furnish the missing information. The application will only be considered for processing as of the date the application is complete and received at ISAC's Deerfield office.

3) A qualified applicant must also submit any forms required for the receipt of the Program.

b) Benefits are limited to the full-time enrollment equivalent of 8 semesters or 12 quarters of payment for undergraduate or graduate study. Recipients may accumulate up to 48 eligibility units.

c) ISAC shall select the recipients from among those who have submitted complete applications, including qualified new applicants and those who filed timely renewal applications and have supplied information required.

d) The total number of grants awarded in a given fiscal year is contingent upon available funding. If funding is insufficient to pay all eligible applicants of the grant, awarding will be based on the date the completed application is received in ISAC's Deerfield office. Preference may be given to renewal applicants, provided that the recipient continues to meet the eligibility requirements.

e) Each qualified applicant who is selected to receive a grant shall be notified. Applicants not receiving the grant will be notified as well.

f) The grant may be used to pay costs associated with obtaining a high school equivalency certificate and up to one retest on each test module.

g) The grant may be used to pay costs associated with obtaining an Illinois high school equivalency certificate or an official transcript of test scores after successful completion of the high school equivalency test.

h) ISAC pays grant funds directly to the institution of record in the name of the recipient; however, ISAC reserves the right to reimburse costs associated with obtaining a high school equivalency certificate directly to the qualified applicant.

**Section 2743.40 Institutional Procedures**

a) Institutions shall submit payment requests to ISAC.

b) Except as otherwise allowed by Section 2743.30(h), funds shall be remitted by ISAC to participating institutions on behalf of the applicant.

c) Program funds shall be applicable only to tuition and mandatory fees and only for 2 semesters or 8 quarters in a regular school year.

d) In the case of a recipient seeking an Illinois high school equivalency certificate, funds shall be applicable only to pay costs associated with obtaining a high school equivalency certificate and up to one retest on each test module.

e) Program funds shall be applicable to pay fees associated with obtaining an Illinois high school equivalency certificate, or an official transcript of test scores.

f) The total amount of Program funds awarded pursuant to Section 2740.30(b) to a qualified recipient in a given academic year when added to other financial aid available to the qualified recipient for that year shall not exceed the cost of attendance.

g) Upon receipt of grant funds, the institution shall verify the recipient's enrollment status for the term for which the award was intended.

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED RULES

h) Upon receipt of the grant funds, if the recipient has withdrawn from enrollment for the terms for which the award was intended, the institution shall return the amount of the grant payment to ISAC.

i) To provide sufficient time for processing and vouchering through the State Comptroller's Office in Springfield, all payment requests must be received by ISAC no later than July 1.

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: 140.497 — Adopted Action: Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Rule: September 4, 2015

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, 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*: September 5, 2014; 38 Ill. Reg. 18308

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposed and Final Version: The following changes have been made: In subsection 140.497(b) of Part 140, added "and binaural" after the "monaural". In subsection 140.497(b)(3) of Part 140, added "A written statement, dated and signed by a licensed physician, that the patient's hearing loss has been medically evaluated and the patient is considered a candidate for a hearing instrument. The statement must include the date when the medical evaluation took place and the sale of the hearing instrument cannot be more than 6 months immediately following the date of the evaluation." In subsection 140.497(c)(1) of Part 140, changed "Practitioner Referral" to "The written statement required by subsection (b)(3)." In subsection 140.497(d) of Part 140, added ", except that no payment will be made when there has been a medical evaluation waiver signed by the prospective user."

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 rule currently in effect? No

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

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

| Sections: | Proposed Action: | *Illinois Register* Citation: |
|---|---|---|
| 140.462 | Amendment | 39 Ill. Reg. 19054; September 26, 2014 |
| 140.412 | Amendment | 39 Ill. Reg. 182; January 2, 2015 |
| 140.80 | Amendment | 39 Ill. Reg. 7761; June 5, 2015 |
| 140.492 | Amendment | 39 Ill. Reg. 10332; July 24, 2015 |
| 140.493 | Amendment | 39 Ill. Reg. 10332; July 24, 2015 |

15) Summary and Purpose of Rulemaking: The amendment eliminates the prior approval requirement for binaural hearing aids.

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

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

217/782-1233

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

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 Suspension and Denial of Payment, Recovery of Money and Penalties
140.16 Termination, Suspension or Exclusion 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, Suspension, Exclusion or Revocation on Persons

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

Associated with Vendor
140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension, Exclusion 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
140.45 Withholding of Payments Upon Provider Audit, Quality of Care Review, Credible Allegation of Fraud or Failure to Cooperate
140.55 Electronic Data Interchange Service
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
140.86 Supportive Living Facility Funds

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

| | |
|---|---|
| 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) |
| 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) |

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

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)
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 Non-Institutional Rate Reductions
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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

140.436 Limitations on Advanced Practice Nurse Services
140.438 Diagnostic Imaging Services
140.440 Pharmacy Services
140.441 Pharmacy Services Not Covered
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 Care, Nursing and Public Health Providers
140.471 Description of Home Health Care Services
140.472 Types of Home Health Care Services
140.473 Prior Approval for Home Health Care Services
140.474 Payment for Home Health Care 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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

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
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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

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
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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

140.560 Components of the Base Rate Determination
140.561 Support Costs Components
140.562 Nursing Costs
140.563 Capital Costs
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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

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
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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

SUBPART I: PRIMARY CARE CASE MANAGEMENT PROGRAM

Section
140.990 Primary Care Case Management Program
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

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

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|---|---|
| 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) |
| 140.TABLE J | Rate Regions |
| 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 (Repealed) |

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

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory 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; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory 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 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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

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. 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 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 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; 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; 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 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 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; amended at 37 Ill. Reg. 7985, effective May 29, 2013; amended at 37 Ill. Reg. 10282, effective June 27, 2013; amended at 37 Ill. Reg. 12855, effective July 24, 2013; emergency amendment at 37 Ill. Reg. 14196, effective August

20, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 17584, effective October 23, 2013; amended at 37 Ill. Reg. 18275, effective November 4, 2013; amended at 37 Ill. Reg. 20339, effective December 9, 2013; amended at 38 Ill. Reg. 859, effective December 23, 2013; emergency amendment at 38 Ill. Reg. 1174, effective January 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 4330, effective January 29, 2014; amended at 38 Ill. Reg. 7156, effective March 13, 2014; amended at 38 Ill. Reg. 12141, effective May 30, 2014; amended at 38 Ill. Reg. 15081, effective July 2, 2014; emergency amendment at 38 Ill. Reg. 15673, effective July 7, 2014, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 18216, effective August 18, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 18462, effective August 19, 2014; amended at 38 Ill. Reg. 23623, effective December 2, 2014; amended at 39 Ill. Reg. 4394, effective March 11, 2015; emergency amendment at 39 Ill. Reg. 6903, effective May 1, 2015 through June 30, 2015; emergency amendment at 39 Ill. Reg. 8137, effective May 20, 2015, for a maximum of 150 days; emergency amendment at 39 Ill. Reg. 10427, effective July 10, 2015, for a maximum of 150 days; amended at 39 Ill. Reg. 12825, effective September 4, 2015.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

**Section 140.497 Hearing Aids**

a) Hearing aids are reimbursed in accordance with Section 140.481(d).

b) In order to be eligible for reimbursement from the Department for monaural and binaural hearing aids, the following criteria must be met:

1) When testing is performed in an acoustically treated sound suite:

A) The hearing loss must be 20 decibels or greater at any two of the following frequencies: 500, 1000, 2000, 4000, 8000 Hertz; or

B) The hearing loss must be 25 decibels or greater at any one of 500, 1000, 2000 Hertz.

2) When testing is performed in other than an acoustically treated sound suite:

A) The hearing loss must be 30 decibels or greater at any two of the following frequencies: 500, 1000, 2000, 4000, 8000 Hertz; or

B) The hearing loss must be 35 decibels or greater at any one of 500, 1000, 2000 Hertz.

3) A written statement, dated and signed by a licensed physician, that the patient's hearing loss has been medically evaluated and the patient is considered a candidate for a hearing instrument. The statement must include the date when the medical evaluation took place and the sale of the hearing instrument cannot be more than 6 months immediately following the date of the evaluation.

c) The following items are to be kept in the patient's file:

1) The written statement required by subsection (b)(3).~~M.D. or Otolaryngologist clearance~~

2) Audiogram.

3) Hearing Aid Evaluation Results.

4) Case history and identifying information.

5) Copy of Manufacturer's invoice with patient's name and hearing aid serial number.

6) Copy of Manufacturer's invoice for ear mold, if applicable.

~~d) Binaural hearing aids require prior approval (see Sections 140.40 through 140.42)~~.

d~~e~~) Payment for all hearing aids is contingent upon providers fitting and dispensing hearing aids in accordance with the requirements set forth in the Hearing Instrument Consumer Protection Act [225 ILCS 50] and implementing Public Health regulations, except that no payment will be made when there has been a medical evaluation waiver signed by the prospective user.

(Source: Amended at 39 Ill. Reg. 12825, effective September 4, 2015)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: General Rules

2) Code Citation: 35 Ill. Adm. Code 101

3)

| Section Numbers: | Adopted Actions: |
|---|---|
| 101.100 | Amendment |
| 101.202 | Amendment |
| 101.300 | Amendment |
| 101.302 | Amendment |
| 101.304 | Amendment |
| 101.400 | Amendment |
| 101.1060 | Amendment |
| 101.APPENDIX A | |
| 101.ILLUSTRATION J | Renumbered/New Section |
| 101. ILLUSTRATION K | Renumbered |
| 101. ILLUSTRATION L | Renumbered/Amendment |
| 101.APPENDIX E | |
| 101. ILLUSTRATION A | Amendment |
| 101. ILLUSTRATION B | Amendment |

4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]

5) Effective Date of Rules: September 8, 2015

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.

9) Notice of Proposal published in the *Illinois Register*: June 5, 2015; 39 Ill. Reg. 7791

10) Has JCAR issued a Statement of Objection to this rulemaking? No

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

11) Differences between Proposal and Final Version: The Board made limited technical corrections and non-substantive amendments proposed by the Joint Committee on Administrative Rules.

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

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

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

15) Summary and Purpose of Rulemaking: The rulemaking amends the Board's procedural rules for out-of-state attorneys, service of filings, and administrative citations.

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

Daniel Robertson
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312/814-6931

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the docket number R15-20 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

PART 101
GENERAL RULES

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: DEFINITIONS

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

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

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

SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION

Section

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

SUBPART E: MOTIONS

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

SUBPART F: HEARINGS, EVIDENCE, AND DISCOVERY

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

SUBPART G: ORAL ARGUMENT

Section
101.700 Oral Argument

SUBPART H: SANCTIONS

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

SUBPART I: REVIEW OF FINAL BOARD OPINIONS AND ORDERS

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

SUBPART J: ELECTRONIC FILING AND E-MAIL SERVICE

Section
101.1000 Electronic Filing and E-Mail Service
101.1010 Electronic Filing Authorization and Signatures
101.1020 Filing Electronic Documents
101.1030 Form of Electronic Documents for Filing
101.1040 Filing Fees
101.1050 Documents Required in Paper or Excluded from Electronic Filing
101.1060 E-Mail Service
101.1070 Consenting to Receipt of E-Mail Service

101.APPENDIX A Captions

101.ILLUSTRATION A Enforcement Case
101.ILLUSTRATION B Citizen's Enforcement Case
101.ILLUSTRATION C Variance
101.ILLUSTRATION D Adjusted Standard Petition
101.ILLUSTRATION E Joint Petition for an Adjusted Standard
101.ILLUSTRATION F Permit Appeal
101.ILLUSTRATION G Underground Storage Tank Appeal
101.ILLUSTRATION H Pollution Control Facility Siting Appeal
101.ILLUSTRATION I Administrative Citation
101.ILLUSTRATION J Administrative Citation Under Section 23.1 of the Public Water Supply Operations Act
101.ILLUSTRATION K~~J~~ General Rulemaking
101.ILLUSTRATION L~~K~~ Site-specific Rulemaking
101.APPENDIX B Appearance Form
101.APPENDIX C Withdrawal of Appearance Form
101.APPENDIX D Notice of Filing
101.APPENDIX E Affidavit or Certificate of Service
101.ILLUSTRATION A Service by Non-Attorney
101.ILLUSTRATION B Service by Attorney
101.APPENDIX F Notice of Withdrawal (Repealed)
101.APPENDIX G Comparison of Former and Current Rules (Repealed)
101.APPENDIX H Affidavit or Certificate of E-Mail Service
101.ILLUSTRATION A E-Mail Service by Non-Attorney
101.ILLUSTRATION B E-Mail Service by Attorney
101.APPENDIX I Consent to Receipt of E-Mail Service

AUTHORITY: Implementing Sections 5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27] and Section 25-101 of the Electronic Commerce Security Act [5 ILCS 175/25-101].

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

effective December 3, 2010; amended in R12-22 at 36 Ill. Reg. 9211, effective June 7, 2012; amended in R13-9 at 37 Ill. Reg. 1655, effective January 28, 2013; amended in R14-21 at 39 Ill. Reg. 2276, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. 12848, effective September 8, 2015.

SUBPART A: GENERAL PROVISIONS

**Section 101.100 Applicability**

a) This Part sets forth the rules generally applicable to proceedings before the Illinois Pollution Control Board (Board), and should be read in conjunction with procedural rules for the Board's specific proceedings~~processes~~, found at 35 Ill. Adm. Code 102 through 130, and the Board's Administrative Rules, found at 2 Ill. Adm. Code 2175. In the event of a conflict between the rules of this Part and those found in subsequent Parts, the more specific requirement applies.

b) Except when the Board's procedural rules provide otherwise, the~~The~~ provisions of the Code of Civil Procedure [735 ILCS 5] and the Supreme Court Rules [Ill. S. Ct. Rules] do not ~~expressly~~ apply to proceedings before the Board. However, the Board may look to the Code of Civil Procedure and the Supreme Court Rules for guidance when~~where~~ the Board's procedural rules are silent.

(Source: Amended at 39 Ill. Reg. 12848, effective September 8, 2015)

SUBPART B: DEFINITIONS

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

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

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

"Adjudicatory proceeding" means an action of a quasi-judicial nature brought before the Board pursuant to authority granted to the Board under Section 5(d) of the Act or as otherwise provided by law. Adjudicatory proceedings include enforcement, variance, permit appeal, pollution control facility siting appeal, Underground Storage Tank (UST) Fund determination, water well set back

exception, adjusted standard, and administrative citation proceedings. Adjudicatory proceedings do not include regulatory, quasi-legislative, or informational proceedings.

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

"Administrative citation" or "AC" means a citation issued ~~pursuant to Section 31.1 of the Act~~ by the Agency~~,~~ or by a unit of local government acting as the Agency's delegate. (See 35 Ill. Adm. Code 108.) ~~pursuant to Section 4(r) of the Act.~~

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

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

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

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

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

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

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

the Act.

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

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

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

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

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

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

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

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

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

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

"Certificate of acceptance" means a certification, executed by a successful petitioner in a variance proceeding, in which the petitioner agrees to be bound by

all terms and conditions that the Board has affixed to the grant of variance.

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

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

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

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

"Clerk" means the Clerk of the Board.

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

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

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

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

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

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

"Cross-media impacts" means impacts that concern multiple environmental areas,

such as air, land and/or water.

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

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

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

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

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

"Digital signature" means *a type of electronic signature created by transforming an electronic document using a message digest function and encrypting the resulting transformation with an asymmetric cryptosystem using the signer's private key such that any person having the initial untransformed electronic document, the encrypted transformation, and the signer's corresponding public key can accurately determine whether the transformation was created using the private key that corresponds to the signer's public key and whether the initial electronic document has been altered since the transformation was made. A digital signature is a security device.* [5 ILCS 175/5-105]

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

"DNR" means the Illinois Department of Natural Resources.

"DOA" means the Illinois Department of Agriculture.

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

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

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

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

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

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

"EPRR Act" means the Electronic Products Recycling and Reuse Act [415 ILCS 150].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Intervention" means the procedure by which a person, not originally a party to an

adjudicatory proceeding, voluntarily comes into the proceeding as a party with the leave of the Board. (See Section 101.402 of this Part.)

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

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

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

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

"Movant" means the person who files a motion.

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

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

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

"Notice to reinstate" means a document filed that recommences the decision

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

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

"OSFM" means Office of the State Fire Marshal.

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

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

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

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

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

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

"Permit appeal" means an adjudicatory proceeding brought before the Board

pursuant to Title X of the Act.

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

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

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

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

*waste storage sites regulated under 40 CFR 761.42;*

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

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

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

*wires off of the premises of a public utility company which are conducted by a public utility;*

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

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

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

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

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

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

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

> *located within a home rule unit of local government with a population of at least 30,000 according to the 2000 federal census, that home rule unit of local government has been designated as an Urban Round II Empowerment Zone by the United States*

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

*in compliance with all applicable zoning requirements*;

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

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

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

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

effective January 1, 2008, *a site or facility that temporarily holds in transit for 10 days or less, non-putrescible solid waste in original containers, no larger in capacity than 500 gallons, provided that such waste is further transferred to a recycling, disposal, treatment, or storage facility on a non-contiguous site and provided such site or facility complies with the applicable 10-day transfer requirements of the federal Resource*

*Conservation and Recovery Act of 1976 and United States Department of Transportation hazardous material requirements. For purposes of this Section only, "non-putrescible solid waste" means waste other than municipal garbage that does not rot or become putrid, including, but not limited to, paints, solvent, filters, and absorbents;*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Provisional variance" means a short term variance sought by an applicant and

issued by the Agency pursuant to Section 35(b) of the Act. (See 35 Ill. Adm. Code 104.Subpart C.)

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

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

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

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

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

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

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

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

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

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

"Regulatory relief mechanisms" means variances, provisional variances and

adjusted standards. (See 35 Ill. Adm. Code 104.)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"USEPA" means the United States Environmental Protection Agency.

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

"UST" means underground storage tank.

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

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

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

(Source: Amended at 39 Ill. Reg. 12848, effective September 8, 2015)

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

**Section 101.300 Computation of Time**

a) Computation of Time. Computation of any period of time prescribed in the Act, other applicable law, or this Subpart will begin with the first calendar day following the day on which the act, event or development occurs and will run until the close of business on the last day, or the next business day if the last day is a Saturday, Sunday or national or State legal holiday.

b) Date~~Time~~ of Filing. Documents will be considered filed with the Clerk only if~~when~~ they are filed in compliance with~~conformance with the requirements found~~

~~in~~ Section 101.302~~ of this Subpart~~ and any other filing requirements specified elsewhere in the Board's procedural rules (see 35 Ill. Adm. Code 101 through 130). Subpart J~~ of this Part~~ sets forth when electronic documents submitted to COOL will be considered filed.

1) If a document is submitted to the Clerk for filing~~delivered~~ in person, by ~~messenger service, or by mail delivery service other than~~ U.S. Mail, by e-mail or facsimile pursuant to Section 101.302(d), or by third-party commercial carrier, the document is~~documents are~~ considered filed on the date it is~~when they are~~ received by~~in the Office of~~ the Clerk. However, a document received by the Clerk after 4:30 p.m. is considered filed on the next business day. The Clerk will mark the filing date on each filed document.

2) Notwithstanding subsection (b)(1), if~~If~~ the Clerk receives a document by U.S. Mail or third-party commercial carrier after~~subsequent to~~ a filing deadline date, ~~yet the postmark date precedes or is the same as the filing deadline date,~~ the document will be deemed filed on:

A) The~~the postmark~~ date the document was provided to the U.S. Postal Service; or

B) The date the document was provided to the third-party commercial carrier for delivery to the Clerk within three business days~~, provided all filing requirements set forth in Section 101.302 of this Subpart are met~~.

3) For purposes of subsection (b)(2), documentation of when the document being filed was provided to the U.S. Postal Service or the third-party commercial carrier consists of the affidavit or certificate required by Section 101.304(d)(2)(A) or (d)(4) and must accompany the document being filed. In addition, for delivery by a third-party commercial carrier, the affidavit or certificate must contain the filing party's representation that the charge for delivery to the Clerk within three business days was prepaid.~~Documents received in the Office of the Clerk after 4:30 p.m. will be marked as filed the following business day, provided all filing requirements set forth in Section 101.302 of this Subpart are met. The Clerk will record the appropriate filing date on all filed documents.~~

4) For purposes of Board decision deadlines, the decision period does not begin until the date marked by the Clerk on ~~which~~ the initial filing ~~is date-stamped by the Clerk~~.

c) Date~~Time~~ of Service. Documents will be considered served upon another party only if they are served in compliance with Section 101.304 and any other service requirements specified elsewhere in the Board's procedural rules. The date of service is determined as follows:~~In the case of personal service, service is deemed complete on the date personal delivery was effectuated. In the case of facsimile transmission, service is deemed complete on the date of a complete and proper transmittal. Facsimile filings are only allowed in accordance with Section 101.302(d) of this Subpart. In the case of service by e-mail, Section 101.1060(d) of this Part sets forth when service is deemed complete. E-mail filings are only allowed in accordance with Section 101.302(d) of this Subpart. In the case of service by registered or certified mail, or by messenger service, service is deemed complete on the date specified on the registered or certified mail receipt or the messenger service receipt. In the case of service by U.S. Mail, service is presumed complete four days after mailing. The presumption can be rebutted by proper proof.~~

1) Personal Service. Personal service of a document is complete on the date the document was delivered, as specified in either the affidavit or certificate of service signed by the person who made personal delivery or the declaration of service signed by the process server who made personal delivery.

2) Service by U.S. Mail or Third-Party Commercial Carrier with Recipient Signature. If a recipient's signature is recorded by the U.S. Postal Service or a third-party commercial carrier upon delivery of a document, service by U.S. Mail or a third-party commercial carrier is complete on the date the document was delivered, as specified in the delivery confirmation signed by the recipient of service.

3) Service by E-Mail or Facsimile. Service of a document by e-mail or facsimile is complete on the date the document was successfully transmitted, as specified in the affidavit or certificate of service, signed by the party to the proceeding who is serving the document. However, a document successfully e-mailed or faxed on a Saturday or Sunday, on a

national or State legal holiday, or after 5:00 p.m. on a weekday is deemed served on the next business day.

4) Service by U.S. Mail or Third-Party Commercial Carrier without Recipient Signature. If a recipient's signature is not recorded by the U.S. Postal Service or a third-party commercial carrier upon delivery of a document, service by U.S. Mail or a third-party commercial carrier is presumed complete four days after the date the document was provided to the U.S. Postal Service or the third-party commercial carrier.

A) The presumption applies only if an affidavit or certificate of service, signed by the party to the proceeding who is serving the document, states the following: the date, the time by when, and the place where the document was provided to the U.S. Postal Service or the third-party commercial carrier; the address appearing on the envelope or package containing the document; and that proper postage or the delivery charge was prepaid.

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

d) Date of Board Decision.

1) For purposes of statutory decision deadline proceedings, the date of the Board decision is the date of the Board meeting where a final opinion and order of the Board was adopted by the vote of at least three Board members.

2) For purposes of appealing a final adjudicatory decision of the Board~~appeal~~, the date of the party's certified mail receipt of the Board decision is the date of service of the final opinion and order by the Board upon the appealing party. Or, in the event of a timely filed motion for reconsideration filed pursuant to Section 101.520~~ of this Part~~, the date of the party's certified mail receipt of the Board order ruling upon the motion is the date of service by the Board upon the appealing party.

3) For purposes of appealing a final rulemaking decision of the Board, the date of the participant's receipt of the Board decision is the date of service

of the final opinion and order by the Board upon the appealing participant. Or, in the event of a timely filed motion for reconsideration filed pursuant to the Board's procedural rules (35 Ill. Adm. Code 102.700), the date of the participant's receipt of the Board order ruling upon the motion is the date of service by the Board upon the appealing participant.

(Source: Amended at 39 Ill. Reg. 12848, effective September 8, 2015)

**Section 101.302 Filing of Documents**

a) This Section contains the Board's general filing requirements. Additional requirements may exist for specific proceedings elsewhere in the Board's procedural rules (see 35 Ill. Adm. Code 101 through 130). The Clerk will refuse for filing any document that does not comply with the minimum requirements of this Section.

b) All documents to be filed with the Board must be filed with the Clerk. ~~provide the name and signature of the person seeking to file the document and identify the name of the person on whose behalf the document is being filed. If a paper document is submitted for filing, the original must bear the original pen-and-ink signature of the person seeking to file the document. Signatures for purposes of electronic filings through COOL are addressed in Section 101.1010 of this Part. All documents to be filed with the Board must be filed with the Clerk's Office. Service on a hearing officer does not constitute filing with the Board unless the document is submitted to the hearing officer during the course of a hearing.~~

1) Documents may be filed at the following address:

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

2) All documents filed with the Clerk must provide the name and signature of the person seeking to file the document and identify the name of the person on whose behalf the document is being filed. If a paper document is submitted for filing, the original must bear the original pen-and-ink signature of the person seeking to file the document. Signatures for

purposes of electronic filings through COOL are addressed in Section 101.1010.

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

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

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

c) Documents may be filed with the Clerk by U.S. Mail~~ or other mail delivery service~~, by electronic means in accordance with Subpart J~~ of this Part~~, in person, or by third-party commercial carrier~~messenger~~.

d) A filing by e-mail or facsimile will only be allowed with the prior approval of the Clerk of the Board or the hearing officer assigned to the proceeding. Any prior approval by the Clerk or hearing officer applies only to the specified filing.

e) The initial filings listed in this subsection require filing fees and will only be considered filed when accompanied by the appropriate fee. The fee may be paid in the form of government voucher, money order, or check made payable to the Illinois Pollution Control Board, or electronically through COOL in accordance with Section 101.1040(b)(1)~~ of this Part~~, but cannot be paid in cash.

1) Petition for Site-Specific Regulation, $75;

2) Petition for Variance, $75;

3) Petition for Review of Agency Permit Decision, UST Decision, or any other appeal filed pursuant to Section 40 of the Act, $75;

4) Petition to Review Pollution Control Facility Siting Decisions, pursuant to Section 40.1 of the Act, $75; and

5) Petition for Adjusted Standard, pursuant to Section 28.1 of the Act, $75.

f) For each document~~All documents~~ filed with the Clerk, the filing party must serve a copy of the document upon the other parties and, if a hearing officer has been assigned, upon the hearing officer~~be served~~ in accordance with Section 101.304~~Subpart C of this Part~~.

g) All documents filed with the Board must contain the relevant proceeding caption and docket number. All documents must be submitted on or formatted to print on 8½ x 11 inch paper, except as provided in subsection (j)~~ of this Section~~. Paper documents must be submitted on recycled paper as defined in Subpart B of this Part, and, if feasible, double sided. All pages in a document must be sequentially numbered. All documents created by word processing programs must be formatted as follows:

1) The margins must each be a minimum one inch on the top, bottom, and both sides of the page; and

2) The size of the type in the body of the text must be no less than 12 point font, and in footnotes no less than 10 point font.

h) Unless the Board or its procedural rules provide otherwise, all documents must be filed in paper or through COOL electronically pursuant to this subsection (h).

1) Except as provided in subsection (h)(2), (h)(3), or (h)(4)~~ of this Section~~:

A) Any type of document may be filed in paper or through COOL.

B) If a document is filed in paper, the original and three copies of the document (four total) are required.

C) If a document is filed through COOL in accordance with Subpart J ~~of this Part~~, no paper original or copy of the document is required.

2) The original documents listed in this subsection (h)(2) must be filed in paper. In lieu of filing three paper copies with the original pursuant to subsection (h)(1)(B)~~ of this Section~~, a compact disk of the document in text-searchable Adobe PDF may be filed with the original. The following documents must be filed in paper:

A) The original Agency record required by 35 Ill. Adm. Code 105.212 (permit decision or other final decision), 105.302 (CAAPP permit application), 105.410 (leaking UST decision), or 125.208 (recommendation on tax certification) (see 35 Ill. Adm. Code 105.116);

B) The original OSFM record required by 35 Ill. Adm. Code 105.508 (UST Fund eligibility and deductibility) (see 35 Ill. Adm. Code 105.116);

C) The original local siting authority record required by 35 Ill. Adm. Code 107.302 (pollution control facility siting) (see 35 Ill. Adm. Code 107.304); and

D) An original oversized exhibit (see subsection (j)~~ of this Section~~).

3) A document containing information claimed or determined to be a trade secret, or other non-disclosable information pursuant to 35 Ill. Adm. Code 130, is prohibited from being filed electronically and must instead be filed only in paper. The version of the document that is redacted pursuant to 35 Ill. Adm. Code 130 may be filed through COOL.

4) When filing a rulemaking proposal, the proponent must file three paper originals of any document that is protected by copyright law (17 USC 101 et seq.) and proposed pursuant to Section 5-75 of the IAPA [5 ILCS 100/5-75] to be incorporated by reference; provided, however:

A) One or two paper copies may be substituted for the corresponding number of required paper originals if the rulemaking proposal includes the copyright owner's written authorization for the rulemaking proponent to create the paper copy or copies.

B) The proponent may file no more than two authorized copies in lieu of the corresponding number of required originals.

C) Any copyrighted document that is proposed for incorporation by reference is prohibited from being filed electronically and must instead be filed only in paper. The remainder of the rulemaking proposal may be filed through COOL.

i) No written discovery, including interrogatories, requests to produce, and requests for admission, or any response to written discovery, may be filed with the Clerk of the Board except upon leave or direction of the Board or hearing officer. Any discovery request under these rules to any nonparty must be filed with the Clerk of the Board in accordance with subsection (h)~~ of this Section~~.

j) Oversized Exhibits. When reasonably practicable, oversized exhibits must be reduced to conform to or be formatted to print on 8½ x 11 inch paper for filing with the Clerk's Office. However, even when an oversized exhibit is so reduced or formatted, the original oversized exhibit still must be filed with the Clerk's Office. In accordance with 2 Ill. Adm. Code 2175.300, the original oversized exhibit may be returned to the person who filed it.

k) Page Limitation. No motion, brief in support of motion, or brief may exceed 50 pages, and no amicus curiae brief may exceed 20 pages, without prior approval of the Board or hearing officer. These limits do not include appendices containing relevant material.

(Source: Amended at 39 Ill. Reg. 12848, effective September 8, 2015)

**Section 101.304 Service of Documents**

a) Service Requirements. This Section contains the Board's general service requirements. However, the more specific Part for a proceeding type may contain additional requirements.

b) Duty to Serve and When to Initiate Service. A party filing a document with the Clerk pursuant to Section 101.302 must also serve one copy of the document upon each of the other parties to the adjudicatory proceeding and, if a hearing officer has been assigned, upon the assigned hearing officer. Service of a document must be initiated concurrently with submitting the document to the Clerk for filing. ~~Parties in Board adjudicatory proceedings are responsible for service of all documents they file with the Clerk's Office. Documentation of service of initial filings must be filed with the Board upon completion of service.~~

1) Service of a document upon a party must be made upon a person authorized by law to receive service on behalf of the party. If a party is represented by an attorney who has filed an appearance, service upon the

party is made by serving the document upon the party's attorney. If more than one attorney appears for a party, service upon one of the party's attorneys is sufficient.

2) Each document being served (e.g., enforcement complaint, petition for review) must be accompanied by a notice of filing (see Appendix D) and a copy of the documentation of service (see subsection (d)).

3) The date on which service of a document is considered to have been completed is determined pursuant to Section 101.300(c).

4) A proceeding is subject to dismissal, and the filing party is subject to sanctions, if service is not timely initiated or completed.

5) Whether service of a document was proper may be challenged by the party allegedly served. To avoid waiving the right to contest personal jurisdiction, any challenge to service must be made pursuant to Section 101.400(a)(5).

c) Methods of Service. A document must be served in one of the following ways:~~Method of Service. Service may be effectuated by U.S. Mail or other mail delivery service, in person, by messenger, or by e-mail in accordance with Subpart J of this Part, except for service of enforcement complaints, administrative citations, and EMSA statements of deficiency, which must be made personally, by registered or certified mail, or by messenger service. Documentation of service of enforcement complaints, administrative citations, and EMSA statements of deficiency must be filed with the Board upon completion of service.~~

1) Except as provided in subsection (c)(2), service of documents may be made by any of the following methods:

A) Personal service;

B) U.S. Mail;

C) Third-party commercial carrier;

D) E-mail in accordance with Subpart J; and

E) Facsimile, but only if the party being served has filed a notice consenting to receipt of facsimile service and not filed a notice revoking that consent.

2) Service of enforcement complaints and EMSA statements of deficiency upon respondents must be made as follows:

A) By personal service;

B) By U.S. Mail with a recipient's signature recorded by the U.S. Postal Service upon delivery; or

C) By a third-party commercial carrier with a recipient's signature recorded by the third-party commercial carrier upon delivery.

3) Service of administrative citations must be made as required under Part 108.

d) Documentation~~Affidavit or Certificate~~ of Service and When to File Documentation of Service. A party serving a document upon another party must also file documentation of that service. A proceeding is subject to dismissal, and the filing party is~~persons are~~ subject to sanctions, if documentation of service is not timely filed with the Clerk. Documenting service and filing that documentation must be done as follows: ~~in accordance with Section 101.800 of this Part, if service is not timely made. Documentation of service is the responsibility of the person filing and serving the document. An affidavit of service or certificate of service must accompany all filings. A sample form of the affidavit of service and certificate of service is available in Appendix E of this Part.~~

1) For personal service of a document, either an affidavit or certificate of service signed by the person who made personal delivery or a declaration of service signed by the process server who made personal delivery must accompany the document being filed with the Clerk. However, if the signed affidavit, certificate or declaration is not available to the filing party when the document (e.g., enforcement complaint, petition for review) is submitted for filing:

A) An affidavit or certificate of service, signed by the filing party, must accompany the document being filed with the Clerk. The affidavit or certificate of service must state that service has been initiated, but not yet completed, and the following: the date, the time by when, and the place where, the document was provided to the person making personal delivery; the address appearing on the envelope or package containing the document; and that the delivery charge was prepaid; and

B) Within seven days after it becomes available to the filing party, the affidavit or certificate of service containing the signature of the person who made personal delivery or the declaration of service containing the signature of the process server must be filed with the Clerk, accompanied by a notice identifying the filed document (e.g., enforcement complaint, petition for review) to which the signed affidavit, certificate or declaration corresponds. A copy of the signed affidavit, certificate, or declaration and the notice must be served pursuant to subsection (a).

2) For service of a document by U.S. Mail or third-party commercial carrier with a recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery, the delivery confirmation containing the recipient's signature must accompany the document being filed with the Clerk. However, if the delivery confirmation containing the recipient's signature is not available to the filing party when the document (e.g., enforcement complaint, petition for review) is submitted for filing:

A) An affidavit or certificate of service, signed by the filing party, must accompany the document being filed with the Clerk. The affidavit or certificate of service must state that service has been initiated, but not yet completed, and the following: the date, the time by when, and the place where, the document was provided to the U.S. Postal Service or the third-party commercial carrier; the address appearing on the envelope or package containing the document; and that proper postage or the delivery charge was prepaid; and

B) Within seven days after it becomes available to the filing party, the delivery confirmation containing the recipient's signature must be

filed with the Clerk, accompanied by a notice identifying the filed document (e.g., enforcement complaint, petition for review) to which the signed delivery confirmation corresponds. A copy of the delivery confirmation and the notice must be served pursuant to subsection (a).

3) For service of a document by e-mail or facsimile, an affidavit or certificate of service must accompany the document being filed with the Clerk. An affidavit or certificate of e-mail service must comply with Section 101.1060. An affidavit or certificate of facsimile service must include the date and time of the facsimile transmission, the telephone number to which the transmission was sent, the number of pages transmitted, and a statement that the document was served by facsimile.

4) For service of a document by U.S. Mail or a third-party commercial carrier without a recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery, an affidavit or certificate of service must accompany the document being filed with the Clerk. The affidavit or certificate must state the following: the date, the time by when, and the place where the document was provided to the U.S. Postal Service or the third-party commercial carrier; the address appearing on the envelope or package containing the document; and that proper postage or the delivery charge was prepaid.

5) An affidavit of service must be notarized and is for use by a non-attorney. A certificate of service is for use by an attorney. Sample forms of an affidavit of service and a certificate of service are available in Appendices E and H.

6) A certificate of service must bear an attorney's handwritten or typographical signature. Signatures in affidavits of service, declarations of service, and delivery confirmations must be written by hand. A handwritten signature in documentation of service filed with the Clerk may be a facsimile or digitized electronic signature.

e) Service of Amicus Curiae Briefs. Any person who files an amicus curiae brief with the Board in any proceeding must serve copies of that brief on all parties in accordance with this Section.

f) Service of Comments of Participants in an Adjudicatory Proceeding. Participants are required to serve their comments upon the parties to the proceeding. The Board will consider the comments as time and the Act or other applicable law allow.

g) Service on Agencies. Service must be at the addresses listed below unless a specific person has an appearance on file with the Board or has, in accordance with Section 101.1070~~ of this Part~~, consented to e-mail service.

1) Service on the Illinois Environmental Protection Agency~~ (Agency)~~. The Agency must be served at the following address:

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

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

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

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

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

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

Office of Legal Services
Illinois Department of Natural Resources

One Natural Resources Way
Springfield IL 62702-1271

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

Office of Chief Counsel
DOT Administration Building
2300 S. Dirksen Parkway, Room 300
Springfield IL 62764

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

USEPA, Region V
77 West Jackson
Chicago IL 60604

(Source: Amended at 39 Ill. Reg. 12848, effective September 8, 2015)

SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION

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

a) Appearances. A person who is a party in a Board adjudicatory proceeding may appear as follows:

1) Individuals may appear on their own behalf or through an attorney-at-law licensed and registered to practice law. (See Section 1 of the Attorney Act [705 ILCS 205/1].)

2) When appearing before the Board, any person other than individuals must appear through an attorney-at-law licensed and registered to practice law. (See Section 1 of the Corporation Practice of Law Prohibition Act [705 ILCS 220/1] and Section 1 of the Attorney Act [705 ILCS 205/1].)

3) An out-of-state attorney may appear as counsel and provide legal services in a particular proceeding before the Board only if the attorney has permission to do so pursuant to Illinois Supreme Court Rule 707. No Board order is required for an out-of-state attorney to appear and no motions to appear pro hac vice need be filed with the Board. The out-of-state attorney's appearance must include the following:

A) A representation that the out-of-state attorney is in, and will maintain throughout the proceeding, compliance with Supreme Court Rule 707; and

B) Identification of the active status Illinois attorney associated with the out-of-state attorney pursuant to Supreme Court Rule 707 and the date on which the active status Illinois attorney filed an appearance in the proceeding.~~Attorneys who are licensed to practice in a state other than Illinois and who are not licensed and registered to practice in the State of Illinois may request to appear pro hac vice on a particular matter on a motion filed with the Board.~~

4) Any attorney appearing in a representative capacity must file a separate written ~~notice of~~ appearance with the Clerk, together with documentation of service of the appearance pursuant to Section 101.304(d) and notice of filing of the appearance pursuant to Section 101.304(b)(2)~~on all parties in the proceeding~~. Law firms, the Agency, and the Attorney General's Office when appearing before the Board must designate a lead attorney for purposes of phone and mail contact pertaining to the proceeding. Absent ~~a separate~~ written notice, the Board will designate the attorney whose signature appears first on the party's first filing~~complaint~~ as the lead attorney.

5) Any person seeking~~appearing before the Board may appear in a special limited capacity~~ to contest personal jurisdiction must do so by filing a motion with the Board in accordance with Section 2-301 of the Code of Civil Procedure [735 ILCS 5/2-301].

b) Withdrawals. An attorney who has appeared in a representative capacity and who wishes to withdraw from that representation must file a notice of withdrawal with the Clerk, together with documentation of service and notice of filing on all

parties or their representatives.

c) Substitution. Any attorney who substitutes for an attorney of record must file a written appearance pursuant to subsection (a)~~ of this Section~~. That appearance must identify the attorney for whom the substitution is made. However, no attorney will be considered withdrawn from a proceeding until a formal withdrawal is filed in accordance with subsection (b)~~ of this Section~~.

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

(Source: Amended at 39 Ill. Reg. 12848, effective September 8, 2015)

SUBPART J: ELECTRONIC FILING AND E-MAIL SERVICE

**Section 101.1060 E-Mail Service**

a) Except as provided in subsections~~subsection~~ (b) and (c)~~of this Section~~, a person required to serve a document may serve the document by e-mail, in lieu of serving a paper document, if the recipient has consented to e-mail service in the proceeding and has not revoked the consent. (See Section 101.1070~~ of this Subpart~~.) To serve a document by e-mail, it is not necessary to electronically file the document or to obtain a State of Illinois digital signature certificate.

b) Service of enforcement complaints~~, administrative citations,~~ and EMSA statements of deficiency on a respondent must be made personally, by U.S. Mail with a recipient's signature recorded~~registered or certified mail~~, or by a third-party commercial carrier with a recipient's signature recorded~~messenger service~~. (See Section 101.304(c)(2)~~ of this Part~~.)

c) Service of administrative citations must be made as required under 35 Ill. Adm. Code 108.

d~~c~~) A person required to serve a document on the hearing officer may serve the hearing officer by sending the document to the hearing officer's e-mail address in lieu of serving a paper document.

~~d) When a document is served by e-mail, service is considered complete on the date of successful e-mail transmission, except that a document successfully e-mailed~~

~~on a Saturday or Sunday, on a national or State legal holiday, or after 5:00 p.m. on a weekday is deemed served the next business day.~~

e) When a document is served by e-mail, documentation of service must be filed with the Clerk and served on all persons entitled to service in that proceeding. A sample form of affidavit or certificate of e-mail service is available in Appendix H~~ to this Part~~. An affidavit or certificate of e-mail service must ~~be filed with the document in question and~~ include the following:

1) The e-mail address of the recipient and the person authorizing the filing;

2) The number of pages in the e-mail transmission;

3) A statement that the document was served by e-mail; and

4) The date ~~and time~~ of the e-mail transmission and the time by when it took place.

f) If any computer malfunction precludes the e-mail service of a document, the person authorizing the filing must promptly serve the document in paper pursuant to Section 101.304(c)~~ of this Part~~.

g) Except for final adjudicatory orders of the Board, which the Clerk's Office serves in paper by certified mail, the Clerk's Office may serve Board orders and hearing officer orders by e-mail, in lieu of serving paper documents, if the recipient has consented to e-mail service in the proceeding and has not revoked the consent. (See Section 101.1070~~ of this Subpart~~.) The Clerk will record the date and time of e-mail service, consistent with subsection (e) of this Section.

(Source: Amended at 39 Ill. Reg. 12848, effective September 8, 2015)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

**Section 101.APPENDIX A Captions**

**Section 101.ILLUSTRATION J Administrative Citation Under Section 23.1 of the Public Water Supply Operations Act**

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

| | | |
|---|---|---|
| ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, | ) | |
| | ) | |
| Complainant, | ) | |
| | ) | |
| v. | ) | AC xx-xxx |
| | ) | IEPA Number |
| JOHN SMITH, | ) | (Administrative Citation) |
| | ) | |
| Respondent. | ) | |

(Source: Former Illustration J renumbered to Illustration K and new Illustration J added at 39 Ill. Reg. 12848, effective September 8, 2015)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

**Section 101.APPENDIX A Captions**

**Section 101.ILLUSTRATION K~~J~~ General Rulemaking**

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

(Source: Illustration K renumbered from Illustration J at 39 Ill. Reg. 12848, effective September 8, 2015)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

**Section 101.APPENDIX A Captions**

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

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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

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

(Source: Illustration L renumbered from Illustration K and amended at 39 Ill. Reg. 12848, effective September 8, 2015)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

**Section 101.APPENDIX E Affidavit or Certificate of Service**

**Section 101.ILLUSTRATION A Service by Non-Attorney**

AFFIDAVIT OF SERVICE

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

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

[signature]

Notary Seal

SUBSCRIBED AND SWORN TO BEFORE ME this_____day of _____, 20 __.

_____
Notary Public

(Source: Amended at 39 Ill. Reg. 12848, effective September 8, 2015)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

**Section 101.APPENDIX E Affidavit or Certificate of Service**

**Section 101.ILLUSTRATION B Service by Attorney**

CERTIFICATE OF SERVICE

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

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

[signature]

[date]

(Source: Amended at 39 Ill. Reg. 12848, effective September 8, 2015)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Enforcement

2) Code Citation: 35 Ill. Adm. Code 103

3)

| Section Numbers: | Adopted Actions: |
|---|---|
| 103.204 | Amendment |
| 103.206 | Amendment |
| 103.404 | Amendment |

4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]

5) Effective Date of Rules: September 8, 2015

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

7) Does this rulemaking contain incorporations by reference? No

8) The adopted rules are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.

9) Notice of Proposal published in the *Illinois Register*: June 5, 2015; 39 Ill. Reg. 7842

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: The Board made limited technical corrections and non-substantive amendments proposed by the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? No changes were made.

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

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

15) Summary and Purpose of Rulemaking: The proposal will amend the Board's procedural rules for accepted methods of service in an enforcement proceeding.

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

Daniel Robertson
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312/814-6887

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-6931. Please refer to the Docket number R15-20 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

PART 103
ENFORCEMENT

SUBPART A: GENERAL PROVISIONS

Section
103.100 Applicability
103.102 Severability
103.104 Definitions
103.106 General

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

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

SUBPART C: SETTLEMENT PROCEDURE

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

SUBPART D: PROCEEDINGS INVOLVING RCRA PERMITS

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

SUBPART E: IMPOSITION OF PENALTIES

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

SUBPART F: ENFORCING BOARD ORDERS

Section
103.600 Civil Action

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

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

SOURCE: Originally adopted as Chapter 1: Procedural Rules, Part III, Enforcement Proceedings, in R70-4, at 1 PCB 43, October 8, 1970; amended in R80-2, at 39 PCB 456, at 4 Ill. Reg. 39, p. 285, effective September 12, 1980; amended in R80-18, at 44 PCB 125, at 5 Ill. Reg. 14146, effective December 3, 1981; codified at 6 Ill. Reg. 8357; amended in R84-10 at 9 Ill. Reg. 1383, effective January 16, 1985; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 425, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8793, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2349, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. 12898, effective September 8, 2015.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

**Section 103.204 Notice, Complaint, and Answer**

a) An enforcement proceeding will be commenced by the service of a notice and complaint by U.S. Mail with a recipient's signature recorded~~registered or certified mail~~, a third-party commercial carrier with a recipient's signature recorded~~messenger service~~, or personal service upon all respondents and the filing of the notice and complaint with the Clerk. (See 35 Ill. Adm. Code 101.300(b) and (c), 101.302(h) and 101.304(c)(2).)

b) The notice must be directed to the respondents notifying them of the filing of the accompanying complaint and that they may be required to attend a hearing at a date set by the Board.

c) The complaint must be captioned in accordance with 35 Ill. Adm. Code 101.Appendix A, Illustration A and contain:

1) A reference to the provision of the Act and regulations that the respondents are alleged to be violating;

2) The dates, location, events, nature, extent, duration, and strength of discharges or emissions and consequences alleged to constitute violations of the Act and regulations. The complaint must advise respondents of the extent and nature of the alleged violations to reasonably allow preparation of a defense; and

3) A concise statement of the relief that the complainant seeks.

d) Except as provided in subsection (e)~~ of this Section~~, the respondent may file an answer within 60 days after receipt of the complaint if respondent wants to deny any allegations in the complaint. All material allegations of the complaint will be taken as admitted if no answer is filed or if not specifically denied by the answer, unless respondent asserts a lack of knowledge sufficient to form a belief. Any facts constituting an affirmative defense must be plainly set forth before hearing in the answer or in a supplemental answer, unless the affirmative defense could not have been known before hearing.

e) If the respondent timely files a motion under Section 103.212(b) or 35 Ill. Adm. Code 101.506, the 60-day period to file an answer described in subsection (d) of this Section will be stayed. The stay will begin when the motion is filed and end when the Board disposes of the motion.

f) Any party serving a complaint upon another party must include the following language in the notice: "Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney."

(Source: Amended at 39 Ill. Reg. 12898, effective September 8, 2015)

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

a) The Board, on its own motion or the motion of a respondent, may order a person to be added as a respondent if a complete determination of a controversy cannot be had without the presence of the person who is not already a party to the proceeding.

b) If the Board orders a person to be added as a respondent pursuant to subsection (a)~~ of this Section~~, the Board will grant the complainant leave to file an amended complaint that sets forth a claim against the added respondent. The amended complaint must meet the requirements of Section 103.204~~ of this Subpart~~.

c) Misjoinder and nonjoinder of parties with respect to enforcement proceedings are governed by 35 Ill. Adm. Code 101.403(b).

d) If a party wishes to file a counter-complaint, cross-complaint, or third-party complaint, the party must move the Board for leave to file the pleading. If a party wishes to file an amendment to a complaint, counter-complaint, cross-complaint, or third-party complaint that sets forth a new or modified claim against another person, the party who wishes to file the pleading must move the Board for leave to file the pleading.

e) The pleading sought to be filed pursuant to subsection (d)~~ of this Section~~ must:

1) Set forth a claim that arises out of the occurrence or occurrences that are the subject of the proceeding; and

2) Meet the requirements of Section 103.204 of this Subpart, including the requirement to serve the pleading by U.S. Mail with a recipient's signature recorded~~registered or certified mail~~, a third-party commercial carrier with a recipient's signature recorded~~messenger service~~, or personal service upon the respondent, counter-respondent, cross-respondent, or third-party respondent.

(Source: Amended at 39 Ill. Reg. 12898, effective September 8, 2015)

SUBPART D: PROCEEDINGS INVOLVING RCRA PERMITS

**Section 103.404 Joinder of the Agency**

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

(Source: Amended at 39 Ill. Reg. 12898, effective September 8, 2015)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Regulatory Relief Mechanisms

2) Code Citation: 35 Ill. Adm. Code 104

3)

| Section Numbers: | Adopted Actions: |
|---|---|
| 104.214 | Amendment |
| 104.224 | Amendment |
| 104.232 | Amendment |
| 104.234 | Amendment |

4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]

5) Effective Date of Rules: September 8, 2015

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

7) Do these rulemakings contain incorporations by reference? No

8) The adopted rules are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available there for public inspection.

9) Notice of Proposal published in the *Illinois Register*: June 5, 2015; 39 Ill. Reg. 7849

10) Has JCAR issued a Statement of Objections to this rulemaking? No

11) Differences between Proposed and Final Version: The Board made limited technical corrections and non-substantive amendments proposed by the Joint Committee on Administrative Rules. Based on a comment from the Illinois Environmental Protection Agency (IEPA), the Board at second notice made amendments to subsections 104.224 and 104.234 to clarify, consistent with originally proposed amendments in this Section, that notice requirements for a variance petition are now the responsibility of the variance petitioner and not IEPA.

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

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

15) Summary and Purpose of Rulemaking: The rulemaking amends the Board's procedural rules for variance notice requirements and determining the 120-day deadline for the Board to take final action on a variance request.

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

Daniel Robertson
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312/814-6887

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R15-20 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

PART 104
REGULATORY RELIEF MECHANISMS

SUBPART A: GENERAL PROVISIONS

Section
104.100 Applicability
104.102 Severability
104.104 Definitions

SUBPART B: VARIANCES

Section
104.200 General
104.202 Filing Requirements
104.204 Petition Content Requirements
104.206 Resource Conservation and Recovery Act (RCRA) Variance Petition Contents
104.208 Consistency with Federal Law
104.210 Petition for Extension of Variance
104.212 Motion for Modification of Internal Variance Compliance Dates
104.214 ~~Agency's~~ Notice of Petition
104.216 Agency Investigation and Recommendation
104.218 Agency Recommendation to RCRA Variance
104.220 Response to Agency Recommendation
104.222 Stipulations
104.224 Objections to Petition, Written Comments and Request for Hearing
104.226 Amended Petition and Amended Recommendation
104.228 Insufficient Petition
104.230 Dismissal of Petition
104.232 Calculation of Decision Deadline
104.234 Hearing
104.236 Hearing Procedures
104.238 Standard of Review
104.240 Certificate of Acceptance
104.242 Term of Variance

104.244 Variance Conditions
104.246 Performance Bonds
104.248 Objection to Conditions

SUBPART C: PROVISIONAL VARIANCES

Section
104.300 Applicability
104.302 Agency Action
104.304 Initiating a Request
104.306 Filing and Notice
104.308 Term
104.310 Simultaneous Variance Prohibition (Repealed)

SUBPART D: ADJUSTED STANDARDS

Section
104.400 General
104.402 Initiation of Proceeding
104.404 Request to Agency to Join as Co-Petitioner
104.406 Petition Content Requirements
104.408 Petition Notice Requirements
104.410 Proof of Petition Notice Requirements
104.412 Effect of Filing a Petition: Stay
104.414 Dismissal of Petition
104.416 Agency Recommendation and Petitioner Response
104.418 Amended Petition, Amended Recommendation, and Amended Response
104.420 Request for Public Hearing
104.422 Public Hearing
104.424 Hearing Notice
104.426 Burden of Proof
104.428 Board Action

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

AUTHORITY: Subparts B and C: Implementing Sections 5, 35, 36, 37 and 38 of the Environmental Protection Act (Act) [415 ILCS 5/5, 35, 36, 37, and 38] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27]. Subpart D: Implementing Sections 5, 14.2(c), 22.4, 27, 28, 28.1, 28.5 and 39.5 of the Act [415 ILCS 5/5, 14.2(c), 22.4, 27, 28, 28.1,

28.5 and 39.5] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27].

SOURCE: Subpart B: Originally adopted as Chapter I: Procedural Rules, Part IV: Variances, in R70-4, at 1 PCB 43, October 8, 1970; amended in R77-16, 29 PCB 503, at 2 Ill. Reg. 16, p. 3, effective May 1974; amended in R79-9, 35 PCB 433, at 3 Ill. Reg. 51, p. 128, effective December 7, 1979; amended in R80-12, 40 PCB 451, at 5 Ill. Reg. 2763, effective March 2, 1981; codified at 6 Ill. Reg. 8357; amended in R84-10, 62 PCB 87, at 9 Ill. Reg. 1409, effective January 16, 1985; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 613, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8803, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2357, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. 12905, effective September 8, 2015.

SUBPART B: VARIANCES

**Section 104.214 ~~Agency's~~ Notice of Petition**

a) Within 14 days after the petition is filed, the petitioner~~Agency~~ must *publish a single notice of such petition in a newspaper of general circulation in* the county where the facility or pollution source is located [415 ILCS 5/37(a)].

b) Upon filing~~receipt of~~ a petition for variance, the petitioner~~*the Agency*~~ *shall promptly give written notice of such petition to*:

1) *Any person in the county in which the installation or property for which variance is sought is located who has filed with the Board a written request for~~in writing requested~~ notice of variance petitions;*

2) *The State's attorney of such county*;

3) *The Chairman of the County Board of such county*; and

4) *Each member of the General Assembly from the legislative district in which that installation or property is located*. [415 ILCS 5/37(a)]

c) Upon receipt of a petition for RCRA variance, the Agency must promptly give notice of the petition to:

1) Federal agencies as designated by USEPA;

2) Illinois Department of Transportation;

3) Department of Natural Resources;

4) Illinois Department of Public Health;

5) The Governor of any other state adjacent to the county in which the facility or pollution source is located; and

6) Elected officials of any counties, in other states, adjacent to the county in which the facility or pollution source is located, and elected officials in any municipality, in another state, if it is the closest population center to the facility or pollution source.

d) In addition to the methods of notice stated in subsection (c) of this Section, in a RCRA variance the Agency must also give notice by broadcast over at least one local radio station in the area of the facility or pollution source containing the information required by subsections (e) and (f) of this Section.

e) All *notices required by this Section* must include the following:

1) *The street address* of the facility or pollution source, *and if there is no street address, then the legal description or the location with reference to any well known landmark, highway, road, thoroughfare or intersection* [415 ILCS 5/37(a)];

2) A description of the requested relief;

3) An indication that any person may request a hearing by filing with the Board a written objection to the grant of the variance within 21 days after the publication of the petitioner's~~Agency's~~ notice, together with a written request for hearing;

4) The Clerk of the Board's address and phone number, the Board's website address, and a statement that a copy of the variance petition may be obtained through the Clerk's Office or COOL, located on the Board's website;

5) A statement that the Agency is preparing a recommendation and seeking

the views of persons who may be adversely affected by the variance. All comments and inquiries should be addressed to~~, the date on which the recommendation is to be filed, and the name, address, e-mail address, and telephone number of~~ the Agency employee responsible for the recommendation within 21 days after publication of the petitioner's notice. The notice must include the date on which the recommendation is to be filed, and the name, address, email address, and telephone number of the Agency employee responsible for the recommendation;

6) A statement that a hearing may be held after the filing of the recommendation and that the record will remain open for written comments for 45 days after filing of the recommendation. The notice will include the address of the Board to which the comments must be mailed;

7) A statement that the record in the variance proceeding is available at the Board office for inspection, except those portions that are protected from disclosure under 35 Ill. Adm. Code 130, and that procedures are available whereby disclosure may be sought by the public;

8) A statement that variances may be granted pursuant to Section 35 of the Act [415 ILCS 5/35] and 35 Ill. Adm. Code 104, and a reference to the Board regulations or order from which a variance is sought; and

9) Any additional information considered necessary or proper.

f) Within 21 days after the publication of notice, the petitioner~~Agency~~ must file with the Board a certification of publication that states the date on which the notice was published and must attach a copy of the published notice.

(Source: Amended at 39 Ill. Reg. 12905, effective September 8, 2015)

**Section 104.224 Objections to Petition, Written Comments and Request for Hearing**

a) A person who files an objection, request for hearing, or comment is a "participant" as defined in 35 Ill. Adm. Code 101.Subpart B.

b) Except as provided in subsection (e) of this Section for RCRA variances, any person may file with the Clerk, within 21 days after the publication of the Petitioner's~~Agency's~~ notice pursuant to Section 104.214 of this Part, a written

objection to the grant of variance. The Clerk will serve a copy of the objection on the petitioner, the Agency, the hearing officer, and any joined parties in accordance with 35 Ill. Adm. Code 101.304(c).

c) Any person may also file a written request for hearing. The written request must be filed within 21 days after the publication of the Petitioner's~~Agency's~~ notice pursuant to Section 104.214 of this Part in order for a hearing to be held in accordance with Section 104.236 of this Part and 35 Ill. Adm. Code 101.Subpart F.

d) Any person may file written comments in a variance proceeding. If a hearing is held, public comments must be filed within 14 days after the close of the hearing unless the hearing officer specifies a different date. If there is no hearing, comments must be filed no later than 30 days before the decision date, unless the hearing officer orders otherwise to prevent material prejudice. (See 35 Ill. Adm. Code 101.628(c)(1).)

e) In RCRA variances, subsections (b) and (c) of this Section do not apply. However, persons may file written comments within 45 days after the Agency files its recommendation.

(Source: Amended at 39 Ill. Reg. 12905, effective September 8, 2015)

**Section 104.232 Calculation of Decision Deadline**

a) Pursuant to Section 38(a) of the Act, the Board will render its final decision on the petition within 120 days after the date of filing of the petition or the receipt of a request for hearing pursuant to Section 37(a) of the Act, whichever is later, except:

1) When the petitioner waives its right to a decision within the prescribed decision period in accordance with 35 Ill. Adm. Code 101.Subpart C;

2) When the petitioner files an amended petition for variance pursuant to this Subpart~~ or files a request for hearing after filing the original petition~~, the decision period recommences from the date of filing of the amended petition~~ or the request for hearing~~; or

3) When a hearing is canceled pursuant to 35 Ill. Adm. Code 101.510.

b) Time will be computed in accordance with 35 Ill. Adm. Code 101.Subpart C.

(Source: Amended at 39 Ill. Reg. 12905, effective September 8, 2015)

**Section 104.234 Hearing**

The Board will order a hearing on a variance petition if:

a) A hearing is requested by the petitioner at the time of initial filing on the associated form or in writing, which is filed and served in accordance with 35 Ill. Adm. Code 101.Subpart C;

b) A hearing is requested in a response or amended petition;

c) *The Board, in its discretion, concludes that a hearing would be advisable* [415 ILCS 5/37(a)];

d) *The Agency or any other person files a written objection to the grant of such variance within 21 days* after the publication of the Petitioner's~~Agency's~~ notice pursuant to Section 104.214 of this Part, *together with a written request for hearing* [415 ILCS 5/37(a)]; or

e) The request concerns a RCRA variance.

(Source: Amended at 39 Ill. Reg. 12905, effective September 8, 2015)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Proceedings Pursuant to Specific Rules or Statutory Provisions

2) Code Citation: 35 Ill. Adm. Code 106

3) Section Number: 106.708 Adopted Action: Amendment

4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]

5) Effective Date of Rule: September 8, 2015

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

7) Does this rulemaking contain incorporations by reference? No

8) The adopted rule is on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and is available there for public inspection.

9) Notice of Proposal published in the *Illinois Register*: June 5, 2015; 39 Ill. Reg. 7857

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: The Board made limited technical corrections and non-substantive amendments proposed by the Joint Committee on Administrative Rules.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements letter issued by JCAR? No changes were made.

13) Will these rulemakings replace emergency rules currently in effect? No

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

15) Summary and Purpose of Rulemaking: The proposal will amend the Board's procedural rules for accepted methods of service. Specifically, the proposal amends the accepted methods of service for the Illinois Environmental Protection Agency to serve a notice of filing and statement of deficiency when attempting to terminate an Environmental Management System Agreement.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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

Daniel Robertson
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312/814-6931

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to Docket number R15-20 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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

PART 106
PROCEEDINGS PURSUANT TO SPECIFIC RULES OR STATUTORY PROVISIONS

SUBPART A: GENERAL PROVISIONS

Section
106.100 Applicability
106.102 Severability
106.104 Definitions

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

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

SUBPART C: WATER WELL SETBACK EXCEPTION PROCEDURES

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

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

Section

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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

SUBPART E: MAXIMUM ACHIEVABLE CONTROL TECHNOLOGY DETERMINATIONS

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

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

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

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

Section
106.700 Purpose

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

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

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

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

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

Section
106.900 General
106.902 Initiation of Proceeding

106.904 Petition Content Requirements
106.906 Petition Notice Requirements
106.908 Proof of Petition Notice Requirements
106.910 Response and Reply
106.912 Hearing
106.914 Burden of Proof

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

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

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

Section
106.1100 Purpose
106.1105 General
106.1110 Definitions
106.1115 Early Screening
106.1120 Detailed Plan of Study
106.1125 Initiation of Proceeding
106.1130 Contents of Petition
106.1135 Petition Notice Requirements
106.1140 Proof of Petition Notice Requirements
106.1145 Recommendation and Response
106.1150 Request for Public Hearing
106.1155 Notice and Conduct of Hearing
106.1160 Burden of Proof
106.1165 Evidentiary Matters
106.1170 Opinion and Order
106.1175 Post-Hearing Procedures

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENT

106.1180 Renewal of Alternative Thermal Effluent Limitations

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

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

SOURCE: Filed with Secretary of State January 1, 1978; amended at 4 Ill. Reg. 2, p. 186, effective December 27, 1979; codified at 6 Ill. Reg. 8357; amended in R85-22 at 10 Ill. Reg. 992, effective February 2, 1986; amended in R86-46 at 11 Ill. Reg. 13457, effective August 4, 1987; amended in R82-1 at 12 Ill. Reg. 12484, effective July 13, 1988; amended in R88-10 at 12 Ill. Reg. 12817, effective July 21, 1988; amended in R88-5(A) at 13 Ill. Reg. 12094, effective July 10, 1989; amended in R88-5(B) at 14 Ill. Reg. 9442, effective June 5, 1990; amended in R93-24 at 18 Ill. Reg. 4230, effective March 8, 1994; amended in R93-30 at 18 Ill. Reg. 11579, effective July 11, 1994; amended in R99-9 at 23 Ill. Reg. 2697, effective February 16, 1999; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 550, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8817, effective June 8, 2005; amended in R10-19 at 34 Ill. Reg. 11486, effective July 23, 2010; amended in R12-21 at 36 Ill. Reg. 9236, effective June 7, 2012; amended in R12-11 at 36 Ill. Reg. 16581, effective November 5, 2012; amended in R13-20 at 38 Ill. Reg. 6086, effective February 26, 2014; amended in R14-21 at 39 Ill. Reg. 2375, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. 12914, effective September 8, 2015.

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

**Section 106.708 Service**

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

(Source: Amended at 39 Ill. Reg. 12914, effective September 8, 2015)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Administrative Citations

2) Code Citation: 35 Ill. Adm. Code 108

3)

| Section Numbers: | Adopted Actions: |
|---|---|
| 108.100 | Amendment |
| 108.200 | Amendment |
| 108.201 | New Section |
| 108.202 | Amendment |
| 108.204 | Amendment |
| 108.206 | Amendment |
| 108.300 | Amendment |
| 108.402 | Amendment |
| 108.406 | Amendment |
| 108.500 | Amendment |

4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]

5) Effective Date of Rules: September 8, 2015

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

7) Does this rulemaking contain incorporations by reference? No

8) The adopted rules are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500 and are available there for public inspection.

9) Notice of Proposal published in the *Illinois Register*: June 5, 2015; 39 Ill. Reg. 7864

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: The Board made limited technical corrections and non-substantive amendments proposed by the Joint Committee on Administrative Rules.

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

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

15) Summary and Purpose of Rulemaking: The rulemaking amends the Board's procedural rules for administrative citations filed pursuant to Section 23.1 of the Public Water Supply Operations Act [415 ILCS 45/23.1] or Section 20 of the Electronic Products Recycling and Reuse Act [415 ILCS 150/20].

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

Daniel Robertson
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312/814-6931

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the Docket number R15-20 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

PART 108
ADMINISTRATIVE CITATIONS

SUBPART A: GENERAL PROVISIONS

Section
108.100 Applicability
108.102 Severability
108.104 Definitions

SUBPART B: ISSUANCE OF THE CITATION AND PETITION TO CONTEST

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

SUBPART C: HEARINGS

Section
108.300 Authorization of Hearing

SUBPART D: BOARD DECISIONS

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

SUBPART E: ASSESSMENT OF PENALTIES AND COSTS

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

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

AUTHORITY: Authorized by Sections 26 and 27 of the Environmental Protection Act [415 ILCS 5/26 and 27] and implementing Sections 21(o), 21(p), 22.51, 22.51a, 31.1, 42(b)(4), 42(b)(4-5), and 55(k) of the Act [415 ILCS 5/21(o), 21(p), 22.51, 22.51a, 31.1, 42(b)(4), 42(b)(4-5), and 55(k)] and Sections 1.1(b)(3) and 23.1 of the Public Water Supply Operations Act [415 ILCS 45/1.1(b)(3) and 23.1] and Sections 20 and 80 of the Electronic Products Recycling and Reuse Act [415 ILCS 150/20 and 80].

SOURCE: Adopted in R00-20 at 25 Ill. Reg. 397, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8833, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2397, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. 12921, effective September 8, 2015.

SUBPART A: GENERAL PROVISIONS

**Section 108.100 Applicability**

a) This Part applies to proceedings before the Board concerning petitions to contest the issuance of an administrative citation~~ pursuant to Section 31.1 of the Act~~.

b) This Part must be read in conjunction with 35 Ill. Adm. Code 101 which contains procedures generally applicable to all of the Board's adjudicatory proceedings. In the event of a conflict between the requirements of 35 Ill. Adm. Code 101 and this Part, the provisions of this Part will apply.

(Source: Amended at 39 Ill. Reg. 12921, effective September 8, 2015)

SUBPART B: ISSUANCE OF THE CITATION AND PETITION TO CONTEST

**Section 108.200 Administrative Citation under the Act~~Issuance~~**

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

1) Illinois Environmental Protection Agency. The Agency may issue an AC pursuant to Section 31.1 of the Act.

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

b) In accordance with Section 31.1 of the Act, the Agency or Delegated Unit may serve an AC upon any person believed, through direct observation, to have violated Section 21(o), 21(p), 22.51, 22.51a, or 55(k) of the Act.

1) The AC must be issued and served upon the AC Recipient *not more than 60 days after the date of the observed violation* and must contain *the following information*:

A) *A statement specifying the provisions of Section 21(o), 21(p), 22.51, 22.51a, or 55(k) of the Act that* the AC Recipient was observed to have violated;

B) *A copy of the inspection report in which the Agency or* Delegated Unit *recorded the violation*. The report must *include the date and time of inspection and weather conditions prevailing during the inspection*;

C) *The penalty imposed by Section 42(b)(4) or (b)(4-5)* of the Act for the violations;

D) *An affidavit by the personnel observing the violation, attesting to their material actions and observations*; and

E) *Instructions for contesting the* AC *findings, including notification that the* AC Recipient *has 35 days within which to file a petition to contest the* AC and, if an appeal is filed and the Board finds a violation, the AC Recipient may have to pay hearing costs pursuant to Section 108.500. [415 ILCS 5/31.1(b)]

2) The Agency or Delegated Unit must serve the AC upon the AC Recipient as follows:

A) Personal service;

B) U.S. Mail with a recipient's signature recorded by the U.S. Postal Service upon delivery; or

C) Third-party commercial carrier with a recipient's signature recorded by the third-party commercial carrier upon delivery.

3) The Agency or Delegated Unit must file the AC with the Board *no later than 10 days after the date of service* upon the AC Recipient. [415 ILCS 5/31.1(c)]

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

~~a) Illinois Environmental Protection Agency (Agency). The Agency may issue an AC pursuant to Section 31.1 of the Act.~~

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

(Source: Amended at 39 Ill. Reg. 12921, effective September 8, 2015)

**Section 108.201 Administrative Citation under the PWSO Act**

a) An AC under the Public Water Supply Operations Act [415 ILCS 45] may be issued by the Illinois Environmental Protection Agency. The Agency may issue an AC pursuant to Section 23.1(b) of the PWSO Act.

b) In accordance with Section 23.1 of the PWSO Act, *if Agency personnel discover that a Responsible Operator in Charge has violated Section 1.1(b)(3) of the* PWSO *Act, the Agency may serve an* AC *upon that individual*.

1) The AC must be issued and served upon the AC Recipient *not more than 90 days after the date of the discovery of the violation* and must contain the following information:

A) *A statement specifying the report or result that the Responsible Operator in Charge failed to submit in accordance with Board rules and a citation to the Board rules that were violated;*

B) *A copy of any report in which the Agency recorded the violation;*

C) *The penalty imposed by Section 23.1(f) of the PWSO Act for the violation;*

D) *Instructions for contesting the AC findings pursuant to Section 23.1 of the PWSO Act, including notification that the individual has 35 days within which to file a petition for review before the Board to contest the AC* and, if an appeal is filed and the Board finds a violation, a statement that the AC Recipient may have to pay hearing costs pursuant to Section 108.500*; and*

E) *An affidavit by the personnel recording the violation.* [415 ILCS 45/23.1(b)]

2) The Agency must serve the AC upon the AC Recipient by personal service or certified mail.

3) The Agency must file the AC with the Board *no later than 15 days after the date of service* upon the AC Recipient. [415 ILCS 45/23.1(c)]

(Source: Added at 39 Ill. Reg. 12921, effective September 8, 2015)

**Section 108.202 Administrative Citation under the EPRR Act~~Service of Citation/Filing of Citation with the Board~~**

a) An AC under the Electronic Products Recycling and Reuse Act [415 ILCS 150] may be issued by either of the following:

1) Illinois Environmental Protection Agency. The Agency may issue an AC pursuant to Section 20(k) of the EPRR Act.

2) Delegated Unit. Pursuant to Section 4(r) of the Act, the Agency may delegate its AC authority to a unit of local government, which may then issue an AC. Under Section 20(k) of the EPRR Act, a Delegated Unit must be a county. All Delegated Units must submit to the Clerk of the Board a copy of the delegation agreement on or before July 1 of every year.

b) In accordance with Section 20(k) of the EPRR Act, the Agency or Delegated Unit may serve an AC upon any person believed, based on direct observation, to have violated any provision of the EPRR Act or the entity employing that person.

1) The AC must be issued and served upon the AC Recipient not more than *60 days after the date of the observed violatio*n and must contain the following information:

A) *A statement specifying the provisions of* the EPRR *Act that the* person or the entity employing the person has violated;

B) *A copy of the inspection report in which the Agency or* Delegated Unit *recorded the violation*; the report must include the *date and time of inspection*;

C) *The penalty imposed* by Section 80 of the EPRR Act for the violations;

D) *An affidavit by the personnel observing the violation, attesting to their material actions and observations*; and

E) Instructions for contesting the AC findings, including notification that the AC Recipient has *35 days* within which to file a petition to contest the AC. [415 ILCS 150/20(k)]

2) The Agency or Delegated Unit must serve the AC upon the AC Recipient as follows:

A) Personal service;

B) U.S. Mail with a recipient's signature recorded by the U.S. Postal Service upon delivery; or

C) Third-party commercial carrier with a recipient's signature recorded by the third-party commercial carrier upon delivery.

~~a) In accordance with Section 31.1 of the Act, the Agency or Delegated Unit may serve an AC upon any person (AC Recipient) believed, through direct observation, to have violated Section 21(o) or (p) of the Act. Service of an AC upon the AC Recipient must be made personally, by registered or certified mail, or by messenger service. (See 35 Ill. Adm. Code 101.300(c) and 101.304(c).)~~

~~b) The AC must be issued and served upon the AC Recipient not more than 60 days after the date of the observed violation and must contain the following information:~~

~~1) A statement specifying the provisions of Section 21(o) or (p) of the Act that the AC Recipient was observed to have violated;~~

~~2) A copy of the inspection report in which the Agency or Delegated Unit recorded the violation, which report must include the date and time of inspection, and weather conditions prevailing during the inspection;~~

~~3) The penalty imposed by Section 42(b)(4) or (b)(4-5) of the Act for the violations;~~

~~4) An affidavit by the personnel observing the violation, attesting to their material actions and observations; and~~

~~5) Instructions for contesting the AC findings, including notification that the AC Recipient has 35 days within which to file a petition to contest the AC, and if an appeal is filed and the Board finds a violation, the AC Recipient must pay hearing costs pursuant to Section 108.500 of this Part.~~

~~c) As required by Section 31.1 of the Act, the Agency or Delegated Unit must file the AC with the Board no later than 10 days after the date of service upon the AC Recipient.~~

(Source: Amended at 39 Ill. Reg. 12921, effective September 8, 2015)

**Section 108.204 Filing Requirements for Petition to Contest**

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

b) Time to File. The petition to contest must be filed with the Board within 35 days after the date of the service of the AC~~ as required by Section 31.1(d)(1) of the Act~~.

c) Additional Requirements. Additional filing and service requirements are set forth at 35 Ill. Adm. Code 101.Subpart C.

(Source: Amended at 39 Ill. Reg. 12921, effective September 8, 2015)

**Section 108.206 Petition Contents**

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

a) ~~The AC Recipient does not own the property;~~

~~b)~~ The AC Recipient did not cause or allow the alleged violations;

b~~c~~) The AC was not timely filed or properly served; or

c~~d~~) The alleged violation was the result of uncontrollable circumstances.

(Source: Amended at 39 Ill. Reg. 12921, effective September 8, 2015)

SUBPART C: HEARINGS

**Section 108.300 Authorization of Hearing**

a) The hearing date will be set within 60 days after the filing of the petition to contest unless the hearing officer orders otherwise to prevent material prejudice.

b) The hearing officer will give the parties at least 21 days written notice of the hearing~~ in accordance with Section 31.1(d) of the Act~~.

c) The hearing will be held in accordance with 35 Ill. Adm. Code 101.Subpart F.

d) The hearing will be held at a time and location consistent with the Board's resources as designated by the hearing officer.

(Source: Amended at 39 Ill. Reg. 12921, effective September 8, 2015)

SUBPART D: BOARD DECISIONS

**Section 108.402 Dismissal**

The Board may issue an order dismissing the AC and closing the docket upon its own motion or a motion by the AC Recipient, Agency or Delegated Unit if the AC was not timely and properly served pursuant to the relevant statute~~Section 31.1 of the Act~~ and Section 108.200, 108.201 or 108.202~~of this Part~~.

(Source: Amended at 39 Ill. Reg. 12921, effective September 8, 2015)

**Section 108.406 Non-Contested Citations**

The Board will consider the AC non-contested if the AC Recipient does not file a petition to contest, fails to timely file a petition to contest, or withdraws its petition to contest pursuant to Section 108.208.~~ If the AC is non-contested prior to hearing, the Board will adopt a final order in accordance with Section 108.500(a). If the AC Recipient withdraws its petition to contest after the hearing starts, the Board will adopt a final order in accordance with Section 108.500(c) of this Part.~~

(Source: Amended at 39 Ill. Reg. 12921, effective September 8, 2015)

SUBPART E: ASSESSMENT OF PENALTIES AND COSTS

**Section 108.500 Penalties and Costs**

a) Unless the AC Recipient has shown that the violations resulted from uncontrollable circumstances, the~~The~~ Board will impose penalties~~ and assess costs~~ as follows:

1) For violations of the Act, the Board will impose penalties as set forth in Sections 42(b)(4) and 42(b)(4-5) of the Act.

2) For violations of the PWSO Act, the Board will impose penalties as set forth in Section 23.1(f) of the PWSO Act.

3) For violations of the EPRR Act, the Board will impose penalties as set forth in Section 80(j) of the EPRR Act.

b) When the Board imposes penalties pursuant to subsection (a) following a finding of violation of the Act or the PWSO Act, the Board will assess the AC Recipient associated hearing costs, if any, pursuant to Sections 108.502 and 108.504.

~~a) If the AC is defaulted or non-contested as set forth in Section 108.404 or 108.406 of this Part, respectively, the Board will do the following:~~

~~1) Impose on the AC Recipient found to have violated any provision of Section 21(o) of the Act a $500 penalty for each violation of each such provision; and~~

~~2) Impose on the AC Recipient found to have violated any provision of Section 21(p) of the Act a $1,500 penalty for each violation of each such provision, except that the penalty amount imposed will be $3,000 for each violation of any provision of Section 21(p) of the Act that is the AC recipient's second or subsequent adjudicated violation of that provision.~~

~~b) If the AC Recipient contests the AC and the Board finds, based on the record, that the violation occurred and that the AC Recipient has not shown that the violation resulted from uncontrollable circumstances, the Board will do the following:~~

~~1) Impose on the AC Recipient found to have violated any provision of Section 21(o) of the Act a $500 penalty for each violation of each such provision;~~

~~2) Impose on the AC Recipient found to have violated any provision of Section 21(p) of the Act a $1,500 penalty for each violation of each such provision, except that the penalty amount imposed will be $3,000 for each violation of any provision of Section 21(p) of the Act that is the AC~~

~~recipient's second or subsequent adjudicated violation of that provision; and~~

~~3) Assess the AC Recipient found to have violated any provision of Section 21(o) or (p) of the Act associated hearing costs pursuant to Sections 108.502 and 108.504 of this Subpart.~~

~~c) If the AC Recipient contests the AC but voluntarily withdraws the petition for review pursuant to Section 108.208 of this Part after the hearing starts, the Board will do the following:~~

~~1) Impose on the AC Recipient found to have violated any provision of Section 21(o) of the Act a $500 penalty for each violation of each such provision;~~

~~2) Impose on the AC Recipient found to have violated any provision of Section 21(p) of the Act a $1,500 penalty for each violation of each such provision, except that the penalty amount imposed will be $3,000 for each violation of any provision of Section 21(p) of the Act that is the AC recipient's second or subsequent adjudicated violation of that provision; and~~

~~3) Assess the AC Recipient found to have violated any provision of Section 21(o) or (p) of the Act associated hearing costs pursuant to Sections 108.502 and 108.504 of this Subpart.~~

(Source: Amended at 39 Ill. Reg. 12921, effective September 8, 2015)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Management of Used and Waste Tires

2) Code Citation: 35 Ill. Adm. Code 848

3)

| Section Numbers: | Adopted Actions: |
|---|---|
| 848.101 | Amendment |
| 848.104 | Amendment |
| 848.105 | Amendment |
| 848.106 | New Section |
| 848.201 | Amendment |
| 848.202 | Amendment |
| 848.203 | Amendment |
| 848.204 | Amendment |
| 848.205 | Amendment |
| 848.206 | Repealed |
| 848.207 | Repealed |
| 848.208 | Repealed |
| 848.301 | Amendment |
| 848.302 | Amendment |
| 848.303 | Amendment |
| 848.304 | Amendment |
| 848.305 | Renumbered/New Section |
| 848.306 | Amendment |
| 848.307 | Renumbered |
| 848.400 | Amendment |
| 848.401 | Amendment |
| 848.402 | Amendment |
| 848.403 | Amendment |
| 848.404 | Amendment |
| 848.406 | Amendment |
| 848.407 | Amendment |
| 848.408 | Amendment |
| 848.410 | Amendment |
| 848.411 | New Section |
| 848.413 | Amendment |
| 848.415 | Repealed |
| 848.501 | Amendment |
| 848.502 | Amendment |
| 848.503 | Amendment |

| | |
|---|---|
| 848.504 | Amendment |
| 848.506 | Amendment |
| 848.507 | Amendment |
| 848.508 | Amendment |
| 848.509 | Amendment |
| 848.601 | Amendment |
| 848.602 | Amendment |
| 848.603 | Amendment |
| 848.604 | Amendment |
| 848.605 | Amendment |
| 848.606 | Amendment |
| 848.607 | New Section |
| 848.608 | New Section |
| 848.609 | New Section |
| 848.610 | New Section |
| 848.701 | New Section |
| 848.702 | New Section |
| 848.703 | New Section |
| 848.704 | New Section |
| 848.705 | New Section |
| 848.706 | New Section |
| 848.707 | New Section |
| 848.708 | New Section |
| 848.Appendix A | |
| 848.Illustration A | Amendment |
| 848.Illustration B | Amendment |
| 848.Illustration C | Amendment |
| 848.Illustration D | Repealed |
| 848.Illustration E | Repealed |
| 848.Illustration F | Repealed |

4) Statutory Authority: Implementing and authorized by Sections 55.2 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/55.2 and 27]

5) Effective Date of Rules: September 8, 2015

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

7) Does this rulemaking contain incorporations by reference? Yes

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

8) The adopted rules are on file in the Board's Chicago office at the James R. Thompson Center, 100 W. Randolph, Suite 11-500, and are available there for public inspection.

9) Notice of Proposal published in the *Illinois Register*: February 27, 2015; 39 Ill. Reg. 2814

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: Changes were made to make the rule language consistent with existing statutes and regulations. Several non-substantive, clarifying changes were also made. An exemption from the rules for pieces of used or waste tires labeled "two-inch-minus chips" was changed to exempt accumulations of two-inch-minus chips only from financial assurance requirements rather than from sections of the rule aimed to protect against the risk of fire. Likewise, an exemption for shredded or sliced tires was removed due to the risk of fire accumulations of shredded or sliced tires present and an exemption for tire retreading and tire stamping facilities was struck due to the risks those facilities present to the public. Precautions against mosquitos were reinstated to the rules requiring a contingency plan for tire storage facilities due to a loop hole found by the Board at first notice. Changes were made to recordkeeping provisions with regard to tire retreading facilities because those facilities use a bill of lading for tracking purposes rather than tire tracking receipts. Another recordkeeping change mandates that the Daily Tire Record be completed by the end of an operating day, rather than providing a different recordkeeping deadlines depending upon the method of recordkeeping. A change was made to rule language exempting two-inch-minus chips from the weight of used or waste tires at a facility so that only two-inch-minus chips must be under a contract for purchase or other sale in order to be not included in the weight figure. With regard to financial assurance, a change was made clarifying that costs to the Illinois EPA, rather than projected removal costs, must be used as the basis for the facility's removal cost estimate—the basis for how much financial assurance must be provided under several provisions of the rule. In a section regarding paying a facility from a trust fund set up for financial assurance, the Illinois EPA removed language stating that Illinois EPA must respond "as soon as practicable" to itemized removal action bills and replaced that language with language requiring Illinois EPA to respond not more than 120 days following the Illinois EPA's receipt of the itemized removal action bills. Changes to the rule language creating the new tire storage permitting program include language that demands that various forms and applications be submitted on forms created by the Illinois EPA. Finally, with regard to the appendix and illustrations within the appendix, the Illinois EPA proposed eliminating the appendix and

all illustrations. The final rule, however, includes three illustrations within Appendix A. Those illustrations are all three forms that may be necessary for compliance with the rule. The final rule includes Trust Agreement, Surety Bond Guaranteeing Payment, and Irrevocable Standby Letter of Credit forms as illustrations.

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

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

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

15) Summary and Purpose of Rulemaking: A more complete description of this proposal may be found in the Board's final opinion and order in docket R15-19.

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

Chad M. Kruse
Illinois Pollution Control Board
100 W. Randolph 11-500
Chicago IL 60601

312/814-3665
chad.kruse@illinois.gov

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address listed in #8 above or by calling 312/814-3620. Please refer to the docket number R15-19 in your request. The Board order is also available from the Board's Web site (www.ipcb.state.il.us).

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

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER m: USED AND WASTE TIRES

PART 848
MANAGEMENT OF USED AND WASTE TIRES

SUBPART A: GENERAL

Section
848.101 Applicability
848.102 Severability
848.103 Other Regulations
848.104 Definitions
848.105 Incorporation by Reference
848.106 Estimating the Weight of Used and Waste Tire Accumulations

SUBPART B: MANAGEMENT STANDARDS

Section
848.201 Applicability
848.202 Requirements
848.203 Contingency Planning and Emergency Response~~Plan~~
848.204 Storage of Used and Waste Tires Within Buildings
848.205 Pesticide Treatment
848.206 Exemptions for Tire Retreading Facilities (Repealed)
848.207 Exemptions for Tire Stamping & Die Cutting Facilities (Repealed)
848.208 Exemptions for Sites With a Tire Removal Agreement (Repealed)

SUBPART C: RECORDKEEPING AND REPORTING

Section
848.301 Applicability
848.302 Records
848.303 Daily Tire Record
848.304 Annual Tire Summary
848.305 Tire Tracking Receipts~~Retention of Records~~
848.306 Certification

848.307 Retention of Records

SUBPART D: FINANCIAL ASSURANCE

Section
848.400 Scope and Applicability
848.401 Maintaining~~Upgrading~~ Financial Assurance
848.402 Release of Financial Institution
848.403 Application of Proceeds and Appeal
848.404 Removal Cost Estimate
848.406 Mechanisms for Financial Assurance
848.407 Use of Multiple Financial Mechanisms
848.408 Use of a Financial Mechanism~~Mechanism~~ for Multiple Sites
848.410 Trust Fund
848.411 Surety Bond Guaranteeing Payment
848.413 Letter of Credit
848.415 Self-Insurance for Non-commercial Sites (Repealed)

SUBPART E: TIRE REMOVAL AGREEMENTS

Section
848.501 Applicability
848.502 Removal Performance Standard
848.503 Contents of Proposed Tire Removal Agreements
848.504 Time Allowed for Tire Removal
848.505 Removal Plan
848.506 Initiation of Tire Removal
848.507 Certification of Removal Completion
848.508 Agency Approval
848.509 Board Review

SUBPART F: TIRE TRANSPORTATION REQUIREMENTS

Section
848.601 Tire Transportation Prohibitions
848.602 Tire Transportation Registrations
848.603 Agency Approval of Registrations
848.604 Registration No Defense
848.605 Duration and Renewal

848.606 Vehicle Placarding
848.607 Tire Tracking Receipts
848.608 Annual Tire Transportation Report
848.609 Retention of Records
848.610 Certification

SUBPART G: TIRE STORAGE PERMITS

Section
848.701 Tire Storage Permits
848.702 Application for Tire Storage Permits
848.703 Permit Conditions
848.704 Standards for Issuance of Tire Storage Permits
848.705 Permit No Defense
848.706 Permit Revision
848.707 No Transfer of Permits
848.708 Permit Revocation

848.APPENDIX A "Financial Assurance Forms"
848.ILLUSTRATION A "Trust Agreement"
848.ILLUSTRATION B "Surety Bond Guaranteeing PaymentCertification of Acknowledgement"
848.ILLUSTRATION C "Irrevocable Standby Letter of Credit"
848.ILLUSTRATION D Owner or Operator's Bond Without Surety (Repealed)
848.ILLUSTRATION E Owner or Operator's Bond With Parent Surety (Repealed)
848.ILLUSTRATION F Letter from the Chief Financial Officer (Repealed)

AUTHORITY: Implementing Section 55.2 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/55.2 and 27].

SOURCE: Adopted in R90-9(A) at 15 Ill. Reg. 7959, effective May 10, 1991; amended in R90-9(B) at 16 Ill. Reg. 3114, effective February 14, 1992 amended in R98-9 at 22 Ill. Reg. 11420, effective June 23, 1998; amended in R15-19 at 39 Ill. Reg. 12934, effective September 8, 2015.

SUBPART A: GENERAL

**Section 848.101 Applicability**

Section 55 of the Illinois Environmental Protection Act [415 ILCS 5/55] (Ill. Rev. Stat. 1989, ch.

~~111½, par. 1055)~~ sets forth prohibitions relative to the storage, processing, disposal and transportation of used and waste tires. This Part sets forth rules establishing further requirements relative to the storage, processing, disposal and transportation of used and waste tires. Notwithstanding any other provision of this Part, this~~This~~ Part does not apply to:

~~a)~~ ~~Altered tires which have been chopped, shredded or processed, such that the individual dimensions of height, length and width of the tire product are two inches or less (an industry standard known as "two inch minus");~~

a)~~b)~~ converted tires manufactured to an exact specification and supplied to a purchaser under a contract for purchase or other sale;~~Converted, new or reprocessed tires; or~~

b)~~c)~~ new or reprocessed tires;~~Reused tires which have been altered to prevent the accumulation of water.~~

c) reused tires altered to prevent the accumulation of water;

d) used or waste tires exempted pursuant to Section 55.1 of the Act;

e) used tires located at a tire storage site at which not more than 50 used tires are located at any one time;

f) used or waste tires accepted by an owner or operator of a sanitary landfill in accordance with Section 55 of the Act and in accordance with a solid waste permit issued by the Agency; or

g) used or waste tires managed under, and in accordance with, a beneficial use determination issued pursuant to Section 22.54 of the Act.

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.104 Definitions**

For the purposes of this Part, except as the context otherwise clearly requires, the words and terms defined in this Section ~~shall~~ have the meanings given in this Section~~herein~~. Words and terms not defined in this Section~~shall~~ have the meanings otherwise set forth in the Act and 35 Ill. Adm. Code 101.~~regulations adoptedthereunder.~~

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

*"Agency" is the Environmental Protection Agency established by* the *Act.* [415 ILCS 5/3.105]

"Aisle" means an accessible clear space that is:

located indoors and between each storage pile and all other ~~between~~ storage piles, ~~or~~ groups of storage piles, combustible materials, and indoor activities at the site that present a risk of fire; and

maintained in a manner that provides for unobstructed storage pile access, movement of equipment ~~suitable for housekeeping operations~~, visual inspection of storage piles, ~~piling areas~~ and ~~initial fire fighting~~ operations.

*"Altered tire" means a used tire which has been altered so that it is no longer capable of holding accumulations of water, including, but not limited to, used tires that have been shredded, chopped, drilled with holes sufficient to assure drainage, slit longitudinally and stacked so as not to collect water, or wholly or partially filled with cement or other material to prevent the accumulation of water. "Alteration" or "altering" means action which produces an altered tire.* [415 ILCS 5/54.01] ~~"ALTERED TIRE" MEANS A USED TIRE WHICH HAS BEEN ALTERED SO THAT IT IS NO LONGER CAPABLE OF HOLDING ACCUMULATIONS OF WATER, INCLUDING, BUT NOT LIMITED TO, USED TIRES THAT HAVE BEEN SHREDDED, CHOPPED, DRILLED WITH HOLES SUFFICIENT TO ASSURE DRAINAGE, SLIT LONGITUDINALLY AND STACKED SO AS NOT TO COLLECT WATER, OR WHOLLY OR PARTIALLY FILLED WITH CEMENT OR OTHER MATERIAL TO PREVENT THE ACCUMULATION OF WATER. "ALTERATION" OR "ALTERING" MEANS ACTION WHICH PRODUCES AN ALTERED TIRE. (Section 54.01 of the Act)~~

*"Converted tire" means a used tire which has been manufactured into a usable commodity other than a tire. "Conversion" or "Converting" means action which produces a converted tire. Usable products manufactured from tires, which products themselves are capable of holding accumulations of water, shall be deemed to be "converted" if they are stacked, packaged, boxed, containerized or enclosed in such a manner as to preclude exposure to precipitation prior to sale or conveyance.* [415 ILCS 5/54.02] ~~"CONVERTED TIRE" MEANS A USED TIRE WHICH HAS BEEN MANUFACTURED INTO A USABLE~~

~~COMMODITY OTHER THAN A TIRE. "CONVERSION" OR "CONVERTING" MEANS ACTION WHICH PRODUCES A CONVERTED TIRE. USABLE PRODUCTS MANUFACTURED FROM TIRES, WHICH PRODUCTS ARE THEMSELVES CAPABLE OF HOLDING ACCUMULATIONS OF WATER, SHALL BE DEEMED TO BE "CONVERTED" IF THEY ARE STACKED, PACKAGED, BOXED, CONTAINERIZED OR ENCLOSED IN SUCH A MANNER AS TO PRECLUDE EXPOSURE TO PRECIPITATION PRIOR TO SALE OR CONVEYANCE. (Section 54.02 of the Act)~~

*"Covered Tire" means a used tire located in a building, vehicle or facility with a roof extending over the tire, or securely located under a material so as to preclude exposure to precipitation.* [415 ILCS 5/54.03] ~~"COVERED TIRE" MEANS A USED TIRE LOCATED IN A BUILDING, VEHICLE OR FACILITY WITH A ROOF EXTENDING OVER THE TIRE, OR SECURELY LOCATED UNDER A MATERIAL SO AS TO PRECLUDE EXPOSURE TO PRECIPITATION. (Section 54.03 of the Act)~~

*"Disposal" means the placement of used tires into or on any land or water except as an integral part of systematic reuse or conversion in the regular course of business.* [415 ILCS 5/54.04] ~~"DISPOSAL" MEANS THE PLACEMENT OF USED TIRES INTO OR ON ANY LAND OR WATER EXCEPT AS AN INTEGRAL PART OF SYSTEMATIC REUSE OR CONVERSION IN THE REGULAR COURSE OF BUSINESS. (Section 54.04 of the Act)~~

"Firebreak" means an accessible, clear space that is:

located outdoors and between each storage pile and all other storage piles, groups of storage piles, buildings, property boundaries, trees, combustible ground vegetation, combustible materials, and outdoor activities at the site that present a risk of fire; and

maintained in a manner that provides for unobstructed storage pile access, movement of equipment, visual inspection of storage piles, and firefighting operations.

"Fully enclosed container" means a portable, hard-walled, lockable receptacle that is impervious to precipitation and surface runoff. "Fully enclosed container" does not include any container that is overfilled and cannot, as a result, be locked.

*"New tire" means a tire which has never been placed on a vehicle wheel rim.* [415 ILCS 5/54.05] ~~"NEW TIRE" MEANS A TIRE WHICH HAS NEVER BEEN PLACED ON A VEHICLE WHEEL RIM. (Section 54.05 of the Act)~~

"Passenger tire equivalent" or "PTE" is a conversion factor for changing numbers of tires to weight. It is calculated by dividing the total weight of passenger tires, in pounds, by 22.5 pounds (the average weight of passenger and lightweight tires).

*"Processing" means the altering, converting or reprocessing of used or waste tires.* [415 ILCS 5/54.06] ~~"PROCESSING" MEANS THE ALTERING, CONVERTING OR REPROCESSING OF USED OR WASTE TIRES. (Section 54.06 of the Act)~~

*"Recyclable tire" means a used tire which is free of permanent physical damage and maintains sufficient tread depth to allow its use through resale or repairing.* [415 ILCS 5/54.06(a)]~~"RECYCLABLE TIRE" MEANS A USED TIRE WHICH IS FREE OF PERMANENT PHYSICAL DAMAGE AND MAINTAINS SUFFICIENT TREAD DEPTH TO ALLOW ITS USE THROUGH RESALE OR REPAIRING. (Section 54.06(a) of the Act)~~

*"Reprocessed tire" means a used tire which has been recapped, retreaded or regrooved and which has not been placed on a vehicle wheel rim.* [415 ILCS 5/54.07] ~~"REPROCESSED TIRE" MEANS A USED TIRE WHICH HAS BEEN RECAPPED, RETREADED OR REGROOVED AND WHICH HAS NOT BEEN PLACED ON A VEHICLE WHEEL RIM. (Section 54.07 of the Act)~~

"Retread" or "Retreading" means the process of attaching tread to a tire carcass~~the casing of used tires~~.

*"Reused tire" means a used tire that is used again, in part or as a whole, by being employed in a particular function or application as an effective substitute for a commercial product or fuel without having been converted.* [415 ILCS 5/54.08] ~~"REUSED TIRE" MEANS A USED TIRE THAT IS USED AGAIN, IN PART OR AS A WHOLE, BY BEING EMPLOYED IN A PARTICULAR FUNCTION OR APPLICATION AS AN EFFECTIVE SUBSTITUTE FOR A COMMERCIAL PRODUCT OR FUEL WITHOUT HAVING BEEN CONVERTED. (Section 54.08 of the Act)~~

*"Storage" means any accumulation of used tires that does not constitute disposal. At a minimum, such an accumulation must be an integral part of the systematic alteration, reuse, reprocessing or conversion of the tire in the regular course of business.* [415 ILCS 5/54.09] ~~"STORAGE" MEANS ANY ACCUMULATION OF USED TIRES THAT DOES NOT CONSTITUTE DISPOSAL. AT A MINIMUM, SUCH AN ACCUMULATION MUST BE AN INTEGRAL PART OF THE SYSTEMATIC ALTERATION, REUSE, REPROCESSING OR CONVERSION OF THE TIRE IN THE REGULAR COURSE OF BUSINESS. (Section 54.09 of the Act)~~

*"Tire" means a hollow ring, made of rubber or similar materials, which was manufactured for the purpose of being placed on the wheel rim of a vehicle.* [415 ILCS 5/54.10] ~~"TIRE" MEANS A HOLLOW RING, MADE OF RUBBER OR SIMILAR MATERIALS, WHICH WAS MANUFACTURED FOR THE PURPOSE OF BEING PLACED ON THE WHEEL RIM OF A VEHICLE. (Section 54.10 of the Act)~~

*"Tire carcass" means the internal part of a used tire containing the plies, beads, and belts suitable for retread or remanufacture.* [415 ILCS 5/54.10a] ~~"TIRE CARCASS" MEANS THE INTERNAL PART OF A USED TIRE CONTAINING THE PLIES, BEADS, AND BELTS SUITABLE FOR RETREAD OR REMANUFACTURE. (Section 54.10(a) of the Act)~~

*"Tire derived fuel" means a product made from used tires to exact specifications of a system designed to accept a tire derived fuel as a primary or supplemental fuel source.* [415 ILCS 5/54.10b] ~~"TIRE DERIVED FUEL" MEANS A PRODUCT MADE FROM USED TIRES TO EXACT SPECIFICATION OF A SYSTEM DESIGNED TO ACCEPT A TIRE DERIVED FUEL AS A PRIMARY OR SUPPLEMENTAL FUEL SOURCE. (Section 54.10(b) of the Act)~~

*"Tire disposal site" means a site where used tires have been disposed of other than a sanitary landfill permitted by the Agency.* [415 ILCS 5/54.11] ~~"TIRE DISPOSAL SITE" MEANS A SITE WHERE USED TIRES HAVE BEEN DISPOSED OF OTHER THAN AT A LANDFILL PERMITTED BY THE AGENCY, OR OPERATED IN ACCORDANCE WITH SECTION 55(D) OF THE ACT. (Section 54.11 of the Act)~~

~~"TIRE RETREADER" MEANS A PERSON OR FIRM THAT RETREADS OR~~

~~REMANUFACTURES TIRES. (Section 54.11(a) of the Act)~~

"Tire retreading facility" means a facility that retreads an average of at least 100 tires per operating day.

"Tire stamping and die cutting facility" means a facility that stamps or die cuts an average of at least 100 tires per operating day.

*"Tire storage site" means a site where used tires are stored or processed, other than:*

*the site at which the tires were separated from the vehicle wheel rim;*

*the site where the used tires were accepted in trade as part of a sale of new tires;*

*a site at which tires are sold at retail in the regular course of business, and at which not more than 250 used tires are kept at any time; or*

*a facility at which tires are sold at retail provided that the facility maintains less than 1300 recyclable tires, 1300 tire carcasses, and 1300 used tires on site and those tires are stored inside a building so that they are prevented from accumulating water.* [415 ILCS 5/54.12] ~~"TIRE STORAGE SITE" MEANS A SITE WHERE USED TIRES ARE STORED OR PROCESSED, OTHER THAN THE SITE AT WHICH THE TIRES WERE SEPARATED FROM THE VEHICLE WHEEL RIM, THE SITE WHERE THE USED TIRES WERE ACCEPTED IN TRADE AS PART OF A SALE OF NEW TIRES, OR A SITE AT WHICH BOTH NEW AND USED TIRES ARE SOLD AT RETAIL IN THE REGULAR COURSE OF BUSINESS, AND AT WHICH NOT MORE THAN 250 USED TIRES ARE KEPT AT ANY TIME OR A FACILITY AT WHICH TIRES ARE SOLD AT RETAIL PROVIDED THAT THE FACILITY MAINTAINS LESS THAN 1300 RECYCLABLE TIRES, 1300 TIRE CARCASSES, AND 1300 USED TIRES ON SITE AND THOSE TIRES ARE STORED INSIDE A BUILDING SO THAT THEY ARE PREVENTED FROM ACCUMULATING WATER. (Section 54.12 of the Act)~~

*"Tire storage unit" means a pile of tires or a group of piles of tires at a storage*

*site.* [415 ILCS 5/54.12a]

~~"TIRE STORAGE UNIT" MEANS A PILE OF TIRES OR A GROUP OF PILES OF TIRES AT A STORAGE SITE. (Section 54.12(a) of the Act)~~

*"Tire transporter" means a person who transports used or waste tires in a vehicle.* [415 ILCS 5/54.12b] ~~"TIRE TRANSPORTER" MEANS A PERSON WHO TRANSPORTS USED OR WASTE TIRES IN A VEHICLE. (Section 54.12(b) of the Act)~~

"Two-inch-minus chips" means altered tires shredded or processed into pieces having no individual dimension greater than 2 inches.

"Unit of local government" means a unit of local government as defined in Article VII, Section 1 of the Illinois Constitution.

*"Used tire" means a worn, damaged, or defective tire that is not mounted on a vehicle and any portion of such a tire.* [415 ILCS 5/54.13] ~~*"USED TIRE" MEANS A WORN, DAMAGED OR DEFECTIVE TIRE WHICH IS NOT MOUNTED ON A VEHICLE WHEEL RIM. (Section 54.13 of the Act)*~~

*"Vector" means arthropods, rats, mice, birds or other animals capable of carrying disease-producing organisms to a human or animal host. "Vector" does not include animals that transmit disease to humans only when used as human food.* [415 ILCS 5/54.14]

~~*"VECTOR" MEANS ARTHROPODS, RATS, MICE, BIRDS OR OTHER ANIMALS CAPABLE OF CARRYING DISEASE-PRODUCING ORGANISMS TO A HUMAN OR ANIMAL HOST. "VECTOR" DOES NOT INCLUDE ANIMALS THAT TRANSMIT DISEASE TO HUMANS ONLY WHEN USED AS HUMAN FOOD. (Section 54.14 of the Act)*~~

*"Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn, except devices moved by human power or by animal power, devices used exclusively upon stationary rails or tracks, and motorized wheelchairs.* [415 ILCS 5/54.15] ~~"VEHICLE" MEANS EVERY DEVICE IN, UPON OR BY WHICH ANY PERSON OR PROPERTY IS OR MAY BE TRANSPORTED OR DRAWN, EXCEPT DEVICES MOVED BY HUMAN POWER OR BY ANIMAL POWER, DEVICES USED~~

~~EXCLUSIVELY UPON STATIONARY RAILS OR TRACKS, AND MOTORIZED WHEELCHAIRS. (Section 54.15 of the Act)~~

*"Waste tire" means a used tire that has been disposed of.* [415 ILCS 5/54.16] ~~WASTE TIRE" MEANS A USED TIRE THAT HAS BEEN DISPOSED OF. (Section 54.16 of the Act)~~

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.105 Incorporation by Reference**

a) The Board incorporates the following document~~documents~~ by reference:

~~1)~~ NFPA 51B, "Standard for Fire Prevention During Welding, Cutting, and Other Hot Work", 2014 Edition, National Fire Protection Association (NFPA), 1 Batterymarch Park, Quincy MA 02169-7471.~~National Consensus Standard, NFPA 231D (1989) by reference.~~

~~2)~~ ~~49 CFR 571.117 (1989).~~

~~3)~~ ~~49 CFR 574 (1989).~~

~~4)~~ ~~"Accounting Standards, General Standards", 1988/89 Edition, as of June 1, 1988, available from the Financial Accounting Standards Board, 401 Merrit 7, P.O. Box 5116, Norwalk, CT 06856-5116.~~

~~5)~~ ~~"Auditing Standards" - Current Text, August 1, 1990 Edition, available from the American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York, NY 10036.~~

b) This Section incorporates no later amendments or editions.

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.106 Estimating the Weight of Used and Waste Tire Accumulations**

a) If the weight of an accumulation of used or waste tires is unknown, its weight may, for the purposes of this Part, be calculated by multiplying the volume of the

accumulation, measured in cubic yards, by the appropriate density factor listed in this subsection (a).

1) Whole Tires in Shallow Piles. For a used or waste tire accumulation that is not greater than 10 feet in height and that is composed exclusively of used or waste tires that have not been chopped or shredded, the appropriate density factor is 0.11 tons per cubic yard, unless the tires in the accumulation are stacked or laced, in which case the appropriate density factor is 0.17 tons per cubic yard.

2) Whole Tires in Deep Piles. For a used or waste tire accumulation that is greater than 10 feet in height and that is composed exclusively of used or waste tires that have not been chopped or shredded, the appropriate density factor is 0.13 tons per cubic yard, unless the tires in the accumulation are stacked or laced, in which case the appropriate density factor is 0.17 tons per cubic yard.

3) Coarse Shreds in Shallow Piles. For a used or waste tire accumulation that is not greater than 10 feet in height and that is composed exclusively of used or waste tires that have been chopped or shredded into pieces having any dimension that is greater than or equal to 4 inches, the appropriate density factor is 0.36 tons per cubic yard.

4) Coarse Shreds in Deep Piles. For a used or waste tire accumulation that is greater than 10 feet in height and that is composed exclusively of used or waste tires that have been chopped or shredded into pieces having any dimension that is greater than or equal to 4 inches, the appropriate density factor is 0.44 tons per cubic yard.

5) Fine Shreds in Shallow Piles. For a used or waste tire accumulation that is not greater than 10 feet in height and that is composed exclusively of used or waste tires that have been chopped or shredded into pieces having no dimension that is greater than or equal to 4 inches, the appropriate density factor is 0.47 tons per cubic yard.

6) Fine Shreds in Deep Piles. For a used or waste tire accumulation that is greater than 10 feet in height and that is composed exclusively of used or waste tires that have been chopped or shredded into pieces having no

dimension that is greater than or equal to 4 inches, the appropriate density factor is 0.58 tons per cubic yard.

7) Mixtures of Coarse and Fine Shreds in Shallow Piles. For a used or waste tire accumulation that is not greater than 10 feet in height and that is composed of used or waste tires that have been chopped or shredded not only into pieces having no dimension that is greater than or equal to 4 inches but also into pieces having a dimension that is greater than or equal to 4 inches, the appropriate density factor is 0.47 tons per cubic yard.

8) Mixtures of Coarse and Fine Shreds in Deep Piles. For a used or waste tire accumulation that is greater than 10 feet in height and that is composed of used or waste tires that have been chopped or shredded not only into pieces having no dimension that is greater than or equal to 4 inches but also into pieces having a dimension that is greater than or equal to 4 inches, the appropriate density factor is 0.58 tons per cubic yard.

b) A used or waste tire storage pile may be divided into more than one accumulation of used or waste tires for the purposes of making the calculation described in subsection (a).

(Source: Added at 39 Ill. Reg. 12934, effective September 8, 2015)

SUBPART B: MANAGEMENT STANDARDS

**Section 848.201 Applicability**

~~a)~~Owners and operators of any tire storage site and the owners and operators of any tire disposal site are subject to this Subpart.~~This Part does not apply to used and waste tires exempted pursuant to Section 55.1 of the Act.~~

~~b) Owners and operators of tire storage sites and tire disposal sites whose operations are not specifically exempted by subsections (c) through (f) shall:~~

~~1) Meet the requirements of this Part by January 1, 1992 if used or waste tires were disposed of or stored prior to January 1, 1992; or~~

~~2) Meet the requirements of this Part prior to storing or disposing any used or waste tires at the site if the site first accepts tires for storage or disposal~~

~~after January 1, 1992.~~

~~c)~~ ~~Tire storage sites and tire disposal sites where less than 50 used or waste tires are stored at the site are exempted from the requirements of this Part. However, the prohibition of Section 55 of the Act do apply to such sites.~~

~~d)~~ ~~This Part does not apply to used or waste tires disposed in permitted areas of landfills permitted by the Agency pursuant to 35 Ill. Adm. Code: Subtitle G: Waste Disposal. Used or waste tires stored at a landfill permitted pursuant to 35 Ill. Adm. Code: Subtitle G: Waste Disposal are subject to the requirements of this Part.~~

~~e)~~ ~~Owners or Operators who comply with the requirements of this Part are not subject to the provisions of 35 Ill. Adm. Code 849.~~

~~f)~~ ~~Used or waste tires which have been altered by chopping, shredding or slicing, and stored at the site where such tires are burned as fuel, are exempted from the requirements of this Part.~~

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.202 Requirements**

~~a)~~ ~~Unless exempted by Section 848.201, owners and operators of tire storage sites and tire disposal sites shall meet the requirements of this Section. These requirements shall apply to all used or waste tires located at the site, including altered tires, converted tires and reprocessed tires.~~

a)~~b)~~ Owners and operators of any site~~At sites~~ at which more than 50 used or waste tires are located at any one time must~~the owner or operator shall~~ comply with the following requirements:

1) No used or waste tires shall be placed or accumulated outside of a building or fully enclosed container, unless the used or waste tires are placed on or accumulated in a storage pile that is separated from:

A) all other storage piles by a firebreak that is not less than 40 feet wide;

B) all buildings, whether on or off site, by a firebreak that is not less than 50 feet wide;

C) all of the site's property boundaries by a firebreak that is not less than 50 feet wide;

D) all outdoor activities at the site that present a risk of fire by a firebreak that is not less than 250 feet wide;

E) all trees by a firebreak that is not less than 100 feet wide;

F) all grass, weeds, brush, and combustible ground vegetation by a firebreak that is not less than 40 feet wide; and

G) any combustible material not listed in this subsection (a)(1) by a firebreak that is not less than 40 feet wide.

2) No used or waste tires shall be placed or accumulated outside of a building or fully enclosed container, unless they are placed on or accumulated in a storage pile that:

A) is no more than 10 feet high by 50 feet wide by 100 feet long; and

B) has no side slope angle that exceeds 60 degrees from horizontal.

3) No used or waste tires shall be placed or accumulated on site unless they are drained of water and prevented from accumulating water thereafter.

4) If more than 20 used or waste tires are accepted at the site from a vehicle that fails to display the placard required under Subpart F, the owner or operator of the site must collect the following information and forward it to the Agency within 5 business days after accepting the tires:

A) the name, address, and driver's license number of the person driving the vehicle;

B) the license plate number and vehicle identification number (VIN) of the vehicle; and

C) any available information about the sources of the tires being accepted.

5) No used or waste tires shall be placed or accumulated on site in any area where the grade of the ground surface exceeds two percent slope, unless the used or waste tires are stored within a berm or other structure that satisfies the requirements of subsection (c)(1)(C).

6) All activities at the site that present a risk of fire must be conducted either:

A) within a building and in accordance with Section 848.204(c)(4); or

B) outdoors and separated from all used or waste tires by at least 250 feet.

~~1) Used or waste tires shall not be placed on or accumulated in any pile outside of any building unless the pile is separated from all other piles by no less than 25 feet and aisle space is maintained to allow the unobstructed movement of personnel and equipment.~~

~~2) Used or waste tires shall not be accumulated in any area located outside of any building unless the accumulation is separated from all buildings, whether on or off the site, by no less than 25 feet.~~

~~3) Used or waste tires shall not be placed on or accumulated in any pile unless the pile is separated from all potential ignition sources, including cutting and welding devices, and open fires, by not less than 250 feet or all such activities are carried out within a building.~~

~~4) Used or waste tires shall be drained of water on the day of generation or receipt.~~

~~5) Used or waste tires received at the site shall not be stored unless within 14 days after the receipt of any used tire the used tire is altered, reprocessed, converted, covered or otherwise prevented from accumulating water. All used and waste tires received at the site before June 1, 1989, shall be altered, reprocessed, converted, covered or otherwise prevented from accumulating water by January 1, 1992.~~

~~6)~~ ~~*Used or waste tires shall not be abandoned, dumped or disposed on private or public property in Illinois, except in a landfill permitted by the Agency pursuant to 35 Ill. Adm. Code 807* or 811. (Section 55(a)(5) of the Act)~~

~~7)~~ ~~Used or waste tires shall not be accepted from a vehicle in which more than 20 tires are loaded unless the vehicle displays a placard issued by the Agency under Subpart F.~~

~~8)~~ ~~Tires shall not be accumulated in an area if the grade of the ground surface exceeds two percent slope unless the requirements of subsection (d)(3) are met.~~

b) In addition to the requirements set forth in subsection (a)~~(b)~~, owners and operators of any site at which more than 60 tons of used or waste tires are located at any one time must~~the owner or operator shall~~ comply with the following requirements~~ at sites at which more than 500 used or waste tires are located~~.

1) The~~A~~ contingency planning and emergency response requirements of Section 848.203 must be met~~plan which meets the requirements of Section 848.203 shall be maintained~~.

2) The recordkeeping and reporting requirements of Subpart C must~~shall~~ be met.

3) A tire storage plan that is designed to ensure compliance with the requirements of this Section must be developed for the site and must be adhered to at all times. A copy of the plan must be maintained on site and must be made available at the site for inspection and photocopying by the Agency during normal business hours.~~Used or waste tires shall not be placed on or accumulated in any pile unless the pile is separated from grass, weeds, brush, over-hanging tree limbs and similar vegetative growth by no less than 50 feet.~~

~~4)~~ ~~Used or waste tires shall not be placed on or accumulated in any tire storage unit unless the unit is no more than 20 feet high by 250 feet wide by 250 feet long. In determining the width or length of any tire storage unit the aisle space between any piles within the unit shall be included.~~

~~5)~~ ~~Used or waste tires shall not be placed or accumulated in any tire storage unit unless one of the following requirements is met:~~

~~A)~~ ~~The tire storage unit is separated from all buildings, whether located on or off the site, and all other tire storage units by an earthen berm that is no less than 1.5 times the maximum height of any tire pile within the storage unit; or~~

~~B)~~ ~~The tire storage unit is separated from all buildings, whether located on or off the site, and all other tire storage units by a separation distance that is not less than the distance identified by the following:~~

~~Required Separation Distances~~
~~From Tire Storage Units (in feet)~~

| | | ~~Tire Storage Unit Height~~ | | | |
|---|---|---|---|---|---|
| | | ~~8~~ | ~~12~~ | ~~16~~ | ~~20~~ |
| | ~~25~~ | ~~56~~ | ~~67~~ | ~~77~~ | ~~85~~ |
| ~~Unit Face~~ | ~~50~~ | ~~75~~ | ~~93~~ | ~~107~~ | ~~118~~ |
| ~~Dimensions~~ | ~~100~~ | ~~100~~ | ~~128~~ | ~~146~~ | ~~164~~ |
| | ~~150~~ | ~~117~~ | ~~149~~ | ~~178~~ | ~~198~~ |
| | ~~200~~ | ~~130~~ | ~~167~~ | ~~198~~ | ~~226~~ |
| | ~~250~~ | ~~140~~ | ~~181~~ | ~~216~~ | ~~245~~ |

c)~~d)~~ In addition to the requirements set forth in subsections (a)~~(b)~~ and (b)~~(c)~~, owners and operators of any site at which more than 125 tons of used or waste tires are located at any one time must~~the owner or operator shall~~ comply with the following requirements: ~~at sites at which more than 10,000 used or waste tires are located.~~

1) No used or waste tires shall be placed or accumulated outside of a building or fully enclosed container, unless:

A) the~~The area of the site where~~ used or waste tires are stored in an area~~shall be~~ completely surrounded by fencing that is:

i) at least 6 feet high; and

ii) in good repair; ~~which is not less than 6 feet in height.~~

B)~~2)~~ the entrances~~Entrance~~ to the area where the used or waste tires are located are~~shall be~~ controlled at all times by an attendant, locked entrances~~entrance~~, television monitors, controlled roadway access or other equivalent mechanisms;~~.~~

C)~~3)~~ the~~The area of the site where~~ used or waste tires are~~ stored shall be~~ completely surrounded by an earthen berm or another walled, impermeable, aboveground~~other~~ structure that is:

i) not less than 2 feet in height;~~, and~~

ii) capable of containing runoff resulting from tire fires;~~,~~ and

iii) crossed by a stabilized roadway at not fewer than 2 points of access that are sufficiently separated from one another to provide 2 independent means of ingress and egress during fire conditions; and~~accessible by fire fighting equipment, except that the owner or operator shall provide a means for access through or over the berm or other structure.~~

D) one or more stabilized roadways provide firefighting personnel and equipment access to all portions of the tire storage area.

2) No used or waste tires shall be placed or accumulated within 250 feet horizontally of the ground surface directly beneath any electrical power line that has a voltage in excess of 750 volts or that supplies power to a fire emergency system.

3) The perimeter of each group of storage piles at the site must be separated at all times from the perimeter of all other groups of storage piles at the site by a firebreak of at least 75 feet. No group of storage piles may be composed of more than 3 individual storage piles, and no storage pile in such a group may have dimensions greater than those described in subsection (a)(2).

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.203 Contingency Planning and Emergency Response~~Plan~~**

Owners and operators of any site at which more than 60 tons of used or waste tires are located at any one time must:

~~a) If an owner or operator of a tire storage site or tire disposal site is required by Section 848.202 to have a contingency plan under this Section, the owner or operator must meet the contingency plan requirements of this Section.~~

a)~~b)~~ establish and maintain, for each site that is subject to the requirements of this Section, a~~The~~ contingency plan that:

1) minimizes~~must be designed to minimize~~ the hazards to human health and the environment from fires and run-off of contaminants resulting from fire and hazards from disease spreading mosquitos and other nuisance organisms that may breed in water accumulated in used or waste tires;~~firesand from disease spreading mosquitoes and other nuisance organisms which may breed in water accumulations in used or waste tires.~~

2~~c~~) is~~The provisions of this plan must be~~ carried out immediately whenever there is a fire or evidence of mosquito production in used or waste tires;~~ or run-off resulting from a tire fire, or evidence of mosquito production in used or waste tires.~~

3~~d~~) describes~~The contingency plan must describe~~ the actions site personnel must take in response to fires, run-off resulting from fires, and mosquito breeding in used or waste tires;~~fires, run-off resulting from tire fires, and mosquito breeding in used or waste tires.~~

4~~e~~) describes~~This contingency plan must include~~ evacuation procedures, including, but not limited to, ~~for site personnel which describe signals to be used to begin~~ evacuation~~,~~ signals, primary evacuation routes, and alternate evacuation routes to be used when~~(in cases where~~ the primary routes could be blocked; ~~by fire). The contingency plan must include provisions for pesticide application or other measures for control of mosquito breeding in used and waste tires.~~

5) contains an up-to-date emergency equipment list that not only identifies all emergency equipment at the facility, such as fire-extinguishing systems, fire-suppression material, spill-control equipment, decontamination equipment, and communication and alarm systems (internal and external), but also describes the physical location and capabilities of each listed item; and

6) provides the name, address, and telephone number of an employee designated as the primary emergency coordinator responsible for coordinating emergency response measures at the site, as well as an up-to-date list of all alternate emergency coordinators, listed in the order in which they will assume responsibility for coordinating emergency response measures at the site in the event that the primary emergency coordinator or another alternate emergency coordinator is unavailable;

b) ensure that all emergency equipment at the site is at all times clean and fit for its intended purpose;

c) submit a copy of the contingency plan, and all revisions to the plan, to the local fire department and obtain, and keep on file for review by the Agency, a certificate stating that the plan and all plan revisions have been submitted to and approved by the fire department;

d~~f~~) maintain a~~A~~ copy of the contingency plan and all revisions to the plan ~~must be maintained~~ at the site at all times and make the plan available for inspection and photocopying by the Agency during normal business hours;~~, and submitted to the local fire departments, police departments, the Agency, and state and local emergency response teams that may be called upon to provide emergency service.~~

e~~g~~) review and amend the~~The~~ contingency plan ~~must be reviewed and amended~~ within 30 days after:~~,~~

1) any fire occurs at the site;

2) the site changes in its design, construction, operation, maintenance, or other characteristics in a way that increases the potential for a fire at the site or the release of run-off from a fire at the site; ~~if the plan fails in an emergency or~~

3) the list of emergency coordinators for the site changes; or.

4) the list of emergency equipment at the site changes;

fh) ensure that, atAt all times, the primary emergency coordinator or an alternate emergency coordinator is, there must be at least one employee, either on the site premises or on call; that the primary , with responsibility for coordinating all emergency response measures. This emergency coordinator and alternate emergency coordinators are must be familiar with all aspects of the contingency plan, all operations and activities at the site, the location of all records within the site and the site layout; and that the primary emergency coordinator and all alternate emergency coordinators . In addition, this person must have the authority to commit the resources needed to carry out the contingency plan;.

g) notify the Agency immediately if a fire occurs at the site and immediately begin managing, in accordance with all applicable federal and State laws and regulations, all contaminated soils, contaminated waters, and other wastes and materials resulting from the fire; and

h) within 15 days after each incident that requires implementation of the contingency plan, submit to the Agency in writing an incident report that includes, at a minimum:

1) the name, address, and telephone number of the site owners and operators;

2) the name, address, and telephone number of the site;

3) the date, time, and type of incident (e.g., fire or explosion);

4) the type and quantity of materials involved in the incident;

5) the extent of injuries, if any;

6) an assessment of actual or potential hazards to human health or the environment as a result of the incident;

7) the estimated quantity and disposition of released material that resulted from the incident; and

8) a plan and schedule for completing all site remediation required under all applicable federal and State laws and regulations.

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.204 Storage of Used and Waste Tires Within Buildings**

a) Owners and ~~or~~ operators of any tire storage site~~sites~~ or any tire disposal site~~sites~~ who store used or waste tires within buildings must ~~shall~~ meet the requirements of this Section.

b) No used ~~Used~~ or waste tires shall ~~may~~ be stored within a building unless~~if~~:

1) the tires are drained of all water prior to placement in the building;

2) all of the building's windows and doors are in working order and are secured to prevent unauthorized access;

3) the building is fully enclosed and has a roof and sides that ~~which~~ are impermeable to precipitation; and

4) the building is not a single family home or other ~~a~~ residential building~~dwelling~~.

c) In addition to the requirements set forth in subsection (b), if more than 60 tons of ~~500 or more~~ used or waste tires are located at any one time at the site~~stored within a building~~, ~~then~~ the owners and operators of the site must~~owner or operator shall~~:

1) develop, ~~a tire storage plan~~ in consultation with the local fire department, a tire storage plan for all used or waste tires that are stored within any building at the site that ~~or the state fire marshall meeting the following requirements~~:

A) takes into consideration~~the plan shall be developed by considering~~ the type of building to be used for tire storage~~,~~ (e.g., ~~i.e.~~ warehouse or former grain elevator)~~,~~ and the type of used or waste tires being stored~~,~~ (e.g., ~~i.e.~~ whole or shredded);

B) identifies, at a minimum,~~the plan shall include, but not be limited~~

~~to:~~ the tire storage arrangement; aisle spacing~~aisle space if necessary~~; clearance distances between storage~~tire~~ piles and the building walls and ceiling, unit heaters, furnaces, ducts, ~~duct furnaces~~ and sprinkler deflectors; and points of access for firefighting~~to fire fighting~~ personnel and equipment; and

C) is maintained on site, adhered to at all times, made available for inspection and photocopying by the Agency during normal business hours. The plan must include the following certification signed by the owner or operator: "I certify that this tire storage plan has been developed in consultation with the local fire department and that a copy of this tire storage plan has been filed with the local fire department."~~a copy of the tire storage plan shall be filed with the Agency within 60 days of the effective date of this Part and the plan requirements shall be implemented within 14 days of filing the tire storage plan with the Agency~~;

2) meet the contingency planning and emergency response requirements~~have and maintain a contingency plan which meets the requirements~~ of Section 848.203; ~~and~~

3) meet the recordkeeping and reporting requirements of Subpart C; and~~.~~

4) comply with the NFPA 51B standard for fire prevention during welding, cutting, and other hot work.

~~d) Buildings constructed after the effective date of these rules for the primary purpose of storing used or waste tires in excess of 10,000 shall comply with the NFPA 231D standard for storage of rubber tires incorporated by reference at Section 848.105.~~

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.205 Pesticide Treatment**

a) Owners and~~or~~ operators of any tire storage site~~sites~~ or any tire disposal site~~sites~~ treating used or waste tires with pesticides must~~pursuant to this Part or Title XIV of the Act~~:

1~~a~~) use~~Use~~ a pesticide labeled~~labelled~~ for control of mosquito larvae unless an adult mosquito problem is identified;~~.~~

2~~b~~) maintain~~Maintain~~ a record of pesticide use at the site that provides~~.~~ ~~Such a record shall include~~ the following information for each application:

A~~1~~) date~~Date~~ of pesticide application;

B~~2~~) number~~Number~~ of used or waste tires treated;

C~~3~~) amount~~Amount~~ of pesticide applied; and

D~~4~~) type~~Type~~ of pesticide used.

~~c)~~ ~~Notify the Agency of pesticide use within 10 days of each application. The notification shall include the information listed in subsection (b).~~

b~~d~~) Persons applying pesticides to used or~~and~~ waste tires must comply with the requirements of the Illinois Pesticide Act [415 ILCS 60]~~(Ill. Rev. Stat. 1989, ch. 5, par. 801 et seq.)~~. Information is available from:

Illinois Department of Agriculture
Bureau of Environmental Programs~~Plant & Apiary Protection~~
State Fairgrounds
P.O. Box 19281
Springfield, IL 62794-9281

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.206 Exemptions for Tire Retreading Facilities (Repealed)**

~~a)~~ ~~Existing sites. Sites which meet all of the conditions of subsection (a)(1) are exempt as set out in subsection (a)(2).~~

~~1)~~ ~~Conditions for exemption.~~

~~A)~~ ~~Registration. The site was operated by a tire retreader who, as of January 1, 1992, held a valid registration with the U.S. Department of Transportation as a tire retreader under 49 CFR 571.117 and 574~~

~~(October 1, 1990). This incorporation includes no later amendments or editions.~~

~~B)~~ ~~Number of Tires. The facility contains no more than 100,000 whole used or waste tires.~~

~~C)~~ ~~Equipment. The retreader:~~

~~i)~~ ~~Has equipment at the site which is capable of retreading at least 500 tires per day when operated in accordance with the equipment manufacturer's specifications; and~~

~~ii)~~ ~~Maintains documentation at the site which demonstrates that an average of 500 or more tires per day of operation were retreaded at the site during the previous calendar year.~~

~~D)~~ ~~Segregation. The owner or operator of the site segregates tires intended to be retreaded from those tires determined to be unsuitable for retreading.~~

~~2)~~ ~~Scope of Exemption.~~

~~A)~~ ~~The following Sections do not apply:~~

~~i)~~ ~~Pile separation distances specified at Sections 848.202(b)(1) and (2);~~

~~ii)~~ ~~Storage limitation on whole tires specified at Section 848.202(b)(5);~~

~~iii)~~ ~~Tire storage unit requirements of Sections 848.202(c)(4) and (5); and~~

~~iv)~~ ~~The earthen berm requirement of Section 848.202(d)(3).~~

~~B)~~ ~~The owner or operator may exclude from the cost estimate under Section 848.404 the cost of removing one fourth of the previous calendar year's tire production as shown by documentation maintained at the site.~~

~~3) Alternate Management Standards. As a part of the contingency plan requirements of Section 848.203 the owner or operator shall:~~

~~A) Within 90 days after the effective date of these regulations, develop and implement a tire storage plan to minimize the threat of fire and mosquito breeding. Such a plan shall include, but is not limited to, tire storage arrangements, aisle space, access to fire fighting personnel and equipment and mosquito inspection and control.~~

~~B) Request and submit to the Agency a statement from the Illinois Department of Public Health that the program developed under subsection (a)(3)(A) is adequate to control mosquito larvae and pupae; except that, if the Department has not sent a statement within 45 days after receipt of the request, such statement need not be submitted and the Agency shall make such a determination. The owner or operator has the burden of demonstrating that the threat of mosquito breeding has been minimized. Requests for such statements of determination shall be sent to:~~

~~Division of Environmental Health~~
~~Office of Health Protection~~
~~Illinois Department of Public Health~~
~~525 W. Jefferson Street~~
~~Springfield, Illinois 62761~~

~~b) New sites. Sites which meet all of the conditions of subsection (b)(1) are exempt as set out in subsection (b)(2).~~

~~1) Conditions for exemption.~~

~~A) Registration. The site is operated by a tire retreader who, since January 1, 1992, first obtained a valid registration with the U.S. Department of Transportation as a tire retreader under 49 CFR 571.117 and 574 (October 1, 1990). This incorporation includes no later amendments or editions.~~

~~B) Equipment. The retreader:~~

~~i) Has equipment at the site which is capable of retreading at least 500 tires per day when operated in accordance with the equipment manufacturer's specifications; and~~

~~ii) Maintains documentation at the site which demonstrates that an average of 500 or more tires per operating day were retreaded at the site during the previous calendar year. However, an owner or operator who does not have a calendar year in operation may use estimated production for the first two months, and average monthly production thereafter, until a calendar year of data is available.~~

~~C) Segregation. The owner or operator of the site segregates tires intended to be retreaded from those tires determined to be unsuitable for retreading.~~

~~2) Scope of Exemption.~~

~~A) The storage limitation for whole tires specified at Section 848.202(b)(5) does not apply.~~

~~B) The owner or operator may exclude from the cost estimate under Section 848.404 the cost of removing one fourth of the previous calendar year's production as shown by documentation maintained at the site. The owner or operator may exclude one fourth of the estimated first 12 months production during the first year of operation.~~

~~3) Alternate Management Standards. As a part of the contingency plan requirements of Section 848.203 the owner or operator shall:~~

~~A) Within 90 days after the effective date of these regulations develop and implement a tire storage plan to minimize the threat of mosquito breeding. Such a plan shall include, but is not limited to, mosquito inspection and control.~~

~~B) Request and submit to the Agency a statement from the Illinois Department of Public Health that the program developed under~~

~~subsection (b)(3)(A) is adequate to control mosquito larvae and pupae; except that, if the Department has not sent a statement within 45 days after the request, such statement need not be submitted and the Agency shall make such a determination. The owner or operator has the burden of demonstrating that the threat of mosquito breeding has been minimized. Requests for such statements of determination shall be sent to:~~

~~Division of Environmental Health~~
~~Office of Health Protection~~
~~Illinois Department of Public Health~~
~~525 W. Jefferson Street~~
~~Springfield, Illinois 62761~~

~~c) Small sites. Sites which meet the conditions of subsection (c)(1) are exempt as set out in subsection (c)(2).~~

~~1) Conditions for exemption.~~

~~A) Number of tires. The facility contains no more than 500 whole used or waste tires.~~

~~B) Registration. The site is operated by a tire retreader who holds a valid registration with the U.S. Department of Transportation as a tire retreader under 49 CFR 571.177 and 574 (October 1, 1990). This incorporation includes no later amendments or editions.~~

~~C) Equipment. The retreader:~~

~~i) Has equipment at the site which is capable of retreading at least 20 tires per day when operated in accordance with equipment manufacturer's specifications; and~~

~~ii) Maintains documentation at the site which demonstrates that an average of 20 tires per day were retreaded at the site during the previous calendar year. However, an owner or operator who does not have a calendar year in operation may use estimated production for the first two months, and average monthly production thereafter, until a calendar year~~

~~of data is available.~~

~~2) Scope of exemption. The following do not apply:~~

~~A) The pile separation distances specified at Section 848.202(b)(1) and (2); and~~

~~B) The tire storage limitation of Section 848.202(b)(5).~~

~~3) Alternate Management Standards. As a part of the contingency plan requirements of Section 848.203 the owner or operator shall:~~

~~A) Within 90 days after the effective date of these regulations develop and implement a tire storage plan to minimize the threat of fire and mosquito breeding. Such a plan shall include, but is not limited to, tire storage arrangements, aisle space, access to fire fighting personnel and equipment and mosquito inspection and control.~~

~~B) Request and submit to the Agency a statement from the Illinois Department of Public Health that the program developed under subsection (c)(3)(A) is adequate to control mosquito larvae and pupae; except that, if the Department has not sent a statement within 45 days after receipt of the request, such statement need not be submitted and the Agency shall make such a determination. The owner or operator has the burden of demonstrating that the threat of mosquito breeding has been minimized. Requests for such statements of determination shall be sent to:~~

~~Division of Environmental Health~~
~~Office of Health Protection~~
~~Illinois Department of Public Health~~
~~525 W. Jefferson Street~~
~~Springfield, Illinois 62761~~

(Source: Repealed at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.207 Exemptions for Tire Stamping and Die Cutting Facilities (Repealed)**

~~a) Existing Sites. Sites which meet all of the conditions of subsection (a)(1) are~~

~~exempt as set out in subsection (a)(2).~~

~~1)~~ ~~Conditions for exemption.~~

~~A)~~ ~~Operation. The site was in operation as a tire stamping and die cutting facility on or before January 1, 1992.~~

~~B)~~ ~~Number of tires. The facility contains no more than 20,000 whole used or waste tires.~~

~~C)~~ ~~Equipment. The stamping and die cutting facility has equipment at the site which is capable of stamping and die cutting at least 50 tires per day when operated in accordance with the equipment manufacturer's specifications; and~~

~~D)~~ ~~Documentation. The stamping and die cutting facility maintains documentation at the site which demonstrates that an average of 50 or more tires per operating day were processed at the site during the previous calendar year. However, an owner or operator who does not have a calendar year in operation may use estimated production for the first two months, and average monthly production thereafter, until a calendar year of data is available.~~

~~E)~~ ~~Segregation. The owner or operator of the site segregates tires intended to be stamped or die cut from those tires determined to be unsuitable for stamping or die cutting.~~

~~2)~~ ~~Scope of exemption.~~

~~A)~~ ~~The following Sections do not apply:~~

~~i)~~ ~~Pile separation distances specified at Sections 848.202(b)(1) and (2);~~

~~ii)~~ ~~The storage limitations on whole tires specified at Section 848.202(b)(5);~~

~~iii)~~ ~~Tire storage unit requirements of Sections 848.202(c)(4) and (5); and~~

~~iv) The earthen berm requirement of Section 848.202(d)(3).~~

~~B) The owner or operator may exclude from the cost estimate under Section 848.404 the cost of removing one fourth of the previous calendar year's tire production as shown by documentation maintained at the site.~~

~~3) Alternate Management Standards. As a part of the contingency plan requirements of Section 848.203 the owner or operator shall:~~

~~A) Within 90 days after the effective date of these regulations develop and implement a tire storage plan to minimize the threat of fire and mosquito breeding. Such a plan shall include, but is not be limited to, tire storage arrangements, aisle space, access to fire fighting personnel and equipment and mosquito inspection and control.~~

~~B) Request and submit to the Agency a statement from the Illinois Department of Public Health that the program developed under subsection (a)(3)(A) is adequate to control mosquito larvae and pupae; except that, if the Department has not sent a statement within 45 days of receipt of the request, such statement need not be submitted and the Agency shall make such a determination. The owner or operator has the burden of demonstrating that the threat of mosquito breeding has been minimized. Requests for such statements of determination shall be sent to:~~

~~Division of Environmental Health~~
~~Office of Health Protection~~
~~Illinois Department of Public Health~~
~~525 W. Jefferson Street~~
~~Springfield, Illinois 62761~~

~~b) New sites. Sites which meet all of the conditions of subsection (b)(1) are exempt as set out in subsection (b)(2).~~

~~1) Conditions for exemption.~~

~~A) Operation. The site was not in operation as a tire stamping and die~~

~~cutting facility on or before January 1, 1992.~~

~~B)~~ ~~Equipment. The stamping and die cutting facility has equipment at the site which is capable of stamping and die cutting at least 50 tires per day when operated in accordance with the equipment manufacturer's specifications; and~~

~~C)~~ ~~Documentation. The stamping and die cutting facility maintains documentation at the site which demonstrates that an average of 50 or more tires per operating day were processed at the site during the previous calendar year. However, an owner or operator who does not have a calendar year in operation may use estimated production for the first two months, and average monthly production thereafter, until a calendar year of data is available.~~

~~D)~~ ~~Segregation. The owner or operator of the site segregates tires intended to be stamped or die cut from those tires determined to be unsuitable for stamping or die cutting.~~

~~2)~~ ~~Scope of exemption.~~

~~A)~~ ~~The storage limitation for whole tires specified at Section 848.202(b)(5) does not apply.~~

~~B)~~ ~~The owner or operator may exclude from the cost estimate under Section 848.404 the cost of removing one fourth of the previous calendar year's production as shown by documentation maintained at the site. The owner or operator may use the estimated first 12 months production during the first year of operation.~~

~~3)~~ ~~Alternate Management Standards. As a part of the contingency plan requirements of Section 848.203 the owner or operator shall:~~

~~A)~~ ~~Within 90 days after the effective date of these regulations develop and implement a tire storage plan to minimize the threat of mosquito breeding. Such a plan shall include, but is not limited to, mosquito inspection and control.~~

~~B)~~ ~~Request and submit to the Agency a statement from the Illinois~~

~~Department of Public Health that the program developed under subsection (b)(3)(A) is adequate to control mosquito larvae and pupae; except that, if the Department has not sent a statement within 45 days after receipt of the request, such statement need not be submitted and the Agency shall make such a determination. The owner or operator has the burden of demonstrating that the threat of mosquito breeding has been minimized. Requests for such statements of determination shall sent to:~~

~~Division of Environmental Health~~
~~Office of Health Protection~~
~~Illinois Department of Public Health~~
~~525 W. Jefferson Street~~
~~Springfield, Illinois 62761~~

(Source: Repealed at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.208 Exemptions for Sites with a Tire Removal Agreement (Repealed)**

~~Owners and operators of tire disposal sites are exempt from the financial assurance requirements of Subpart D as to that site where written approval of a tire removal agreement has been obtained from the Agency under Subpart E.~~

(Source: Repealed at 39 Ill. Reg. 12934, effective September 8, 2015)

SUBPART C: RECORDKEEPING AND REPORTING

**Section 848.301 Applicability**

a) Except to the extent exempted under subsection (b), the owners and operators~~The requirements of this Subpart shall apply to an owner or operator~~ of any~~a~~ tire storage site at which more than 60 tons of used or waste tires are located at any one time, as well as the owners and operators of any ~~site or a~~ tire disposal site at which more than 60 tons of used or waste tires are located at any one time, are subject to this Subpart~~tire disposal site who is required by the management standards of Subpart B to maintain records in accordance with this Subpart~~.

b) The owners and operators of any tire retreading facility are exempt from the tire tracking receipt requirements of this Part.

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.302 Records**

a) The owner and operator must keep the following records~~shall keep a record of used and waste tires at the site. The owner and operator shall keep the following records~~:

1) Daily Tire Record;

2) Annual Tire Summary; and

3) Tire Tracking Receipts.

b) Each Annual Tire Summary submitted to the Agency shall be in a form as prescribed by the Agency.

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.303 Daily Tire Record**

a) The owner or operator must~~shall~~ maintain a~~the~~ Daily Tire Record at the site. The Daily Tire Record must~~; such record shall~~ include the day of the week, the date, the Agency designated site number, the site name~~number and the site name~~ and address, and the additional information required under this Section.

b) Information~~The following information~~ relative to the daily receipt and disposition of used and waste tires at the site must~~shall~~ be recorded in the Daily Tire Record, including, but not limited to:

1) the name and registration number of each tire transporter who transported used or waste tires to the site during the operating day and the~~The~~ weight, in tons, ~~or volume~~ of used or waste tires received at the site from the transporter during the operating ~~business~~ day;~~.~~

2) the name and registration number of each tire transporter who transported used or waste tires from the site during the operating day, the~~The~~ weight, in tons, ~~or volume~~ of used or waste tires transported from the site by the

transporter during the operating ~~business~~ day, and the name, address, and telephone number of ~~and~~ the destination facility;~~of the tires so transported.~~

3) the weight, in tons, of used or waste tires burned or combusted at the site during the operating day; and~~The total number of used or waste tires remaining in storage at the conclusion of the operating business day determined in terms of the passenger tire equivalent (PTE) in accordance with subsection (c).~~

4) the weight, in tons, of used or waste tires remaining at the site at the conclusion of the operating day~~The weight or volume of used or waste tires burned or combusted during the operating business day~~.

~~c)~~ ~~The number of tires shall be determined in terms of the passenger tire equivalent (PTE) by weight or by volume as follows:~~

~~1)~~ ~~PTE based on weight:~~

~~PTE = W/PTE weight factor~~

~~Where,~~

~~W = weight of whole or shredded tires (lb)~~
~~PTE Weight factor = 25 lb/PTE~~

~~2)~~ ~~PTE based on volume:~~

~~PTE = V/PTE volume factor~~

~~where,~~

~~V = volume of whole or shredded tires ($ft^3$)~~
~~PTE volume factors:~~
~~for shredded tires, 1.25 $ft^3$/PTE;~~
~~for whole tires, 4.00 $ft^3$/PTE.~~

~~1)~~ ~~PTE based on weight:~~

~~PTE = W / PTE weight factor~~

~~where,~~
~~W = weight of whole or shredded tires (lb)~~
~~PTE weight factor = 25 lb/PTE~~

~~2)~~ ~~PTE based on volume:~~

~~PTE = V / PTE volume factor~~

~~where,~~

~~V = volume of whole or shredded tires (ft(3))~~

~~PTE volume factors:~~

~~for shredded tires, 1.25 ft(3)/ PTE;~~

~~for whole tires, 4.00 ft(3)/ PTE.~~

~~d)~~ ~~If both weight and volume of used or waste tires are monitored at a site, then the weight of the tires shall be used to estimate the PTE by weight in accordance with subsection (c)(1).~~

~~e)~~ ~~The owner or operator may establish procedures different from those specified in subsection (c) for the purposes of estimating the number of tires as long as the number of tires are estimated in terms of passenger tire equivalent. Such methods shall be established based on the different types of used or waste tires including, but not limited to, light truck tires, heavy duty truck tires, and shredded tires and method of stacking.~~

~~f)~~ ~~If the number of used or waste tires is estimated by employing a procedure established in accordance with subsection (e), then the owner or operator shall submit to the Agency such a procedure along with any supporting information such as tire weight and volume data, and method of stacking, within 30 days of the effective date of this Part for Agency approval.~~

~~g)~~ ~~For the purposes of this Part, "passenger tire equivalent" (PTE) means an average sized passenger tire weighing 25 lb, and occupying a volume of 4.0 ft(3) when whole or 1.25 ft(3) when shredded.~~

c~~h~~) Entries on the Daily Tire Record ~~as~~ required to be made under this Section must

~~by subsection (a) shall~~ be made ~~contemporaneously with the receipt or transport of each load, unless the owner or operator uses a different method of recording the required information which assures that required information can be entered on the Daily Tire Record by the end of each business day, in which case the information must be recorded in the Daily Tire Record~~ by the end of each operating~~business~~ day. ~~Where an alternative method of contemporaneous recording is used, that record, in addition to the Daily Tire Record, must be maintained in accordance with the record retention provisions of Section 848.305.~~

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.304 Annual Tire Summary**

a) The owner or operator must submit~~shall maintain~~ an Annual Tire Summary to the Agency for each calendar year. The Annual Tire Summary must be in a form prescribed by the Agency and must ~~at the site; such record shall~~ include the Agency designated site number, the site name and address, and the calendar year for which the summary applies.

b) Information~~The following information~~ relative to the annual receipt and disposition of used and waste tires at the site must~~shall~~ be recorded in the Annual Tire Summary, including, but not limited to:~~.~~

1) the~~The~~ weight, in tons, ~~or volume~~ of used or waste tires received at the site during the calendar year;~~.~~

2) the~~The~~ weight, in tons, ~~or volume~~ of used or waste tires transported from the site during the calendar year;~~.~~

3) the weight, in tons, of used or waste tires burned or combusted at the site during the calendar year; and~~The total number of used or waste tires determined in terms of passenger tire equivalent (PTE) remaining in storage at the conclusion of the calendar year.~~

4) the weight, in tons, of used or waste tires remaining in storage at the site at the conclusion of the calendar year~~The weight or volume of used or waste tires combusted during the calendar year~~.

c) The Annual Tire Summary must~~shall~~ be received by the Agency on or before

January 31 of each year and must~~shall~~ cover the preceding calendar year.

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.305 Tire Tracking Receipts~~Retention of Records~~**

a) Upon receiving any used or waste tires at the site, the owner or operator must provide a receipt to the transporter and keep a copy of the receipt. The receipt must include all of the following: the signature of the owner or operator; the name and registration number of the tire transporter; the signature of the tire transporter; the name, address, and telephone number of the site where used or waste tires were received; the date the used or waste tires were received at the site; and the number or weight, in tons, of used or waste tires received at the site.

b) Upon transporting any used or waste tires from the site, the tire transporter must provide a receipt to the owner or operator and keep a copy of the receipt. The receipt must include all of the following: the signature of the owner or operator; the name and registration number of the tire transporter; the signature of the tire transporter; the date the used or waste tires were transported from the site; the number or weight, in tons, of used or waste tires transported from the site; and the destinations of the used or waste tires.

c) Owners and operators must maintain on site a record of the receipt and disposition of all used or waste tires, including, but not limited to:

1) receipts for any used or waste tires received at the site; and

2) receipts for any used or waste tires that are transported from the site.

d) The tire tracking receipts required under this Section and Section 848.607 shall be on a form prescribed by the Agency.

(Source: Former Section 848.305 renumbered to Section 848.307 and new Section 848.305 added at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.306 Certification**

a) All records, summaries, and ~~or~~ reports submitted to the Agency as required by this Subpart must~~shall~~ be signed by a person designated by the owner or operator

as responsible for preparing and reviewing those~~such~~ documents as part of his or her duties in the regular course of business.

b) Any person signing a document submitted under this Part must~~shall~~ make the following certification:

> I certify that I am responsible for preparing and reviewing this document and that this document and all attachments were prepared under my direction or supervision as part of my duties in the regular course of business. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties under Section 44 of the Environmental Protection Act including the possibility of fine and imprisonment for knowingly submitting false information.

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.307 Retention of Records**

Copies of all records required to be kept under this Subpart shall be retained by the owner and operator for three years and shall be made available at the site during the normal business hours of the operator for inspection and photocopying by the Agency.

(Source: Former Section 848.305 renumbered to Section 848.307 at 39 Ill. Reg. 12934, effective September 8, 2015)

SUBPART D: FINANCIAL ASSURANCE

**Section 848.400 Scope and Applicability**

~~a) This Subpart applies to owners and operators of tire storage sites and tire disposal sites, except as otherwise provided in this Section.~~

a)~~b)~~ Except to the extent~~Unless~~ exempted by subsection (b)~~(c)~~, owners and operators of any tire storage site and owners and operators of any tire disposal site must~~shall~~ comply with this Subpart prior to storing or disposing of any used or waste tires.~~:~~

~~1)~~ ~~Prior to storing or disposing any used or waste tires, for sites where used or waste tires are first stored or disposed on or after January 1, 1992;~~

~~2)~~ ~~By January 1, 1992, for sites where used or waste tires are disposed or stored prior to January 1, 1992.~~

b)~~c)~~ Owners and operators of any tire storage site~~sites~~ and owners and operators of any tire disposal site~~sites~~ are exempt from this Subpart with respect to the following types of sites:

1) sites~~Sites~~ where the real estate of the site is owned by:

A) the~~The~~ United States or one of its agencies;

B) the~~The~~ State of Illinois or one of its agencies; or

C) a~~A~~ unit of local government;~~.~~

~~2)~~ ~~Tire disposal sites with a waste disposal permit under Section 21 of the Act and 35 Ill. Adm. Code 807 or 811. If used or waste tires are stored at the site, then the storage activities, unless otherwise exempted, are subject to this Subpart.~~

~~3)~~ ~~Sites where less than 500 used or waste tires are stored at the site and less than 50 used or waste tires have been disposed at the site, as reported on the annual notice of activity under Section 55(d) of the Act.~~

2)~~4)~~ sites~~Sites~~ where, as reported in the annual notice of activity, 60 tons or less of~~than 5000~~ used or waste tires, other than two-inch-minus chips that are supplied to a purchaser under a contract for purchase or other sale, are stored at the site and fewer~~less~~ than 50 used or waste tires have been disposed. Provided, however, that this exemption does not apply if the owner or operator has been issued, in any calendar year, pursuant to Section 55.5 of the Act, more than one written notice of violation of Section 55~~(a), (b) or (c)~~ of the Act;~~.~~

3) sites for which a tire removal agreement has been approved by the Agency pursuant to Subpart E;

4) any tire retreading facilities, or tire stamping and die cutting facilities, at which:

A) fewer than 10,000 but more than 5,000 used or waste tires are located on site at any one time; and

B) the requirements of Sections 848.202(a)(3) and 848.203 are met; and

5) any tire retreading facilities, or tire stamping and die cutting facilities, at which:

A) 5,000 or fewer used or waste tires are located on site at any one time; and

B) the requirements of Section 848.202(a)(3) are met.

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.401 MaintainingUpgrading Financial Assurance**

a) Except as otherwise provided in subsection (b), theThe owner or operator must at all timesshall maintain financial assurance in an amount equal to or greater than the current approved removal cost estimate calculated pursuant to Section 848.404 at all times, except as otherwise provided by subsection (b).

b) Within 60 days after the occurrence of any event listed in this subsection (b), theThe owner or operator mustshall increase the total amount of financial assurance to an amount that isso as to equal to or greater than the current approved removal cost estimate calculated pursuant to Section 848.404within 90 days after any of the following occurances:

1) An increase in the current approved removal cost estimate increases; or

2) A decrease in the value of a trust fund established pursuant to Section 848.410 decreases.;

3) A determination by the Agency that an owner or operator no longer meets the financial test of Section 848.415(d); or

~~4) Notification by the owner or operator that the owner or operator intends to substitute alternative financial assurance, as specified in Section 848.406, for self-insurance.~~

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.402 Release of Financial Institution**

The Agency must~~shall~~ release a trustee, bank, surety or other financial institution as soon as practicable after the owner or operator makes a written request for release and demonstrates that either one of the following events has occurred~~when~~:

a) the~~An~~ owner or operator has substituted alternate~~substitutes alternative~~ financial assurance that meets the requirements of this Subpart such that the total financial assurance for the site is equal to or greater than the current approved removal cost estimate, without counting the amounts to be released; or

b) the~~The~~ Agency has released~~releases~~ the owner or operator from the requirements of this Subpart following completion of removal.

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.403 Application of Proceeds and Appeal**

a) The Agency may sue in any court of competent jurisdiction to enforce its rights under financial instruments used to provide the financial assurance required under this Subpart. The filing of an enforcement action before the Board is not a condition precedent to such an Agency action, except when this Subpart or the terms of the instrument provide otherwise.

b) As provided in Titles VIII and IX of the Act and 35 Ill. Adm. Code 103 and 104, the Board may order that an owner or operator modify a removal plan or order that proceeds from financial assurance be applied to the execution of a removal plan.

c) The following Agency actions may be appealed to the Board as a permit denial pursuant to 35 Ill. Adm. Code 105:

1) a~~A~~ refusal to accept financial assurance tendered by the owner or operator;

2) a~~A~~ refusal to release the owner or operator from the requirement to maintain financial assurance;

3) a~~A~~ refusal to release excess funds from a trust;

4) a refusal to approve a reduction in the penal sum of a bond; or

5) a~~A~~ refusal to approve a reduction in the amount of a letter of credit.~~;~~

~~7) A determination that an owner or operator no longer meets the financial test.~~

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.404 Removal Cost Estimate**

a) No later than January 1 of each year, the~~The~~ owner or operator must~~shall~~ submit to the Agency, for approval, a written estimate of the cost of removing the maximum number of~~all~~ used and waste tires that will be accumulated at~~from~~ the site at any time. This cost estimate must be submitted by the owner or operator along with the annual notice of activity required under Section 55(d) of the Act.

~~1) The owner or operator shall submit the cost estimate with the annual notice of activity pursuant to Section 55(d) of the Act.~~

~~2) The cost estimate is due on January 1 of each year, commencing January 1, 1992.~~

b) In addition, the~~The~~ owner or operator must~~shall~~ revise the removal cost estimate and submit the revised estimate for Agency approval before making or having made at the site any change that would increase~~whenever a change in the removal plan increases~~ the removal cost estimate, including, but not limited to, an increase in the maximum accumulation of used or waste tires that will be accumulated at the site at any one time.

~~c) The cost estimate equals the larger of the following:~~

~~1)~~ ~~The cost of removing all used and waste tires accumulated at the site; or~~

~~2)~~ ~~The cost of removing the maximum number of used and waste tires which the owner or operator anticipates will be accumulated at the site at any time.~~

c~~d~~) The owner or operator must~~shall~~ base the removal cost estimate on costs~~either:1)Costs~~ to the Agency under a contract to perform tire removal actions in the area in which the site is located.~~; or 2) Projected costs, assuming that the Agency will contract with a third party to implement the removal plan. A third party is a person who is neither a parent nor a subsidiary of the owner or operator.~~

d~~e~~) The removal cost estimate must, at a minimum, include all costs for all activities necessary to remove all used and waste tires in accordance with all requirements of this Part.

e~~f~~) Once the owner or operator has completed an activity described in subsection (c), the owner or operator may revise the removal cost estimate indicating that the activity has been completed, and zeroing that element of the removal cost estimate.

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.406 Mechanisms for Financial Assurance**

The owner or operator may use~~utilize~~ any one of the following mechanisms to provide financial assurance for removal of used and waste tires or may use a combination of these mechanisms to the extent authorized under Section 848.407:

a) a~~A~~ trust fund (Section 848.410);

b) a surety bond guaranteeing payment (Section 848.411); or

c~~b~~) a~~A~~ letter of credit (Section 848.413).~~;~~

~~c) Self-insurance (Section 848.415).~~

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.407 Use of Multiple Financial Mechanisms**

An owner or operator may satisfy the requirements of this Subpart by establishing more than one financial mechanism listed in Section 848.406 per site. These mechanisms listed in Section 948.406 include~~are limited to~~ trust funds, surety bonds guaranteeing payment, and letters of credit. The mechanisms~~mechanism~~ must be as specified in Sections~~35 Ill. Adm. Code~~ 848.410, 848.411, and 848.413, respectively, except that it is the combination of mechanisms~~mechanism~~, rather than any~~the~~ single mechanism, that~~, which~~ must provide financial assurance for an amount at least equal to the current approved removal cost estimate. An owner or operator that uses a trust fund in combination with a surety bond or a letter of credit may use the trust fund as the standby trust fund for the other mechanisms. A single standby trust fund may be established for two or more mechanisms. The owner or operator may use any or all of the mechanisms specified in Sections 848.410, 848.411, and 848.413 to provide for removal.

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.408 Use of a Financial Mechanism~~Mechanisms~~ for Multiple Sites**

An owner or operator may use a financial assurance mechanism specified in this Subpart to meet the requirements of this Subpart for more than one site. Evidence of financial assurance submitted to the Agency must include a list showing, for each site, the name, address and the amount of funds assured by the mechanism. The amount of funds available through the mechanism must be no less than the sum of funds that would be available if a separate mechanism had been established and maintained for each site. The amount of funds available to the Agency must be sufficient to remove used and waste tires from all of the owner or operator's sites.~~ In directing funds available through a single mechanism for the removal of any single site covered by that mechanism, the Agency shall direct only that amount of funds designated for that site, unless the owner or operator agrees to the use of additional funds available under that mechanism.~~

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.410 Trust Fund**

a) An owner or operator may satisfy the requirements of this Subpart by establishing a trust fund that~~which~~ conforms to the requirements of this Section and submitting an originally~~original~~ signed duplicate of the trust agreement to the Agency.

b) The trustee must~~shall~~ be an entity that~~which~~ has the authority to act as a trustee

and whose trust operations are regulated and examined by a federal or state agency.~~:~~

~~1) Whose trust operations are examined by the Illinois Commissioner of Banks and Trust Companies pursuant to the Illinois Banking Act (Ill. Rev. Stat. 1989, ch. 17, pars. 301 et seq.); or~~

~~2) Who complies with the Corporate Fiduciary Act (Ill. Rev. Stat. 1989, ch. 17, pars. 1551-1 et seq.).~~

c) The trust agreement must be irrevocable, must be on forms prescribed by the Agency,~~the forms specified in Appendix A, Illustration A, and the trust agreement~~ must be accompanied by a formal certification of acknowledgment~~,~~ on a~~the~~ form prescribed by the Agency~~specified in Appendix A, Illustration B.~~, and must contain provisions addressing, at a minimum, the establishment, management, and termination of the trust and a schedule listing, at a minimum, the sites covered by the trust, the current approved removal cost for each of those sites, and prohibitions against third party access to the trust funds other than as provided in the trust agreement. The schedule required under this subsection (c) must be in the form prescribed by the Agency and must be updated within 60 days after a change in the amount of the current approved removal cost for any site covered by the trust.

d) Payments into the Trust~~trust:~~

1) The owner or operator must~~shall~~ make a payment into the trust fund each year during the pay-in period. However, after expiration of the pay-in period, neither the owner nor the operator may use a pay-in period to fund the trust and must instead make a lump sum payment to further fund the trust.~~:~~

2) The pay-in period is three~~five~~ years and~~. The pay-in period~~ commences on ~~at one of the following times, whichever is later: A) On~~ the date any of the sites covered by the trust agreement~~the site~~ first receives used or waste tires.~~; or B) On January 1, 1992.~~

3) Annual payments are determined by the following formula:

$$\text{Annual payment} = (CE-CV)/Y$$

where:

| | | |
|---|---|---|
| CE | = | Current total approved removal cost estimate for all sites covered by the trust agreement |
| CV ~~CV~~ | = | Current value of the trust fund |
| Y | = | Number of years remaining in the pay in period. |

4) The owner or operator must~~shall~~ make the first annual payment before used or waste tires are received at a site covered by the trust agreement~~prior to beginning of the pay-in period~~. Before receiving used tires at a site covered by the trust agreement, the~~The~~ owner or operator must~~shall also, prior to the beginning of the pay-in period,~~ submit to the Agency a receipt from the trustee for the first annual payment.

5) Subsequent annual payments must be made no later than 30 days after each anniversary of the first payment.

6) The owner or operator may either accelerate payments into the trust fund, or may deposit the full amount of the current approved removal cost estimate at the time the fund is established.

7) The owner or operator must~~shall~~ maintain the value of the fund at no less than the value the fund would have if annual payments were made as specified in subsection (d)(3).

8) If the owner or operator establishes a trust fund after having used one or more alternative mechanisms, the first payment must be in at least the amount the fund would contain if the trust fund were established initially and payments made as provided in subsection (d)(3).

e) The trustee must~~shall~~ evaluate the trust fund annually~~,~~ as of the anniversary of the day the trust was created or on such other~~earlier~~ date as may be provided in the agreement. Within 30 days after the evaluation date each year, the~~The~~ trustee must furnish~~shall notify~~ the owner or operator and the Agency with a statement confirming~~or~~ the value of the trust fund within 30 days after the evaluation date. The failure of the owner or operator to object in writing to the trustee within 90

days after the statement has been furnished to the owner or operator and the Agency constitutes a conclusively binding assent by the owner or operator, barring the owner or operator from asserting any claim or liability against the trustee with respect to matters disclosed in the statement.

f) After the pay-in period is completed, whenever the removal cost estimate changes, the owner or operator must compare the new estimate with the trustee's most recent annual valuation of the trust fund. If the value of the fund is less than the amount of the new estimate, the owner or operator must, within 60 days after the change in the removal cost estimate, either deposit an amount into the fund so that its value after this deposit at least equals the amount of the removal cost estimate, or obtain other financial assurance as specified in this Subpart to cover the difference.

g~~f~~) Release of excess funds:

1) If the value of the ~~financial assurance~~trust fund is greater than the total amount of the current approved removal cost estimate, the owner or operator may submit a written request to the Agency for a release of the amount in excess of the current approved removal cost estimate.

2) If an owner or operator substitutes other financial assurance as specified in this Subpart for all or part of the trust fund, he or she may submit a written request to the Agency for release of the amount in excess of the current approved removal cost estimate covered by the trust fund.

3~~2~~) As soon as practicable~~Within 60 days~~ after receiving a request from the owner or operator for a release of funds pursuant to this subsection (g) but not more than 120 days following the Agency's receipt of the request, the Agency must~~shall~~ instruct the trustee to release to the owner or operator such funds as the Agency specifies in writing to be in excess of the current approved removal cost estimate.

h~~g~~) Reimbursement for removal expenses:

1) After initiating removal, an owner or operator, or any other person authorized to perform removal, may request reimbursement for partial or final removal expenditures, by submitting itemized bills to the Agency. The owner or operator may request reimbursements for partial closure

only if sufficient funds remain in the trust fund to cover the costs of removal.

2) As soon as practicable~~Within 60 days~~ after receiving the itemized bills for partial or final removal activities, but no more than 120 days following the Agency's receipt of the itemized bills, the Agency must~~shall~~ determine whether the expenditures are in accordance with the removal plan. If the Agency determines, based on the information available to it, that the remaining cost of removal will be less than the value of the trust fund, the~~The~~ Agency must~~shall~~ instruct the trustee to make reimbursement in such amounts as the Agency specifies in writing as expenditures in accordance with the removal plan.

3) If the Agency determines, based on such information as is available to it, that the remaining cost of removal will be greater than the value of the trust fund, it must~~shall~~ withhold reimbursement of such amounts as it determines are necessary to preserve the trust corpus in order to accomplish removal until it determines that the owner or operator is no longer required to maintain financial assurance for removal. In the event the fund is inadequate to pay all claims after removal is completed, the Agency must~~shall~~ pay claims according to the following priorities:

A) Persons with whom the Agency has contracted and authorized to perform removal activities (first priority);

B) Persons who have completed removal activities authorized by the Agency (second priority);

C) Persons who have completed work which furthered the removal (third priority);

D) The owner or operator and related business entities (last priority).

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.411 Surety Bond Guaranteeing Payment**

a) An owner or operator may satisfy the requirements of this Subpart by obtaining a surety bond that conforms to the requirements of this Section and submitting the bond to the Agency.

b) The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on federal bonds in Circular 570 of the U.S. Department of the Treasury.

c) The surety bond must be on standardized forms prescribed by the Agency and must contain provisions concerning, at a minimum, the penal sum and term of the bond, conditions upon which the bond is payable and cancellable and payments into the standby trust fund.

d) An owner or operator who uses a surety bond must also establish a standby trust fund. Under the terms of the bond, all payments made under the surety bond must be deposited by the surety directly into the standby trust fund in accordance with instructions from the Agency. The standby trust fund must meet the requirements of a trust fund specified in Section 848.410, except that:

1) the owner or operator must submit an originally signed duplicate of the trust agreement to the Agency with the surety bond; and

2) until the standby trust is funded pursuant to the requirements of this Section, none of the following are required:

A) payments into the trust fund as specified in Section 848.410;

B) updating the trust agreement schedule in Section 848.410(c) to show the current approved removal cost estimates;

C) annual valuations as required by the trust agreement; or

D) notices of nonpayment as required by the trust agreement.

e) Conditions

1) The bond must guarantee that the owner or operator will either:

A) perform removal in accordance with the removal plan; or

B) within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the bond from the surety, provide alternate financial assurance in accordance with this Subpart and obtain the Agency's written approval of the assurance provided.

2) The surety will become liable on the bond obligation when, under the terms of the bond, the owner or operator fails to perform as guaranteed by the bond. The owner or operator fails to perform when the owner or operator does any one or more of the following:

A) abandons the site;

B) is adjudicated bankrupt;

C) within 30 days after the date on which the known final volume of used or waste tires is received, either fails to complete removal or fails to submit a removal plan that is approved by the Agency in accordance with Section 848.506;

D) fails to initiate removal when ordered to do so by the Board pursuant to Title VIII of the Act, or when ordered to do so by a court of competent jurisdiction;

E) fails to complete removal in accordance with the approved removal plan; or

F) fails, within 90 days after receipt by both the owner or operator and the Agency of a notice of cancellation of the surety bond, to provide alternate financial assurance and obtain the Agency's written approval of the assurance provided.

f) Penal Sum

1) The penal sum of the bond must be in an amount at least equal to the current approved removal cost estimate, except as provided in Section 848.407.

2) If the current removal cost estimate decreases, the penal sum may be reduced to the amount of the current approved removal cost estimate following written approval by the Agency.

3) If the current removal cost estimate increases to an amount greater than the penal sum and if that increase is not due to an increase in the maximum accumulation of used or waste tires at the site, the owner or operator must, within 60 days after the increase in the removal cost estimate, either:

A) cause the penal sum to be increased to an amount at least equal to the current removal cost estimate and submit evidence of the increase to the Agency; or

B) obtain alternate financial assurance in accordance with this Subpart to cover the increase in the removal cost estimate and submit evidence of the alternate financial assurance to the Agency.

4) If the current removal cost estimate increases to an amount greater than the penal sum and if that increase is due to an increase in the maximum accumulation of used or waste tires at the site, the owner or operator must, within 60 days after the increase in the removal cost estimate:

A) remove the excess tires to meet the current approved removal cost estimate;

B) cause the penal sum to be increased to an amount at least equal to the current removal cost estimate and submit evidence of the increase to the Agency; or

C) obtain other financial assurance, as specified in this Subpart, to cover the increase in the removal cost estimate and submit evidence of the alternative financial assurance to the Agency.

g) Terms

1) Under the terms of the bond, the surety may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency. Cancellation may not occur, however, during the 120 days

beginning on the date of receipt of the notice of cancellation by both the owner or operator and the Agency, as evidenced by the return receipts.

2) The Agency must release the surety by providing the owner or operator and the surety with written authorization for termination of the bond as soon as practicable after any of the following occur:

A) an owner or operator substitutes alternate financial assurance that meets the requirements of this Subpart such that the total financial assurance for the site is equal to or greater than the current approved removal cost estimate, without counting the amounts to be released; or

B) the Agency releases the owner or operator from the requirements of this Subpart following completion of removal.

(Source: Added at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.413 Letter of Credit**

a) An owner or operator may satisfy the requirements of this Subpart by obtaining an irrevocable standby letter of credit that~~which~~ conforms to the requirements of this Section and submitting the letter of credit to the Agency.

b) The issuing institution must~~shall~~ be an entity that~~which~~ has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency.~~:~~

~~1) Whose letter-of-credit operations are regulated by the Illinois Commissioner of Banks and Trust Companies; or~~

~~2) Whose deposits are insured by the Federal Deposit Insurance Corporation.~~

c) Forms:

1) The letter of credit must be on standardized forms prescribed by the Agency~~the forms specified in Appendix A, Illustration C~~.

2) The letter of credit must be accompanied by a letter from the owner or

operator, referring to the letter of credit by number, issuing institution and date, and providing, at a minimum, the following information: the Agency designated site number, the name and address of the site, and the amount of funds assured for removal from the site by the letter of credit.

d) An owner or operator who uses a letter of credit to satisfy the requirements of this Subpart must also establish a standby trust fund. Any amounts drawn by the Agency pursuant to the letter of credit must~~will~~ be deposited in the standby trust fund. The standby trust fund must meet the requirements of a trust fund specified in Section 848.410, except that:

1) the~~The~~ owner or operator must~~shall~~ submit an originally signed duplicate ~~a signed, duplicate original~~ of the trust agreement to the Agency with the letter of credit; and

2) unless~~Unless~~ the standby trust is funded pursuant to the requirements of this Section, none of the following are ~~not~~ required:

A) payments~~Payments~~ into the trust fund as specified in Section 848.410;~~.~~

B) updating~~Updating of Schedule A of~~ the trust agreement schedule in Section 848.410(c) to show the current approved removal cost estimates;~~.~~

C) annual~~Annual~~ valuations as required by the trust agreement; or~~.~~

D) notices~~Notices~~ of nonpayment as required by the trust agreement.

e) Conditions on which the Agency may draw on the letter of credit:

1) The Agency may~~shall~~ draw on the letter of credit if the owner or operator fails to perform removal in accordance with the removal plan.

2) The Agency may~~shall~~ draw on the letter of credit when the owner or operator does any one or more of the following:

A) abandons~~Abandons~~ the site;

B) is~~Is~~ adjudicated bankrupt;

C) within 30 days after the date on which the known final volume of used or waste tires is received, either fails to complete removal or fails to submit a removal plan that is approved by the Agency in accordance with Section 848.506;

D~~C~~) fails~~Fails~~ to initiate removal when ordered to do so by the Board pursuant to Title VIII~~VII~~ of the Act, or when ordered to do so by a court of competent jurisdiction;

E~~D~~) notifies~~Notifies~~ the Agency that it has initiated removal, or initiates removal, but fails to provide removal in accordance with the removal plan; or

F~~E~~) within 90 days after receipt by both the owner or operator and the Agency of a notice from the issuing institution that the letter of credit will not be extended for another term, fails~~Fails~~ to provide additional or substitute financial assurance~~ when required to do so~~ under this Subpart.

f) Amount:

1) The letter of credit must be issued in an amount at least equal to the current approved removal cost estimate, except as provided in Section 848.407.

2) If the current removal cost estimate decreases, the penal sum may be reduced to the amount of the current approved removal cost estimate following written approval by the Agency.~~The Agency shall approve a reduction in the amount whenever the current cost estimate decreases.~~

3) If the current removal cost estimate increases to an amount greater than the credit and if that increase is not due to an increase in the maximum accumulation of used or waste tires at the site, the owner or operator must, within 60 days after the increase in the removal cost estimate, either:

A) cause the amount of the credit to be increased to an amount at least equal to the current removal cost estimate and submit evidence of the increase to the Agency; or

B) obtain alternate financial assurance in accordance with this Subpart to cover the increase in the removal cost estimate and submit evidence of the alternate financial assurance to the Agency.

4) If the current removal cost estimate increases to an amount greater than the credit and if that increase is due to an increase in the maximum accumulation of used or waste tires at the site, the owner or operator must, within 60 days after the increase in the removal cost estimate:

A) remove the excess tires to meet the current approved removal cost estimate;

B) cause the amount of the credit to be increased to an amount at least equal to the current removal cost estimate and submit evidence of the increase to the Agency; or

C) obtain other financial assurance, as specified in this Subpart, to cover the increase in the removal cost estimate and submit evidence of the alternative financial assurance to the Agency.

g) Term:

1) The letter of credit must be irrevocable and issued for a period of at least one year.

2) The letter of credit must provide that, on its current expiration date and on each successive expiration date, the letter of credit ~~the expiration date~~ will be automatically extended for a period of at least one year, unless, at least 120 days before the current expiration date, the issuing institution notifies both the owner and operator and the Agency, by certified mail, of a decision not to extend the letter of credit for another term~~expiration date~~. Under the terms of the letter of credit, the 120 days will begin on the date when both the owner or operator and the Agency have received the notice, as evidenced by the return receipts.

3) The Agency must return the letter of credit to the issuing institution for termination as soon as practicable after any of the following occur:

A) an owner or operator substitutes alternate financial assurance that meets the requirements of this Subpart such that the total financial assurance for the site is equal to or greater than the current approved removal cost estimate, without counting the amounts to be released; or

B) the Agency releases the owner or operator from the requirements of this Subpart following completion of removal.

~~h) Cure of default and refunds:~~

~~1) The Agency shall release the financial institution if, after the Agency is allowed to draw on the letter of credit, the owner or operator or another person provides financial assurance for removal from the site, unless the Agency determines that a removal plan or the amount of substituted financial assurance is inadequate to provide removal as required by this Part.~~

~~2) After removal has been completed in accordance with the removal plans and the requirements of this Part, the Agency shall refund any unspent money which was paid to the Agency by the financial institution.~~

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.415 Self-Insurance for Non-commercial Sites (Repealed)**

~~a) Definitions. The following definitions are intended to assist in the understanding of this Part and are not intended to limit the meanings of terms in any way that conflicts with generally accepted accounting principles:~~

~~"Assets" means all existing and all probable future economic benefits obtained or controlled by a particular entity.~~

~~"Current assets" means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash or sold or consumed during the normal operating cycle of the business.~~

~~"Current liabilities" means obligations whose liquidation is reasonably expected to require the use of existing resources properly classifiable as current assets or the creation of other current liabilities.~~

~~"Generally accepted accounting principles" means "Accounting Standards", incorporated by reference in Section 848.105.~~

~~"Generally accepted auditing standards" means Auditing Standards – Current Text, incorporated by reference at 848.105.~~

~~"Independently audited" refers to an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.~~

~~"Liabilities" means probable future sacrifices of economic benefits arising from present obligations to transfer assets or provide services to other entities in the future as a result of past transactions or events.~~

~~"Net working capital" means current assets minus current liabilities.~~

~~"Net worth" means total assets minus total liabilities and is equivalent to owner's equity.~~

~~"Tangible net worth" means tangible assets less liabilities; tangible assets do not include intangibles such as goodwill and rights to patents or royalties.~~

~~b) Information to be Filed~~

~~An owner or operator may satisfy the financial assurance requirements of this Part by providing the following:~~

~~1) Bond without surety promising to pay the cost estimate (subsection (c)).~~

~~3) Proof that the owner or operator meets the financial test (subsection (d)).~~

~~c) Bond Without Surety. An owner or operator utilizing self-insurance shall provide a bond without surety on the forms specified in Appendix A, Illustration D. The~~

~~owner or operator shall promise to pay the current cost estimate to the Agency unless the owner or operator provides removal in accordance with the removal plan.~~

~~d) Financial Test~~

~~1) To pass the financial test, the owner or operator shall meet the criteria of either subsection (d)(1)(A) or (d)(1)(B):~~

~~A) The owner or operator shall have:~~

~~i) Two of the following three ratios: a ratio of total liabilities to net worth of less than 2.0; a ratio of the sum of net income plus depreciation, depletion and amortization to total liabilities of greater than 0.1; or a ratio of current assets to current liabilities of greater than 1.5; and~~

~~ii) Net working capital and tangible net worth each at least six times the current cost estimate; and~~

~~iii) Tangible net worth of at least $10 million; and~~

~~iv) Assets in the United States amounting to at least 90 percent of the owner or operator's total assets and at least six times the current cost estimate.~~

~~B) The owner or operator shall have:~~

~~i) A current rating of AAA, AA, A or BBB for its most recent bond issuance as issued by Standard and Poor, or a rating of Aaa, Aa, A or Baa, as issued by Moody; and~~

~~ii) Tangible net worth at least six times the current cost estimate; and~~

~~iii) Tangible net worth of at least $10 million; and~~

~~iv) Assets located in the United States amounting to at least 90 percent of its total assets or at least six times the current~~

~~cost estimate.~~

~~2) To demonstrate that it meets this test, the owner or operator shall submit the following items to the Agency:~~

~~A) A letter signed by the owner or operator's chief financial officer and worded as specified in Appendix A, Illustration F; and~~

~~B) A copy of the independent certified public accountant's report on examination of the owner or operator's financial statements for the latest completed fiscal year; and~~

~~C) A special report from the owner or operator's independent certified public accountant to the owner or operator stating that:~~

~~i) The accountant has compared the data which the letter from the chief financial officer specifies as having been derived from the independently audited, year-end financial statements for the latest fiscal year with the amounts in such financial statements; and~~

~~ii) In connection with that procedure, no matters came to the accountant's attention which caused the accountant to believe that the specified data should be adjusted.~~

~~e) Updated Information.~~

~~1) After the initial submission of items specified in subsection (d), the owner or operator shall send updated information to the Agency within 90 days after the close of each succeeding fiscal year.~~

~~2) If the owner or operator no longer meets the requirements of subsection (d) the owner or operator shall send notice to the Agency of intent to establish alternative financial assurance. The notice must be sent by certified mail within 90 days after the end of the fiscal year for which the year-end financial data show that the owner or operator no longer meets the requirements.~~

~~f) Qualified Opinions. If the opinion required by subsections (d)(2)(B) and~~

~~(d)(2)(C) includes an adverse opinion or a disclaimer of opinion, the Agency shall disallow the use of self-insurance. If the opinion includes other qualifications, the Agency shall disallow the use of self-insurance if:~~

~~1) The qualifications relate to the numbers which are used in the financial test; and,~~

~~2) In light of the qualifications, the owner or operator has failed to demonstrate that it meets the financial test.~~

~~g) Parent Corporation. An owner or operator may satisfy the financial assurance requirements of this Part by demonstrating that a corporation which owns an interest in the owner or operator meets the financial test. The owner or operator shall also provide a bond with the parent as surety (Appendix A, Illustration E).~~

(Source: Repealed at 39 Ill. Reg. 12934, effective September 8, 2015)

SUBPART E: TIRE REMOVAL AGREEMENTS

**Section 848.501 Applicability**

a) The~~By January 1, 1992, the~~ owner or operator of a tire disposal site must~~shall~~ obtain written approval from the Agency of a tire removal agreement submitted pursuant to this Subpart unless:

1) *the owner or operator has entered into a written agreement to participate in a consensual removal action under Section 55.3(c) of the Act* [514 ILCS 5/55(d)(2)(ii)~~THE OWNER OR OPERATOR HAS ENTERED INTO A WRITTEN AGREEMENT TO PARTICIPATE IN A CONSENSUAL REMOVAL ACTION UNDER SECTION 55.3(C) OF THE ACT~~; or

2) the~~The~~ owner or operator has received a permit from the Agency pursuant to the requirements of Subtitle G: Waste Disposal for the disposal of solid waste at landfills.~~; or~~

~~3) The owner or operator has submitted a complete written proposal pursuant to Section 848.503 for a tire removal agreement to the Agency in accordance with this Subpart by July 1, 1991, the owner or operator has submitted all information required or necessary to process the submission,~~

~~and the Agency has not made a determination with respect to the submittal.~~

b) ~~The requirements of subsection (a) shall not apply if the owner or operator has removed all used and waste tires from the tire disposal site prior to January 1, 1992.~~ An owner or operator of a tire disposal site may obtain approval of a tire removal agreement for a specific area within a facility; however, the remainder of the facility must be operated under a permit issued by the Agency under 35 Ill. Adm. Code: Subtitle G: Waste Disposal for the disposal of solid waste in landfills or be subject to a consensual removal action under Section 55.3(c) of the Act.

c) Before~~For tire disposal sites at which used or waste tires are first disposed after January 1, 1992, prior to~~ disposing of any used or waste tires the owner or operator of a tire disposal site must~~shall~~ obtain a permit from the Agency pursuant to the requirements of 35 Ill. Adm. Code: Subtitle G: Waste Disposal for the disposal of solid wastes at landfills.

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.502 Removal Performance Standard**

*The owner or operator of a tire disposal site required to file and receive approval of a tire removal agreement under* this Subpart E *shall remove used or waste tires from the site in a manner that*~~THE OWNER OR OPERATOR OF A TIRE DISPOSAL SITE REQUIRED TO FILE AND RECEIVE APPROVAL OF A TIRE REMOVAL AGREEMENT UNDER THIS SUBPART E SHALL REMOVE USED OR WASTE TIRES FROM THE SITE IN A MANNER THAT~~:

a) *minimizes the need for further maintenance*~~MINIMIZES THE NEED FOR FURTHER MAINTENANCE~~*;*

b) *removes all used and waste tires and any residues therefrom; and*~~REMOVES ALL USED AND WASTE TIRES AND ANY RESIDUES THEREFROM;~~AND

c) *protects human health during the removal and post removal periods*~~PROTECTS HUMAN HEALTH DURING THE REMOVAL AND POST REMOVAL PERIODS~~. [415 ILCS 5/55.4(a)]~~(Section 55.4 of the Act)~~

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.503 Contents of Proposed Tire Removal Agreements**

a) A proposed *tire removal agreement submitted to the Agency*~~TIRE REMOVAL AGREEMENT SUBMITTED TO THE AGENCY~~ for approval under this Subpart E *shall include the following*~~SHALL INCLUDE THE FOLLOWING~~*:*

1) *a complete inventory of the tires located on the site*;~~A COMPLETE INVENTORY OF THE TIRES LOCATED ON THE SITE.~~

2) *a description of how the removal will be conducted in accordance with*~~A DESCRIPTION OF HOW THE REMOVAL WILL BE CONDUCTED IN ACCORDANCE WITH~~ Section 848.502;~~.~~

3) *a description of the methods to be used during removal including, but not limited to, the methods for removing, transporting, processing, storing or disposing of tires and residues, and the offsite facilities to be used*;~~A DESCRIPTION OF THE METHODS TO BE USED DURING REMOVAL INCLUDING, BUT NOT LIMITED TO, THE METHODS FOR REMOVING, TRANSPORTING, PROCESSING, STORING OR DISPOSING OF TIRES AND RESIDUES, AND THE OFFSITE FACILITIES TO BE USED.~~

4) *a detailed description of other activities necessary during the removal period to ensure that the requirements of* Section 848.502 *are met*; and~~A DETAILED DESCRIPTION OF OTHER ACTIVITIES NECESSARY DURING THE REMOVAL PERIOD TO ENSURE THAT THE REQUIREMENTS OF Section 848.502 ARE MET.~~

5) *a schedule of completing the removal of tires from the site, as required in* Section 848.504. [415 ILCS 5/55.4(b)]~~A SCHEDULE OF COMPLETING THE REMOVAL OF TIRES FROM THE SITE, AS REQUIRED IN Section 848.504. (Section 55.4 of the Act)~~

b) The owner or operator may propose amendment of the tire removal agreement at any time prior to notification of the completion of partial or final removal of tires from the facility. To request a change in an approved tire removal agreement~~permit~~, an owner or operator shall submit a written request to the

Agency. The written request must include a copy of the amended tire removal agreement for approval by the Agency.

c) Nothing in this Section precludes~~shall preclude~~ the owner or operator from removing used or waste tires in accordance with the approved partial or final tire removal agreement~~ before certification of completion of partial or final removal~~.

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.504 Time Allowed for Tire Removal**

a) *Each approved tire removal agreement shall include a schedule by which the owner or operator must complete the removal activities. The total time allowed shall not exceed the following*~~EACH APPROVED TIRE REMOVAL AGREEMENT SHALL INCLUDE A SCHEDULE BY WHICH THE OWNER OR OPERATOR MUST COMPLETE THE REMOVAL ACTIVITIES. THE TOTAL TIME ALLOWED SHALL NOT EXCEED THE FOLLOWING~~:

1) *one year if the site contains 1,000 tires or less*~~ONE YEAR IF THE SITE CONTAINS 1,000 TIRES OR LESS~~*;*

2) *two years if the site contains more than 1,000 tires but less than 10,000 tires*~~TWO YEARS IF THE SITE CONTAINS MORE THAN 1,000 TIRES BUT LESS THAN 10,000 TIRES~~*;*

3) *five years if the site contains 10,000 or more tires*~~FIVE YEARS IF THE SITE CONTAINS 10,000 OR MORE TIRES~~.

b) *The owner or operator may apply for an extension of time, no later than 90 days before the end of the time period specified in the agreement. The Agency shall not grant such an extension unless it determines that the owner or operator has proceeded to carry out the agreement with all due diligence. The requested extension of time may not exceed 3 years, and the Agency may approve the request as submitted or may approve a lesser amount of time* ~~THE OWNER OR OPERATOR MAY APPLY FOR AN EXTENSION OF TIME, NO LATER THAN 90 DAYS BEFORE THE END OF THE TIME PERIOD SPECIFIED IN THE AGREEMENT. THE AGENCY SHALL NOT GRANT SUCH AN EXTENSION UNLESS IT DETERMINES THAT THE OWNER OR OPERATOR HAS PROCEEDED TO CARRY OUT THE AGREEMENT WITH~~

~~ALL DUE DILIGENCE. THE REQUESTED EXTENSION OF TIME MAY NOT EXCEED 3 YEARS, AND THE AGENCY MAY APPROVE THE REQUEST AS SUBMITTED OR MAY APPROVE A LESSER AMOUNT OF TIME~~ if the removal activities can be completed within such lesser amount of time. [415 ILCS 5/55.4(d)]~~(Section 55.4 of the Act)~~

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.506 Initiation of Tire Removal**

a) Any owner or operator who is required to obtain financial assurance under this Part must~~Subpart shall~~ submit a proposed tire removal agreement to the Agency that satisfies Sections 848.502 through 848.505:~~Sections 848.502 - 848.505~~

1) within 30 days after the date on which any tire disposal site or tire storage site receives the known final volume of used or waste tires; or~~,~~

2) when the owner or operator fails to provide additional or substitute financial assurance, as required in this Part, and to obtain the Agency's written approval of the assurance provided, within 60 days after an increase in the current removal cost estimate~~if there is a reasonable possibility that the tire disposal site or tire storage site will receive additional used or waste tires, no later than one year after the date on which the site received the most recent volume of used or waste tires. If the owner or operator of a tire storage site or tire disposal site demonstrates to the Agency that the site has the capacity to receive additional used or waste tires and that the owner or operator has taken and will continue to take all steps to prevent threats to human health and the environment, the Agency shall approve an extension to this one-year limit~~.

b) The owner or operator must~~shall~~ begin removal of used and waste tires in accordance with the approved tire removal agreement within 30 days after written Agency approval of the tire removal agreement unless the tire removal agreement specifies otherwise.

c) The Agency must~~shall~~ have authority to approve a later date for initiation of tire removal in a tire removal agreement if~~: 1)~~the owner or operator demonstrates to the Agency that a binding contractual relationship exists under which the owner or operator will remove all used and waste tires from the site within the period

specified in Section 848.504. ~~two years; or 2)other factors relative to operation of the site necessitate a later date for initiating removal of used and waste tires.~~

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.507 Certification of Removal Completion**

*Within 60 days after the completion of removal activities under an approved*~~WITHIN 60 DAYS AFTER THE COMPLETION OF REMOVAL ACTIVITIES UNDER AN APPROVED~~ tire removal *agreement* under this Subpart E, *the owner or operator shall submit to the Agency a certification that the site or the affected portion of the site* ~~THE OWNER OR OPERATOR SHALL SUBMIT TO THE AGENCY A CERTIFICATION THAT THE SITE OR THE AFFECTED PORTION OF THE SITE~~ subject to a tire removal agreement *has been cleared of tires in accordance with the approved*~~HAS BEEN CLEARED OF TIRES IN ACCORDANCE WITH THE APPROVED~~ tire removal *agreement*. [415 ILCS 5/55.4(e)]~~(Section 55.4 of the Act)~~

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.508 Agency Approval**

*For a site at which the owner or operator is proposing to proceed with removal*~~FOR A SITE AT WHICH THE OWNER OR OPERATOR IS PROPOSING TO PROCEED WITH REMOVAL~~ under a tire removal agreement, rather than obtaining a permit under 35 Ill. Adm. Code: Subtitle G: Waste Disposal for the disposal of solid waste in a landfill, *the Agency shall approve, modify or disapprove a proposed agreement within 90 days of receiving it. If the Agency does not approve the agreement, the Agency shall provide the owner or operator with a written statement of reasons for the refusal, and the owner or operator shall modify the agreement or submit a new agreement for approval within 30 days after receiving the statement. The Agency shall approve or modify the second proposed agreement within 60 days. If the Agency modifies the second proposed agreement, the agreement as modified shall become the approved agreement.* [415 ILCS 5/55.4(c)]~~THE AGENCY SHALL APPROVE, MODIFY OR DISAPPROVE A PROPOSED AGREEMENT WITHIN 90 DAYS OF RECEIVING IT. IF THE AGENCY DOES NOT APPROVE THE AGREEMENT, THE AGENCY SHALL PROVIDE THE OWNER OR OPERATOR WITH A WRITTEN STATEMENT OF REASONS FOR THE REFUSAL, AND THE OWNER OR OPERATOR SHALL MODIFY THE AGREEMENT OR SUBMIT A NEW AGREEMENT FOR APPROVAL WITHIN 30 DAYS AFTER RECEIVING THE STATEMENT. THE AGENCY SHALL APPROVE OR MODIFY THE SECOND PROPOSED AGREEMENT WITHIN 60 DAYS. IF THE AGENCY MODIFIES THE~~

~~SECOND PROPOSED AGREEMENT, THE AGREEMENT AS MODIFIED SHALL BECOME THE APPROVED AGREEMENT. (Section 55.4 of the Act)~~

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.509 Board Review**

*Modification of or refusal to modify*~~MODIFICATION OF OR REFUSAL TO MODIFY A~~ a proposed tire removal *agreement submitted by an owner or operator proposing to proceed with removal*~~AGREEMENT SUBMITTED BY AN OWNER OR OPERATOR PROPOSING TO PROCEED WITH REMOVAL under a tire removal agreement~~ *is a permit denial for purposes of*~~IS A PERMIT DENIAL FOR PURPOSES OF~~ appeal pursuant to 35 Ill. Adm. Code 105. [415 ILCS 5/55.4(f)]~~(Section 55.4 of the Act)~~

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

SUBPART F: TIRE TRANSPORTATION REQUIREMENTS

**Section 848.601 Tire Transportation Prohibitions**

a) Except as provided in subsection (c), no person shall transport more than 20 used or waste tires in a vehicle at any one time unless the following requirements are met:~~.~~

1) the person either is registered as a tire transporter~~The owner or operator has registered the vehicle~~ with the Agency or an employee of a person that is registered as a tire transporter with the Agency~~in accordance with this Subpart, received approval of such registration from the Agency,~~ and, in either case, the ~~such~~ registration is current, valid, and in effect;~~.~~

2) the vehicle~~The owner or operator~~ displays a placard ~~on the vehicle~~, issued by the Agency ~~following registration~~, in accordance with the requirements of this Subpart;~~.~~

3) the portion of the vehicle where the tires are transported is completely separated from the vehicle's passenger compartment; and

4) if the person was required to submit an Annual Tire Transportation Report in the immediately preceding year, the person submitted that report to the Agency in accordance with the requirements of Section 848.609.

b) No person shall provide, deliver or transport used or waste tires to a tire transporter for transport unless the transporter's vehicle displays a placard issued by the Agency under this Subpart~~ identifying the transporter as a registered tire hauler~~.

c) A person transporting tire carcasses to a tire retreading facility under a bill of lading is exempt from the requirements of this Section and Section 848.607.

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.602 Tire Transportation Registrations**

a) Tire transportation registrations must~~shall~~ be submitted~~made~~ on registration~~application~~ forms prescribed by the Agency that, at~~which as~~ a minimum, shall require submission of the following information:

1) the name~~Name~~, address, and telephone number of the person seeking registration;~~and location of the vehicle owner(s) and operator(s).~~

2) a~~A~~ description of the number and types of vehicles to be used, proof of liability insurance for those vehicles, and, if any of the vehicles to be used are required to obtain a certificate of safety under Chapter 13 of the Illinois Vehicle Code [625 ILCS 5], a copy of the current certificate of safety for the vehicle; and~~.~~

3) an~~An~~ agreement by the person seeking registration~~vehicle owner(s) and operator(s)~~ that:

A) tire~~Tire~~ loading, transportation, and unloading will be conducted in compliance with all applicable state and federal laws and regulations;~~.~~

B) no used or waste~~No~~ tires will~~shall~~ be transported with other wastes on one vehicle if that activity~~such~~ could result in a hazardous combination likely to cause explosion, fire, or release of a

dangerous or toxic gas, or in violation of any applicable state or federal law or~~and~~ regulation; and~~.~~

C) the~~The~~ equipment and procedures to be used will~~shall~~ be proper for the tire transportation to be safe for the transporters~~haulers~~, handlers, and others, and will meet the requirements of all other applicable state and federal laws and regulations.

b) All tire transporter registrations must~~shall~~ be signed by the person seeking registration or by a~~owner(s) and operator(s) of the vehicle; or, in the name of the owner and operator, by the owner's and operator's~~ duly authorized agent of the person seeking registration who has provided the Agency with evidence of his or her authority~~when accompanied by evidence of authority~~ to sign the registration on behalf of the person seeking registration~~application~~.

c) If any information required to be submitted on the registration form changes after the registration is submitted to the Agency, the registrant must provide an amended registration form to the Agency in writing within 30 days after the date the information changes. If the information reflects a change in ownership or a change in vehicle information, a new registration form must be submitted to the Agency.

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.603 Agency Approval of Registrations**

a) Tire transporter registrations are~~registration applications shall be~~ deemed to be filed on the date of initial receipt by the Agency of a properly completed registration~~application on the~~ form prescribed by the Agency. The Agency must reject any incomplete registration form and notify the person seeking registration that the registration form is incomplete. That person may treat the Agency's notification of an incomplete registration form as a final action denying approval of the registration for purposes of review pursuant to Section 40 of the Act.

b) If the Agency fails to take final action approving or denying approval of a~~this~~ registration within 90 days from the filing of the completed form~~application~~, the person seeking registration~~applicant~~ may deem the registration approval granted for a period of one calendar year commencing on the 91st day after the application was filed.

c) The Agency is~~shall be~~ deemed to have taken final action on the date that the notice of final action is mailed.

d) Before approving a registration, the~~The~~ Agency must consider whether~~shall require~~ the registration is~~application to be~~ complete and consistent with the provisions of the Act and Board regulations and may undertake such investigations and request the person seeking registration~~applicant~~ to furnish such proof as it deems necessary to verify the information and statements made in the registration~~application~~. If the registration~~application~~ is complete and the approval of it~~thereof~~ will not cause a violation of the Act or Board regulations, the Agency must~~shall~~ approve the registration. Notwithstanding any other provision of this subsection (d), the Agency must deny a person's registration if, within the 5 years immediately preceding the date upon which the registration is filed with the Agency:

1) the person caused or allowed the open dumping of used or waste tires in violation of Section 55(a)(1) of the Act; or

2) the Agency has taken or is taking preventive or corrective action pursuant to Section 55.3 of the Act because the person caused or allowed the open dumping of used or waste tires in violation of Section 55(a)(1) of the Act.

e) In approving tire transporter registrations pursuant to this Subpart~~hereunder~~, the Agency may impose such conditions as may be necessary to accomplish the purposes of the Act and the Board regulations.

f) The person seeking registration~~applicant~~ may deem any conditions imposed by the Agency as a denial of approval of the registration for purposes of review pursuant to Section 40 of the Act.

g) A tire transporter registration approved hereunder is automatically modified to include any relevant change in the Act or Board regulations. The Agency must~~shall~~ revise any tire transporter registration issued by the Agency under this Part to make the registration compatible with any such relevant changes and so notify the registrant. Failure of the Agency to issue a revised registration does~~shall~~ not excuse the registrant from compliance with any such change.

h) No tire transporter registration is transferable~~ from one person to another~~. A tire

transporter registration is personal to the persons~~person(s)~~ named in the tire transporter registration.

i) Violation of any conditions or failure to comply with any provisions of the Act or with any Board regulation are~~shall be~~ grounds for sanctions as provided in the Act, including, but not limited to, revocation of the registration as herein provided and the denial of applications for renewal.

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.604 Registration No Defense**

The existence of an approved tire transporter registration under this Subpart does~~Part shall~~ not provide any person~~the transporter~~ with a defense to a violation of the Act or Board regulations, except for transporting~~hauling~~ used or waste tires without an approved tire transporter registration.

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.605 Duration and Renewal**

a) All registrations approved hereunder are~~shall be~~ effective for a period of two years from the date of approval and are renewable, except as provided in Section 848.603(b) and (i).

b) Applications for registration renewal must~~shall~~ be made at least 90 days prior to the expiration date of the registration on the forms prescribed by the Agency.

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.606 Vehicle Placarding**

a) Upon approval of a registration as a tire transporter, the transporter must~~owner or operator of any vehicle registered to transport used or waste tires shall~~ place, on opposite sides of each vehicle, a placard that~~on opposite sides of the vehicles which~~ displays a number issued by the Agency following the words "Registered Tire Transporter: (number)".

b) ~~Registered tire transporter numbers and letters shall be removable only by~~

~~destruction.~~ Directly adjacent to the words and number, the transporter must ~~vehicle owner and operator shall~~ display a seal furnished by the Agency that designates~~which shall designate~~ the date on which the registration expires.

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.607 Tire Tracking Receipts**

a) Upon receiving used or waste tires, a tire transporter must provide a receipt to the person from whom the used or waste tires are received. The person from whom the used or waste tires are received and the tire transporter must each keep a copy of the receipt. The receipt must include all of the following: the signature of the person from whom the used or waste tires are received; the tire transporter's signature; the name and registration number of the tire transporter; the name, address, and telephone number of the site from which used or waste tires were transported; the date the used or waste tires were transported from the site; the number or weight, in tons, of used or waste tires transported from the site; and the destinations of the used or waste tires.

b) Upon delivering used or waste tires, a tire transporter must obtain a receipt from the site where the used or waste tires were delivered and keep a copy of the receipt. The receipt must include all of the following: the tire transporter's signature; the name and registration number of the tire transporter; the name and location of the site to which used or waste tires were delivered; the signature of the owner or operator of the site to which used or waste tires were delivered; the date the used or waste tires were delivered to the site; and the number or weight, in tons, of used or waste tires delivered to the site.

c) Tire transporters must maintain at their principal place of business a record of the receipt and disposition of all used or waste tires, including, but not limited to, both:

1) receipts for used or waste tires received by that person; and

2) receipts for used or waste tires delivered by that person. In addition, persons delivering used or waste tires to a tire transporter for transport must maintain at their principal place of business a copy of the receipts provided by tire transporters pursuant to subsection (a).

d) The tire tracking receipts required under this Section and Section 848.305 shall be on a form prescribed by the Agency.

(Source: Added at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.608 Annual Tire Transportation Report**

a) Any person who is required to be registered under this Subpart must submit an Annual Tire Transportation Report to the Agency for each calendar year in which they are required to be registered. The Annual Tire Transportation Report must be in a form prescribed by the Agency and must include the Agency designated registration number of the transporter, the name and address of the transporter, and the calendar year for which the report applies.

b) Information relative to the transportation of used and waste tires by the transporter must be recorded in the Annual Tire Transportation Report, including, but not limited to:

1) the number or weight, in tons, of used or waste tires received by the transporter during the calendar year;

2) the number or weight, in tons, of used or waste tires delivered to each site by the transporter during the calendar year; and

3) the number or weight, in tons, of used or waste tires remaining with the transporter at the end of the calendar year.

c) The Annual Tire Transportation Report must be received by the Agency on or before the March 1 immediately following the end of the calendar year for which the report is submitted.

(Source: Added at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.609 Retention of Records**

Copies of all records required to be kept under this Subpart shall be retained for three years by the person required to retain the record and shall be made available at the site during the normal business hours of the operator for inspection and photocopying by the Agency.

(Source: Added at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.610 Certification**

a) All reports submitted to the Agency as required by this Subpart must be signed by a person designated by the transporter as responsible for preparing and reviewing these documents as part of his or her duties in the regular course of business.

b) Any person signing a document submitted to the Agency pursuant to this Subpart must make the following certification:

> "I certify that I am responsible for preparing and reviewing this document and that this document and all attachments were prepared under my direction or supervision as part of my duties in the regular course of business. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties under Section 44 of the Environmental Protection Act, including the possibility of fine and imprisonment for knowingly submitting false information."

(Source: Added at 39 Ill. Reg. 12934, effective September 8, 2015)

SUBPART G: TIRE STORAGE PERMITS

**Section 848.701 Tire Storage Permits**

a) *Beginning July 1, 2016, no person shall cause or allow the operation of a tire storage site that contains used tires totaling more than 10,000 passenger tire equivalents, or at which more than 500 tons of used tires are processed in a calendar year, without a Tire Storage Permit issued by the Agency* pursuant to this Subpart G. [415 ILCS 5/55(d-5)]

b) All applications for Tire Storage Permits must be submitted to the Agency at least 90 days before the date on which the permit is required; however, the Agency may waive this requirement, in writing, for good cause.

c) All Tire Storage Permits granted pursuant to this Subpart G remain in effect unless terminated by operation of law pursuant to subsection (d), revoked, superseded, or modified.

d) If a permittee ceases operation of a tire storage site that is required to be permitted under this Subpart, the permittee must notify the Agency in writing within 15 days after it ceases operation of the site. On the 15th day after the permittee ceases operation of the site, the permit shall be deemed terminated by operation of law.

(Source: Added at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.702 Application for Tire Storage Permits**

a) Each application for permit required under this Subpart must contain all data and information that is reasonably necessary for the Agency to determine whether the applicant and tire storage site for which the application is submitted will meet all of the requirements of the Act and regulations adopted pursuant to the Act.

b) The Agency shall prescribe the form on which all information required under this Part must be submitted.

c) All permit applications must be signed by the owner and the operator of the tire storage site or their duly authorized agents. Applications signed by agents must be accompanied by evidence of authority to sign the application.

d) All permit applications must be submitted on the form prescribed by the Agency and mailed or delivered to the address designated by the Agency and must be sent by registered or certified mail, return receipt requested.

e) An application for permit is not deemed filed until the Agency has received, at the designated address, all information, documents, and authorization, using the permit application form prescribed by the Agency and providing the content required by this Part. However, if the Agency fails to notify the applicant, within 45 days after the receipt of an application, that the application is incomplete, and of the reasons, the application shall be deemed to have been filed on the date received by the Agency. An applicant may deem the Agency's notification that the application is incomplete as a denial of the permit for purposes of review pursuant to Section 40 of the Act.

f) If the Agency fails to take final action on the application within 90 days from the filing of the application, the applicant may deem the permit granted on the 91st day after the application was filed.

g) Any applicant for a permit may waive the requirement that the Agency take final action within 90 days from the filing of the application.

h) The Agency must send all notices of final action by registered or certified mail, return receipt requested. Final action is deemed to have taken place on the date that the notice is mailed.

i) Decisions regarding permit applications may be appealed to the Board in accordance with Section 40 of the Act.

(Source: Added at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.703 Permit Conditions**

a) As provided in Sections 39(a) and 55(d-5) of the Act, the Agency may impose such conditions in a permit as may be necessary to accomplish the purposes of the Act, and as are not inconsistent with regulations promulgated by the Board, including periodic reports and full access to adequate records and the inspection of facilities, as may be necessary to ensure compliance with the Act and regulations and standards adopted under the Act.

b) The applicant may deem any condition imposed by the Agency as a denial of the permit for purposes of review pursuant to Section 40 of the Act.

(Source: Added at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.704 Standards for Issuance of Tire Storage Permits**

The Agency must not issue any permit unless the applicant submits adequate proof that the tire storage site either will be operated so as not to cause any violation of the Act or rules adopted under the Act or has been granted a variance pursuant to Title IX of the Act.

(Source: Added at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.705 Permit No Defense**

The existence of a permit issued under this Subpart does not constitute a defense to a violation of the Act or this Part, except for operation without a permit.

(Source: Added at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.706 Permit Revision**

a) The Agency must revise any permit issued by it to make the permit compatible with any relevant new regulations adopted by the Board.

b) The permittee may request modification of a permit at any time by filing, pursuant to Section 848.702, an application reflecting the modification requested.

(Source: Added at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.707 No Transfer of Permits**

No permit issued under this Subpart is transferable.

(Source: Added at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.708 Permit Revocation**

A violation of any permit condition or failure to comply with any rule or regulation of this Part is grounds for sanctions as provided in the Act, including revocation of permit.

(Source: Added at 39 Ill. Reg. 12934, effective September 8, 2015)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

**Section 848.APPENDIX A Financial Assurance Forms**

**Section 848.ILLUSTRATION A "Trust Agreement"**

**TRUST AGREEMENT**

Trust Fund Number _____

Trust Agreement, the "Agreement," entered into as of the _____(day of month)_____ day of _(month and year)_, by and between _____(name of the owner or operator)_____, a/an _(name of State)_ _("corporation," "partnership," "association" or "proprietorship")_, the "Grantor," and _(Name of corporate trustee)_, _("incorporated in the State of _____" or "a national bank")_, the "Trustee."

~~TRUST AGREEMENT~~

~~Trust Fund Number~~ _____

~~Trust Agreement, the "Agreement," entered into as of the~~ _____ ~~day of~~ _____~~,~~ ~~by and between~~ _____~~,~~ ~~a~~ _____~~,~~ ~~the "Grantor,"~~ ~~and~~ _____ _____~~,~~ ~~the "Trustee."~~

Whereas~~,~~ the Illinois Pollution Control Board (IPCB)~~,~~ has established certain regulations applicable to the Grantor, requiring that an owner or operator of a used or waste tire storage or disposal site provide assurance that funds will be available when needed for removal of used and waste tires from the site.

Whereas~~,~~ the Grantor has elected to establish a trust to provide all or part of such financial assurance for the sites identified in this Agreement, and/or to serve as a standby trust fund.

Whereas~~,~~ the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this Agreement, and the Trustee is willing to act as trustee.

Whereas~~,~~ Trustee is an entity which has authority to act as a trustee and whose trust operations are regulated by a state or federal agency.~~the Illinois Commissioner of Banks & Trust Companies or who complies with the Corporate Fiduciary Act (Ill. Rev. Stat. 1989, ch. 17, par.~~

~~1551-1 et seq.). (Line through any condition which does not apply.)~~

Now, Therefore, the Grantor and the Trustee agree as follows:

Section 1. Definitions. As used in this Agreement:

(a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor~~owner or operator~~.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

Section 2. Identification of Sites and Cost Estimates. This Agreement pertains to the sites and cost estimates identified on attached Schedule A (on Schedule A, list the name and address, and the current~~initial~~ cost estimate, or portions thereof, of each site for which financial assurance is demonstrated by this Agreement).

Section 3. Establishment of Fund. The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Illinois EPA~~IEPA~~. The Grantor and the Trustee intend that no other third party have access to the Fund except as provided in this Agreement. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B to this Agreement. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits on the Fund, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, in trust, as provided in this Agreement. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the Illinois EPA.

Section 4. Payment for Removal. The Trustee shall make payments from the Fund as the Illinois EPA~~IEPA~~ shall direct, in writing, to provide for the payment of the costs of removal at the sites covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the Illinois EPA~~IEPA~~ from the Fund for removal expenditures in such amounts as the Illinois EPA~~IEPA~~ shall direct in writing. In addition, the Trustee shall refund to the Grantor such amounts as the Illinois EPA~~IEPA~~ specifies in writing. Upon refund, such funds shall no longer constitute part of the Fund as defined herein.

Section 5. Payments Comprising the Fund. Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

Section 6. Trustee~~Trust~~ Management. The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that;

(a) Securities or other obligations of the Grantor, or any other owner or operator of the sites, or any of their affiliates as defined in Section 80a-2(a) the Investment Company Act of 1940, as amended (15 U.S.C. 80a-2(a)), shall not be acquired or held, unless they are securities or other obligations of the Federal government or a state government~~the State of Illinois~~;

(b) The Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of federal or state government~~the Federal Deposit Insurance Corporation~~.

(c) The Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

Section 7. Commingling and Investment. The Trustee is expressly authorized in its discretion:

(a) To transfer from time to time any or all of the assets of the Fund to any common, commingled or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) To purchase shares in any investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) including one which may be created, managed, underwritten or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

Section 8. Express Powers of Trustee. Without in any way limiting the powers and discretions~~discretion~~ conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) To sell, exchange, convey, transfer or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expedience of any such sale or other disposition;

(b) To make, execute, acknowledge and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers granted in this Agreement;

(c) To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depositary even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depositary with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) To deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of federal or state government~~the Federal Deposit Insurance Corporation~~; and

(e) To compromise or otherwise adjust all claims in favor of or against the Fund.

Section 9. Taxes and Expenses. All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee~~,~~ to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

Section 10. Annual Valuation. The Trustee shall annually furnish to the Grantor and to the Illinois EPA~~IEPA~~ a statement confirming the value of the Trust. The evaluation day shall be each year on the____(day of month)____day of ___(month)_____~~___ day of _____~~. Any securities in the Fund shall be valued at market value as of the evaluation day. The Trustee shall mail the evaluation

statement to the Grantor and the Illinois EPA~~IEPA~~ within 30 days after the evaluation day. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the Illinois EPA~~IEPA~~ shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

Section 11. Advice of Counsel. The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. Trustee Compensation. The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

Section 13. Successor Trustee. The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the Illinois EPA~~IEPA~~ and the present Trustee by certified mail ten days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

Section 14. Instructions to the Trustee. All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the Illinois EPA~~IEPA~~ to the Trustee shall be in writing, signed by the Illinois EPA~~IEPA~~ Director or the Director's~~his~~ designees, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or IEPA hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests and instructions from the Grantor and/or Illinois

EPA~~IEPA~~, except as provided in this Agreement.

Section 15. Notice of Nonpayment. The Trustee shall notify the Grantor and the Illinois EPA~~IEPA~~, by certified mail within ten days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during the period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

Section 16. Amendment of Agreement. This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee and the Illinois EPA~~IEPA~~ Director, or by the Trustee and the Illinois EPA~~IEPA~~ Director if the Grantor ceases to exist.

Section 17. Irrevocability and Termination. Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee and the Illinois EPA~~IEPA~~ Director, or by the Trustee and the Illinois EPA Director~~IEPA~~, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

Section 18. Immunity and Indemnification. The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Illinois EPA~~IEPA~~ Director issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

Section 19. Choice of Law. This Agreement shall be administered, construed and enforced according to the laws of the State of Illinois.

Section 20. Interpretation. As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement was not modified or altered in any way other than as intended to complete the Agreement.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

State of _____)
) SS
County of _____)

Attest: Signature of
Grantor _____

Typed
Name _____

Title _____

Seal

Attest: Signature of
Trustee _____

Typed
Name _____

Title _____

Seal

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.APPENDIX A "Financial Assurance Forms"**

**Section 848.ILLUSTRATION B Surety Bond Guaranteeing Payment~~Certificate of Acknowledgement~~**

## SURETY BOND GUARANTEEING PAYMENT

Date bond executed: _____

Effective date: _____

Principal: _____

Type of Organization: _____

State of incorporation: _____

Surety(ies):

_____

_____

_____

_____

Removal Amount _____

Illinois EPA I.D. No. _____

Name _____

Address _____

City _____

Illinois EPA I.D. No. _____

Name _____

Address _____

City _____

Please attach a separate page if more space is needed for all facilities.

Total penal sum of bond: $ _____

_____

Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the Illinois Environmental Protection Agency (hereinafter called Illinois EPA), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas, the Illinois Pollution Control Board (IPCB), has established certain regulations applicable to the Principal, requiring that an owner or operator of a used or waste tire storage or disposal site provide assurance that funds will be available when needed for removal of used and waste tires from the site; and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance.

The bond must guarantee that the Principal will perform removal in accordance with the removal plan and guarantee that, within 90 days after receipt by both the Principal and the Illinois EPA of a notice of cancellation of the bond from the Surety(ies), provide alternate financial assurance in accordance with 35 Ill. Adm. Code 848, Subpart D and obtain the Illinois EPA's written approval of the assurance provided.

The surety will become liable on the bond obligation when, under the term of the bond, the owner or operator fails to perform as guaranteed by the bond. The owner or operator fails to perform when the owner or operator does any one or more of the following:

A) abandons the site;

B) is adjudicated bankrupt;

C) within 30 days after the date on which the known final volume of used or waste tires is received, either (i) fails to complete removal or (ii) fails to submit a removal plan that is approved by the Illinois EPA in accordance with 35 Ill. Adm. Code 848.506;

D) fails to initiate removal when ordered to do so by the IPCB pursuant to Title VIII of the Illinois Environmental Protection Act, or when ordered to do so by a court of competent jurisdiction;

E) fails to complete removal in accordance with the approved removal plan; or

F) fails, within 90 days after receipt by both the owner or operator and the Illinois EPA of a notice of cancellation of the surety bond, to provide alternate financial assurance and obtain the Illinois EPA's written approval of the assurance provided.

If the Principal provides alternate financial assurance, as specified in 35 Ill. Adm. Code 848, Subpart D as applicable, and obtains the Illinois EPA Director's written approval of such assurance, within 90 days after the date notice of cancellation is received by both the Principal and the Illinois EPA from the Surety(ies), then this obligation shall be null and void; otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the Illinois EPA Director that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund as directed by the Illinois EPA Director.

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

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the Illinois EPA Director, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the Illinois EPA Director, as evidenced by the return receipts.

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

(The following paragraph is an optional rider that may be included but is not required.)

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new removal amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the Illinois EPA Director.

In Witness Whereof, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond was not altered or modified in any way other than as intended to complete the surety bond.

Principal Signature(s) _____

Name(s) _____

Title(s) _____

Corporate seal

Corporate Surety(ies)

Name _____

Address _____

State of incorporation: _____

Liability limit: $ _____

Signature(s) _____

Name(s) _____

Title(s) _____

Corporate seal

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Co-surety(ies) _____

Name _____

Address _____

State of incorporation: _____

Liability limit: $ _____

Signature(s) _____

Name(s) _____

Title(s) _____

Bond premium: $ _____

~~CERTIFICATE OF ACKNOWLEDGMENT~~

~~State of~~ _____ ~~)~~
~~)~~ ~~SS~~
~~County of~~ _____ ~~)~~

~~On this~~ _____ ~~day of~~ _____, _____ ~~before me personally came~~ _____ ~~(owner or operator) to me known, who, being by me duly sworn, did depose and say that she/he resides at~~

_____
~~(address)~~ ~~,~~

~~that she/he is~~ _____ of _____~~,~~
~~(title)~~ ~~(corporation)~~

~~corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.~~

_____ ~~Notary Public~~

~~My Commission Expires~~ _____

(Source: Old Appendix A, Illustration B repealed, and new Appendix A, Illustration B added, at 39 Ill. Reg. 12934, effective September 8, 2015)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

**Section 848.APPENDIX A Financial Assurance Forms**

**Section 848.ILLUSTRATION C ~~"~~Irrevocable Standby Letter of Credit~~"~~**

Director
Illinois Environmental Protection Agency
c/o Bureau of Land #24~~2200 Churchill Road~~
Financial Assurance Program
1021 North Grand Ave. East
PO Box 19276
Springfield IL 62794-9276~~, Illinois 62706~~

Dear Sir or Madam:

~~We have authority to issue letters of credit. Our letter-of-credit operations are regulated by the Illinois Commissioner of Banks and Trusts or our deposits are insured by the Federal Deposit Insurance Corporation. (Omit language which does not apply)~~

We hereby establish our Irrevocable Standby Letter of Credit No. _____ in your favor, at the request and for the account of _____ up to the aggregate amount of _____ U.S. dollars ($ _____ ), available upon presentation of

1. your sight draft, bearing reference to this letter of credit No. _____ ; and

2. your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to regulations issued under authority of the Environmental Protection Act [415 ILCS 5]."~~(Ill. Rev. Stat. 1989, ch. 111½, par. 1001 et seq.) and 35 Ill. Adm. Code 848.413(e)."~~

This letter of credit is effective as of _____ and shall~~will~~ expire on _____,~~;~~ but such expiration date shall~~will~~ be automatically extended for a period of _____ on _____ and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and _____ by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and _____ as shown on the signed return receipts.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft directly into the standby trust fund of _____in accordance with your instructions.

We certify that the wording of this letter of credit was not altered or modified in any way other than as intended to complete the letter of credit.

~~This letter of credit is governed by the Uniform Commercial Code (Ill. Rev. Stat. 1989, ch. 26, pars. 1-101 et seq.).~~

Signature

_____

~~Typed~~ Name

_____

Title

_____

Date

_____

Name and address of issuing institution

_____

_____

This credit is subject to

_____

_____

(Source: Amended at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.APPENDIX A Financial Assurance Forms**

**Section 848.ILLUSTRATION D Owner or Operator's Bond Without Surety (Repealed)**

~~OWNER OR OPERATOR'S BOND WITHOUT SURETY~~

~~Date bond executed:~~

_____

~~Effective date:~~

_____

~~Owner or operator:~~

_____

~~Owner or operator's address:~~

_____

_____

~~Site:~~

_____

~~Site address:~~

_____

_____

~~Penal sum:~~
~~$~~ _____

~~The owner or operator promises to pay the penal sum to the Illinois Environmental Protection Agency unless the Owner or operator provides removal in accordance with the removal plan for the site.~~

~~Owner or operator~~

_____

~~Signature~~

_____

~~Typed Name~~

_____

~~Title~~

_____

~~Date~~

_____

~~Corporate seal~~

(Source: Repealed at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.APPENDIX A Financial Assurance Forms**

**Section 848.ILLUSTRATION E Owner or Operator's Bond With Parent Surety (Repealed)**

~~OWNER OR OPERATOR'S BOND WITH PARENT SURETY~~

~~Date bond executed:~~

_____

~~Effective Date:~~

_____

~~Surety:~~

_____

~~Surety's address:~~

_____

~~Owner or operator:~~

_____

~~Owner or operator's address:~~

_____

~~Site:~~

_____

~~Site address:~~

_____

~~Penal sum:~~
~~$~~ _____

~~The Owner or operator and Surety promise to pay the above penal sum to the Illinois Environmental Protection Agency ("IEPA") unless the Owner or operator provides removal in accordance with the removal plan for the site. To the payment of this obligation the Owner or operator and Surety jointly and severally bind themselves, their heirs, executors, administrators, successors and assigns.~~

~~Whereas the Owner or operator is required under 35 Ill. Adm. Code 848.Subpart D to provide financial assurance for removal; and~~

~~Whereas the Owner or operator and Surety agree that this bond shall be governed by the laws of the State of Illinois; and~~

~~Whereas the Surety is a corporation which owns an interest in the Owner or operator;~~

~~The Surety shall pay the penal sum to the IEPA if, during the term of the bond, the Owner or operator fails to provide removal for any site in accordance with the removal plan for that site as guaranteed by this bond. The Owner or operator fails to so provide when the Owner or operator:~~

~~a) Abandons the site;~~

~~b) Is adjudicated bankrupt;~~

~~c) Fails to initiate removal when ordered to do so by the Board or a court of competent jurisdiction; or~~

~~d) Notifies the Agency that it has initiated removal, or initiates removal, but fails to remove used and waste tires in accordance with the removal plan.~~

~~e) Fails to provide additional or substitute financial assurance when required to do so under this Subpart.~~

~~The Surety shall pay the penal sum of the bond to the IEPA within 30 days after the IEPA mails notice to the Surety that the Owner or operator has failed to so provide removal. Payment shall be made by check or draft payable to the State of Illinois.~~

~~In Witness Whereof, the Owner or operator and Surety have executed this bond and have affixed their seals on the date set forth above.~~

~~The persons whose signatures appear below certify that they are authorized to execute this surety bond on behalf of the Owner or operator and Surety.~~

~~Owner or operator~~

_____

~~Surety~~

---

~~Signature~~

---

~~Name~~

---

~~Typed Name~~

---

~~Address~~

---

~~Title~~

---

~~State of Incorporation~~

---

~~Date~~

---

~~Signature~~

---

~~Typed Name~~

---

~~Title~~

---

~~Corporate seal~~ ~~Corporate seal~~

(Source: Repealed at 39 Ill. Reg. 12934, effective September 8, 2015)

**Section 848.APPENDIX A Financial Assurance Forms**

**Section 848.ILLUSTRATION F Letter from Chief Financial Officer (Repealed)**

~~Director~~
~~Illinois Environmental Protection Agency~~
~~2200 Churchill Road~~
~~Springfield, Illinois 62706~~

~~Dear Sir or Madam:~~

~~I am chief financial officer of~~ _____ .

~~This letter is in support of this firm's use of the financial test to demonstrate financial assurance pursuant to 35 Ill. Adm. Code 848.415.~~

~~This letter is to demonstrate financial assurance for the following sites:~~

~~Owner or operator:~~

_____

~~Name:~~

_____

~~Address:~~

_____

~~City:~~

_____

~~Current cost estimate:~~
~~$~~ _____

~~Owner or operator:~~

_____

~~Name:~~

_____

~~Address:~~

_____

~~City:~~

_____

~~Current cost estimate:~~
~~$~~ _____

~~Please attach a separate page if more space is needed for all facilities.~~

~~Attached is an Owner or operator's Bond without Surety or an Owner or operator's Bond with Parent Surety for the current cost estimate for each site. (Strike inapplicable language.)~~

~~Financial Test~~
~~Alternative I~~

~~1. Sum of current cost estimates (total of all cost estimates shown in paragraphs above)~~
~~$~~ _____

~~2. Total liabilities (if any portion of the cost estimates is included in total liabilities, you may deduct the amount of that portion from this line and add that amount to lines 3 and 4)~~
~~$~~ _____

~~3. Tangible net worth~~
~~$~~ _____

~~4. Net worth~~
~~$~~ _____

~~5. Current assets~~
~~$~~ _____

~~6. Current liabilities~~
~~$~~ _____

~~7. Net working capital (line 5 minus line 6)~~
~~$~~ _____

~~8. The sum of net income plus depreciation, depletion, and amortization~~
~~$~~ _____

~~9. Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.~~
~~$~~ _____

~~Yes~~ ~~No~~

~~10 Is line 3 at least $10 million?~~

_____

~~11. Is line 3 at least 6 times line 1?~~

_____

~~12. Is line 7 at least 6 times line 1?~~

_____

~~13. Are at lest 90 percent of firm's assets located in the U.S.? If not, complete line 14.~~

_____

~~14. Is line 9 at least 6 times line 1?~~

_____

~~15. Is lie 2 divided by line 4 less than 2.0?~~

_____

~~16. Is line 8 divided by line 2 greater than 0.1?~~

_____

~~17. Is line 5 divided by line 6 greater than 1.5?~~

_____

~~Signature~~

_____

~~Typed Name~~

_____

~~Title~~

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

~~Date~~

---

~~Financial Test~~
~~Alternative II~~

~~1. Sum of current cost estimates (total of all cost estimates shown in paragraphs above)~~
~~$~~ _____

~~2. Current bond rating of most recent issuance of this firm and name of rating service~~
_____

~~3. Date of issuance of bond~~
_____

~~4. Date of maturity of bond~~
_____

~~5. Tangible net worth (if any portion of the cost estimate is on your firm's financial statements, you may add the amount of that portion to this line)~~
~~$~~ _____

~~6. Total assets in U.S. (required only if less than 90 percent of firm's assets are located in the U.S.)~~
~~$~~ _____

| | ~~Yes~~ | ~~No~~ |
|---|---|---|
| ~~7. Is line 5 at least $10 million?~~ | _____ | |
| ~~8. Is line 5 at least 6 times line 1?~~ | _____ | |
| ~~9. Are at least 90 percent of firm's assets located in the U.S.? If not, complete line 10.~~ | _____ | |
| ~~10. Is line 6 at least 6 times line 1?~~ | _____ | |

~~Signature~~

~~Typed name~~

~~Title~~

~~Date~~

(Source: Repealed at 39 Ill. Reg. 12934, effective September 8, 2015)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Hospital Licensing Requirements

2) Code Citation: 77 Ill. Adm. Code 250

3)

| Section Numbers: | Adopted Actions: |
|---|---|
| 250.105 | Amendment |
| 250.120 | Amendment |
| 250.290 | Amendment |
| 250.710 | Amendment |
| 250.1720 | Amendment |
| 250.1840 | Amendment |
| 250.2410 | Amendment |

4) Statutory Authority: Hospital Licensing Act [210 ILCS 85]

5) Effective Date of Rules: September 3, 2015

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

7) Does this rulemaking contain incorporations by reference? Yes

8) A copy of the adopted rules, 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*: May 8, 2015; 39 Ill. Reg. 6184

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

11) Differences between Proposal and Final Version: In response to public comments, the Department corrected a cross-reference citation in the definition of "critical access hospital" and added language to address surrogacy situations in Section 250.105(c) and 250.1840(b). In response to comments from JCAR, the Department corrected an outdated internet address and e-mail address in Section 250.290(a)(2). In addition, 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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

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

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

15) Summary and Purpose of Rulemaking: The amendments implement PA 98-683, which mandates that hospitals pay annual license fees and allows rehabilitation hospitals to discontinue or not provide emergency services, and PA 96-1116, which mandated that hospitals provide educational materials on sudden infant death syndrome to new mothers. Other amendments update the requirements for disposing of waste, update the requirements for discharging newborns to persons other than the mother, and establish minimum requirements for hospital-based outpatient surgery programs in separate buildings.

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

Elizabeth Paton
Assistant General Counsel
Department of Public Health
535 West Jefferson, 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 250
HOSPITAL LICENSING REQUIREMENTS

SUBPART A: GENERAL PROVISIONS

Section
250.100 Definitions
250.105 Incorporated and Referenced Materials
250.110 Application for and Issuance of Permit to Establish a Hospital
250.120 Application for and Issuance of a License to Operate a Hospital
250.130 Administration by the Department
250.140 Hearings
250.150 Definitions (Renumbered)
250.160 Incorporated and Referenced Materials (Renumbered)

SUBPART B: ADMINISTRATION AND PLANNING

Section
250.210 The Governing Board
250.220 Accounting
250.230 Planning
250.240 Admission and Discharge
250.245 Failure to Initiate Criminal Background Checks
250.250 Visiting Rules
250.260 Patients' Rights
250.265 Language Assistance Services
250.270 Manuals of Procedure
250.280 Agreement with Designated Organ Procurement Agencies
250.285 Smoking Restrictions
250.290 Safety Alert Notifications

SUBPART C: THE MEDICAL STAFF

Section
250.310 Organization
250.315 House Staff Members

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

250.320 Admission and Supervision of Patients
250.330 Orders for Medications and Treatments
250.340 Availability for Emergencies

SUBPART D: PERSONNEL SERVICE

Section
250.410 Organization
250.420 Personnel Records
250.430 Duty Assignments
250.435 Health Care Worker Background Check
250.440 Education Programs
250.450 Personnel Health Requirements
250.460 Benefits

SUBPART E: LABORATORY

Section
250.510 Laboratory Services
250.520 Blood and Blood Components
250.525 Designated Blood Donor Program
250.530 Proficiency Survey Program (Repealed)
250.540 Laboratory Personnel (Repealed)
250.550 Western Blot Assay Testing Procedures (Repealed)

SUBPART F: RADIOLOGICAL SERVICES

Section
250.610 General Diagnostic Procedures and Treatments
250.620 Radioactive Isotopes
250.630 General Policies and Procedures Manual

SUBPART G: GENERAL HOSPITAL EMERGENCY SERVICES~~SERVICE~~

Section
250.710 Classification of Emergency Services
250.720 General Requirements
250.725 Notification of Emergency Personnel
250.730 Community or Areawide Planning

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

250.740 Disaster and Mass Casualty Program
250.750 Emergency Services for Sexual Assault Victims

SUBPART H: RESTORATIVE AND REHABILITATION SERVICES

Section
250.810 Applicability of Other Parts of These Requirements
250.820 General
250.830 Classifications of Restorative and Rehabilitation Services
250.840 General Requirements for all Classifications
250.850 Specific Requirements for Comprehensive Physical Rehabilitation Services
250.860 Medical Direction
250.870 Nursing Care
250.880 Additional Allied Health Services
250.890 Animal-Assisted Therapy

SUBPART I: NURSING SERVICE AND ADMINISTRATION

Section
250.910 Nursing Services
250.920 Organizational Plan
250.930 Role in hospital planning
250.940 Job descriptions
250.950 Nursing committees
250.960 Specialized nursing services
250.970 Nursing Care Plans
250.980 Nursing Records and Reports
250.990 Unusual Incidents
250.1000 Meetings
250.1010 Education Programs
250.1020 Licensure
250.1030 Policies and Procedures
250.1035 Domestic Violence Standards
250.1040 Patient Care Units
250.1050 Equipment for Bedside Care
250.1060 Drug Services on Patient Unit
250.1070 Care of Patients
250.1075 Use of Restraints
250.1080 Admission Procedures Affecting Care

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

250.1090 Sterilization and Processing of Supplies
250.1100 Infection Control
250.1110 Mandatory Overtime Prohibition
250.1120 Staffing Levels
250.1130 Nurse Staffing by Patient Acuity

SUBPART J: SURGICAL AND RECOVERY ROOM SERVICES

Section
250.1210 Surgery
250.1220 Surgery Staff
250.1230 Policies & Procedures
250.1240 Surgical Privileges
250.1250 Surgical Emergency Care
250.1260 Operating Room Register and Records
250.1270 Surgical Patients
250.1280 Equipment
250.1290 Safety
250.1300 Operating Room
250.1305 Visitors in Operating Room
250.1310 Cleaning of Operating Room
250.1320 Postanesthesia Care Units

SUBPART K: ANESTHESIA SERVICES

Section
250.1410 Anesthesia Service

SUBPART L: RECORDS AND REPORTS

Section
250.1510 Medical Records
250.1520 Reports

SUBPART M: FOOD SERVICE

Section
250.1610 Dietary Department Administration
250.1620 Facilities

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

250.1630 Menus and Nutritional Adequacy
250.1640 Diet Orders
250.1650 Frequency of Meals
250.1660 Therapeutic (Modified) Diets
250.1670 Food Preparation and Service
250.1680 Sanitation

SUBPART N: HOUSEKEEPING AND LAUNDRY SERVICES

Section
250.1710 Housekeeping
250.1720 Garbage, Refuse and Solid Waste Handling and Disposal
250.1730 Insect and Rodent Control
250.1740 Laundry Service
250.1750 Soiled Linen
250.1760 Clean Linen

SUBPART O: OBSTETRIC AND NEONATAL SERVICE

Section
250.1810 Applicability of Other Provisions of this Part
250.1820 Obstetric and Neonatal Service (Perinatal Service)
250.1830 General Requirements for All Obstetric Departments
250.1840 Discharge of Newborn Infants from Hospital
250.1845 Caesarean Birth
250.1850 Single Room Postpartum Care of Mother and Infant
250.1860 Special Programs (Repealed)
250.1870 Labor, Delivery, Recovery and Postpartum Care

SUBPART P: ENGINEERING AND MAINTENANCE OF THE PHYSICAL PLANT, SITE, EQUIPMENT, AND SYSTEMS – HEATING, COOLING, ELECTRICAL, VENTILATION, PLUMBING, WATER, SEWER, AND SOLID WASTE DISPOSAL

Section
250.1910 Maintenance
250.1920 Emergency electric service
250.1930 Water Supply
250.1940 Ventilation, Heating, Air Conditioning, and Air Changing Systems
250.1950 Grounds and Buildings Shall be Maintained

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

250.1960 Sewage, Garbage, Solid Waste Handling and Disposal
250.1970 Plumbing
250.1980 Fire and Safety

SUBPART Q: CHRONIC DISEASE HOSPITALS

Section
250.2010 Definition
250.2020 Requirements

SUBPART R: PHARMACY OR DRUG AND MEDICINE SERVICE

Section
250.2110 Service Requirements
250.2120 Personnel Required
250.2130 Facilities for Services
250.2140 Pharmacy and Therapeutics Committee

SUBPART S: PSYCHIATRIC SERVICES

Section
250.2210 Applicability of other Parts of these Regulations
250.2220 Establishment of a Psychiatric Service
250.2230 The Medical Staff
250.2240 Nursing Service
250.2250 Allied Health Personnel
250.2260 Staff and Personnel Development and Training
250.2270 Admission, Transfer and Discharge Procedures
250.2280 Care of Patients
250.2290 Special Medical Record Requirements for Psychiatric Hospitals and Psychiatric Units of General Hospitals or General Hospitals Providing Psychiatric Care
250.2300 Diagnostic, Treatment and Physical Facilities and Services

SUBPART T: DESIGN AND CONSTRUCTION STANDARDS

Section
250.2410 Applicability of these Standards
250.2420 Submission of Plans for New Construction, Alterations or Additions to Existing Facility

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

250.2430 Preparation of Drawings and Specifications – Submission Requirements
250.2440 General Hospital Standards
250.2442 Fees
250.2443 Advisory Committee
250.2450 Details
250.2460 Finishes
250.2470 Structural
250.2480 Mechanical
250.2490 Plumbing and Other Piping Systems
250.2500 Electrical Requirements

SUBPART U: CONSTRUCTION REQUIREMENTS FOR EXISTING HOSPITALS

Section
250.2610 Applicability of Subpart U
250.2620 Codes and Standards
250.2630 Existing General Hospital Requirements
250.2640 Details
250.2650 Finishes
250.2660 Mechanical
250.2670 Plumbing and Other Piping Systems
250.2680 Electrical Requirements

SUBPART V: SPECIAL CARE AND/OR SPECIAL SERVICE UNITS

Section
250.2710 Special Care and/or Special Service Units
250.2720 Day Care for Mildly Ill Children

SUBPART W: ALCOHOLISM AND INTOXICATION TREATMENT SERVICES

Section
250.2810 Applicability of Other Parts of These Requirements
250.2820 Establishment of an Alcoholism and Intoxication Treatment Service
250.2830 Classification and Definitions of Service and Programs
250.2840 General Requirements for all Hospital Alcoholism Program Classifications
250.2850 The Medical and Professional Staff
250.2860 Medical Records
250.2870 Referral

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

250.2880 Client Legal and Human Rights

250.APPENDIX A Codes and Standards (Repealed)
250.EXHIBIT A Codes (Repealed)
250.EXHIBIT B Standards (Repealed)
250.EXHIBIT C Addresses of Sources (Repealed)
250.ILLUSTRATION A Seismic Zone Map
250.TABLE A Measurements Essential for Level I, II, III Hospitals
250.TABLE B Sound Transmission Limitations in General Hospitals
250.TABLE C Filter Efficiencies for Central Ventilation and Air Conditioning Systems in General Hospitals (Repealed)
250.TABLE D General Pressure Relationships and Ventilation of Certain Hospital Areas (Repealed)
250.TABLE E Piping Locations for Oxygen, Vacuum and Medical Compressed Air
250.TABLE F General Pressure Relationships and Ventilation of Certain Hospital Areas
250.TABLE G Insulation/Building Perimeter

AUTHORITY: Implementing and authorized by the Hospital Licensing Act [210 ILCS 85].

SOURCE: Rules repealed and new rules adopted August 27, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 21, p. 49, effective May 16, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 45, p. 85, effective November 6, 1978; amended at 3 Ill. Reg. 17, p. 88, effective April 22, 1979; amended at 4 Ill. Reg. 22, p. 233, effective May 20, 1980; amended at 4 Ill. Reg. 25, p. 138, effective June 6, 1980; amended at 5 Ill. Reg. 507, effective December 29, 1980; amended at 6 Ill. Reg. 575, effective December 30, 1981; amended at 6 Ill. Reg. 1655, effective January 27, 1982; amended at 6 Ill. Reg. 3296, effective March 15, 1982; amended at 6 Ill. Reg. 7835 and 7838, effective June 17, 1982; amended at 7 Ill. Reg. 962, effective January 6, 1983; amended at 7 Ill. Reg. 5218 and 5221, effective April 4, 1983 and April 5, 1983; amended at 7 Ill. Reg. 6964, effective May 17, 1983; amended at 7 Ill. Reg. 8546, effective July 12, 1983; amended at 7 Ill. Reg. 9610, effective August 2, 1983; codified at 8 Ill. Reg. 19752; amended at 8 Ill. Reg. 24148, effective November 29, 1984; amended at 9 Ill. Reg. 4802, effective April 1, 1985; amended at 10 Ill. Reg. 11931, effective September 1, 1986; amended at 11 Ill. Reg. 10283, effective July 1, 1987; amended at 11 Ill. Reg. 10642, effective July 1, 1987; amended at 12 Ill. Reg. 15080, effective October 1, 1988; amended at 12 Ill. Reg. 16760, effective October 1, 1988; amended at 13 Ill. Reg. 13232, effective September 1, 1989; amended at 14 Ill. Reg. 2342, effective February 15, 1990; amended at 14 Ill. Reg. 13824, effective September 1, 1990; amended at 15 Ill. Reg. 5328, effective May 1, 1991; amended at 15 Ill. Reg. 13811, effective October 1, 1991; amended at 17

Ill. Reg. 1614, effective January 25, 1993; amended at 17 Ill. Reg. 17225, effective October 1, 1993; amended at 18 Ill. Reg. 11945, effective July 22, 1994; amended at 18 Ill. Reg. 15390, effective October 10, 1994; amended at 19 Ill. Reg. 13355, effective September 15, 1995; emergency amendment at 20 Ill. Reg. 474, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 3234, effective February 15, 1996; amended at 20 Ill. Reg. 10009, effective July 15, 1996; amended at 22 Ill. Reg. 3932, effective February 13, 1998; amended at 22 Ill. Reg. 9342, effective May 20, 1998; amended at 23 Ill. Reg. 1007, effective January 15, 1999; emergency amendment at 23 Ill. Reg. 3508, effective March 4, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9513, effective August 1, 1999; amended at 23 Ill. Reg. 13913, effective November 15, 1999; amended at 24 Ill. Reg. 6572, effective April 11, 2000; amended at 24 Ill. Reg. 17196, effective November 1, 2000; amended at 25 Ill. Reg. 3241, effective February 15, 2001; amended at 27 Ill. Reg. 1547, effective January 15, 2003; amended at 27 Ill. Reg. 13467, effective July 25, 2003; amended at 28 Ill. Reg. 5880, effective March 29, 2004; amended at 28 Ill. Reg. 6579, effective April 15, 2004; amended at 29 Ill. Reg. 12489, effective July 27, 2005; amended at 31 Ill. Reg. 4245, effective February 20, 2007; amended at 31 Ill. Reg. 14530, effective October 3, 2007; amended at 32 Ill. Reg. 3756, effective February 27, 2008; amended at 32 Ill. Reg. 4213, effective March 10, 2008; amended at 32 Ill. Reg. 7932, effective May 12, 2008; amended at 32 Ill. Reg. 14336, effective August 12, 2008; amended at 33 Ill. Reg. 8306, effective June 2, 2009; amended at 34 Ill. Reg. 2528, effective January 27, 2010; amended at 34 Ill. Reg. 3331, effective February 24, 2010; amended at 34 Ill. Reg. 19031, effective November 17, 2010; amended at 34 Ill. Reg. 19158, effective November 23, 2010; amended at 35 Ill. Reg. 4556, effective March 4, 2011; amended at 35 Ill. Reg. 6386, effective March 31, 2011; amended at 35 Ill. Reg. 13875, effective August 1, 2011; amended at 36 Ill. Reg. 17413, effective December 3, 2012; amended at 38 Ill. Reg. 13280, effective June 10, 2014; amended at 39 Ill. Reg. 5443, effective March 25, 2015; amended at 39 Ill. Reg. 13041, effective September 3, 2015.

SUBPART A: GENERAL PROVISIONS

**Section 250.105 Incorporated and Referenced Materials**

a) The following regulations and standards are incorporated in this Part:

1) Private and professional association standards:

A) American Society for Testing and Materials (ASTM), Standard No. E90-99 (2002): Standard Test Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions and Elements, which may be obtained from the

American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959. (See Section 250.2420.)

B) The following standards of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), which may be obtained from the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329: (See Section 250.2480.)

i) ASHRAE Handbook of Fundamentals (2005)

ii) ASHRAE Handbook for HVAC Systems and Equipment (2004)

iii) ASHRAE Handbook-HVAC Applications (2003)

C) The following standards of the National Fire Protection Association (NFPA), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169:

i) NFPA 101 (2000): Life Safety Code (See Sections 250.2420, 250.2450, 250.2460, 250.2470, and 250.2490.)

ii) NFPA 10 (1998): Standards for Portable Fire Extinguishers (See Section 250.1980.)

iii) NFPA 13 (1999): Standards for the Installation of Sprinkler Systems (See Sections 250.2490 and 250.2670.)

iv) NFPA 14 (2000): Standard for the Installation of Standpipe, Private Hydrants and Hose Systems (See Sections 250.2490 and 250.2670.)

v) NFPA 25 (1998): Standard for the Inspection, Testing and Maintenance of Water-Based Fire Protection Systems

vi) NFPA 30 (1996): Flammable and Combustible Liquids

Code (See Section 250.1980.)

vii) NFPA 45 (1996): Standard on Fire Protection for Laboratories Using Chemicals

viii) NFPA 54 (1999): National Fuel Gas Code

ix) NFPA 70 (1999): National Electrical Code (See Sections 250.2440 and 250.2500.)

x) NFPA 72 (1999): National Fire Alarm Code

xi) NFPA 80 (1999): Standard for Fire Doors and Fire Windows (See Section 250.2450.)

xii) NFPA 82 (1999): Standard on Incinerators and Waste and Linen Handling Systems and Equipment (See Section 250.2440.)

xiii) NFPA 90A (1999): Standard for Installation of Air Conditioning and Ventilating Systems (See Sections 250.2480 and 250.2660.)

xiv) NFPA 96 (1998): Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations (See Section 250.2660.)

xv) NFPA 99 (1999): Standard for Health Care Facilities (See Sections 250.1410, 250.1910, 250.1980, 250.2460, 250.2480, 250.2490 and 250.2660.)

xvi) NFPA 101-A (2001): Guide on Alternative Approaches to Life Safety (See Section 250.2620.)

xvii) NFPA 110 (1999): Standard for Emergency and Standby Power Systems

xviii) NFPA 220 (1999): Standard on Types of Building Construction (See Sections 250.2470 and 250.2620.)

xix) NFPA 221 (1997): Standard for Fire Walls and Fire Barrier Walls

xx) NFPA 241 (1996): Standard for Safeguarding Construction, Alteration and Demolition Operations

xxi) NFPA 255 and 258 (2000): Standard Method of Test of Surface Burning Characteristics of Building Materials, and Recommended Practice for Determining Smoke Generation of Solid Materials (See Section 250.2480.)

xxii) NFPA 701 (1999): Standard Methods of Fire Tests for Flame Propagation of Textiles and Films (See Sections 250.2460 and 250.2650.)

D) American Academy of Pediatrics and American College of Obstetricians and Gynecologists, Guidelines for Perinatal Care, Sixth Edition (2007), which may be obtained from the American College of Obstetricians and Gynecologists Distribution Center, P.O. Box 933104, Atlanta, Georgia 31193-3104 (800-762-2264) (See Section 250.1820.)

E) American College of Obstetricians and Gynecologists, Guidelines for Women's Healthcare, Third Edition (2007), which may be obtained from the American College of Obstetricians and Gynecologists Distribution Center, P.O. Box 933104, Atlanta, Georgia 31193-3104 (800-762-2264) (See Section 250.1820.)

F) American Academy of Pediatrics (AAP), Red Book: Report of the Committee on Infectious Diseases, 28th Edition (2009), which may be obtained from the American Academy of Pediatrics, 141 Northwest Point Blvd., Elk Grove Village, Illinois 60007 (See Section 250.1820.)

G) American Academy of Pediatrics and the American Heart Association, 2011 American Heart Association (AHA) Guidelines for Cardiopulmonary Resuscitation (CPR) and Emergency Cardiovascular Care (ECC) of Pediatric and Neonatal Patients:

Neonatal Resuscitation Guidelines, which may be obtained from the American Academy of Pediatrics, 141 Northwest Point Blvd., Elk Grove Village, Illinois 60007, or at pediatrics.aappublications.org/cgi/reprint/117/5/e1029.pdf (See Section 250.1830.)

H) National Association of Neonatal Nurses, Position Statement #3009 Minimum RN Staffing in NICUs, which may be obtained from the National Association of Neonatal Nurses, 4700 W. Lake Ave., Glenview, Illinois 60025, or at nann.org/pdf/08_3009_rev.pdf (See Section 250.1830.)

I) National Council on Radiation Protection and Measurements (NCRP), Report 49: Structural Shielding Design and Evaluation for Medical Use of X-rays and Gamma Rays of Energies up to 10 MeV (1976) and NCRP Report 102: Medical X-Ray, Electron Beam and Gamma-Ray Protection for Energies Up to 50 MeV (Equipment Design, Performance and Use) (1989), which may be obtained from the National Council on Radiation Protection and Measurements, 7910 Woodmont Ave., Suite 800, Bethesda, Maryland 20814-3095 (See Sections 250.2440 and 250.2450.)

J) DOD Penetration Test Method MIL STD 282 (1995): Filter Units, Protective Clothing, Gas-mask Components and Related Products: Performance Test Methods, which may be obtained from Naval Publications and Form Center, 5801 Tabor Avenue, Philadelphia, Pennsylvania 19120 (See Section 250.2480.)

K) National Association of Plumbing-Heating-Cooling Contractors (PHCC), National Standard Plumbing Code (2003), which may be obtained from the National Association of Plumbing-Heating-Cooling Contractors, 180 S. Washington Street, P.O. Box 6808, Falls Church, Virginia 22046 (703-237-8100)

L) The International Code Council, International Building Code (2000), which may be obtained from the International Code Council, 4051 Flossmoor Road, Country Club Hills, Illinois 60477-5795 (See Section 250.2420.)

M) American National Standards Institute, Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped (1968), which may be obtained from the American National Standards Institute, 25 West 433rd Street, 4th Floor, New York, New York 10036 (See Section 250.2420.)

N) Accreditation Council for Graduate Medical Education, Essentials of Accredited Residencies in Graduate Medical Education (1997), which may be obtained from the Accreditation Council for Graduate Medical Education, 515 North State Street, Suite 2000, Chicago, Illinois 60610 (See Section 250.315.)

O) The Joint Commission, 2006 Hospital Accreditation Standards (HAS), Standard PC.3.10, which may be obtained from the Joint Commission, One Renaissance Boulevard, Oakbrook Terrace, Illinois 60181 (See Section 250.1035.)

P) National Quality Forum, Safe Practices for Better Health Care (2009), which may be obtained from the National Quality Forum, 601 13th Street, NW, Suite 500 North, Washington DC 20005, or from www.qualityforum.org

2) Federal Government Publications:

A) Department of Health and Human Services, United States Public Health Service, Centers for Disease Control and Prevention, "Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings 2007" and "Guidelines for Infection Control in Health Care Personnel, 1998, which may be obtained from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161 (See Section 250.1100.)

B) Department of Health and Human Services, United States Public Health Service, Centers for Disease Control and Prevention, "Guidelines for Environmental Infection Control in Health-Care Facilities: Recommendations − Animals in Health Care Facilities", "Morbidity and Mortality Weekly Report", June 6, 2003/Vol. 52/No. RR-10, which may be obtained from the Centers for

Disease Control and Prevention, 1600 Clifton Road, MS K-95, Atlanta, Georgia 30333

C) Department of Health and Human Services, United States Public Health Services, Centers for Disease Control and Prevention, "Guidelines for Hand Hygiene in Health-Care Settings", October 25, 2002, which may be obtained from the National Technical Information Services (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161

D) Department of Health and Human Services, United States Public Health Service, Centers for Disease Control and Prevention, "Guidelines for Disinfection and Sterilization in Healthcare Facilities, 2008", which may be obtained from the Centers for Disease Control and Prevention, 1600 Clifton Road, Atlanta, Georgia 30333

E) National Center for Health Statistics and World Health Organization, Geneva, Switzerland, "International Classification of Diseases", 10th Revision, Clinical Modification (ICD-10-CM) (1990), Version for 2007, which can be accessed at http://www.who.int/classifications/icd/en/

3) Federal Regulations

A) 45 CFR 46.101, To What Does the Policy Apply? (October 1, 2014~~2012~~)

B) 45 CFR 46.103(b), Assuring Compliance with this Policy − Research Conducted or Supported by any Federal Department or Agency (October 1, 2014~~2012~~)

C) 42 CFR 482, Conditions of Participation for Hospitals (October 1, 2014~~2012~~)

D) 21 CFR, Food and Drugs (April 1, 2014~~2012~~)

E) 42 CFR 489.20, Basic Commitments (October 1, 2014~~2012~~)

F) 29 CFR 1910.1030, Bloodborne Pathogens (July 1, 2014)

b) All incorporations by reference of federal regulations and guidelines and the standards of nationally recognized organizations refer to the regulations, guidelines and standards on the date specified and do not include any editions or amendments subsequent to the date specified.

c) The following statutes and State regulations 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) Podiatric Medical Practice Act of 1987 [225 ILCS 100]

E) Pharmacy Practice Act [225 ILCS 85]

F) Physician~~Physcian~~ Assistant Practice Act of 1987 [225 ILCS 95]

G) Illinois Clinical Laboratory and Blood Bank Act [210 ILCS 25]

H) X-ray Retention Act [210 ILCS 90]

I) Safety Glazing Materials Act [430 ILCS 60]

J) Mental Health and Developmental Disabilities Code [405 ILCS 5]

K) Nurse Practice Act [225 ILCS 65]

L) Health Care Worker Background Check Act [225 ILCS 46]

M) MRSA Screening and Reporting Act [210 ILCS 83]

N) Hospital Report Card Act [210 ILCS 88]

O) Illinois Adverse Health Care Events Reporting Law of 2005 [410 ILCS 522]

P) Smoke Free Illinois Act [410 ILCS 82]

Q) Health Care Surrogate Act [755 ILCS 40]

R) Perinatal HIV Prevention Act [410 ILCS 335]

S) Hospital Infant Feeding Act [210 ILCS 81]

T) Medical Patient Rights Act [410 ILCS 50]

U) Hospital Emergency Service Act [210 ILCS 80]

V) Illinois Anatomical Gift Act [775 ILCS 50]

W) Illinois Public Aid Code [305 ILCS 5]

X) Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 305]

Y) ID/DD Community Care Act [210 ILCS 47]

Z) Specialized Mental Health Rehabilitation Act [210 ILCS 48]

AA) Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115]

BB) Alternative Health Care Delivery Act [210 ILCS 3]

CC) Gestational Surrogacy Act [750 ILCS 47]

2) State of Illinois administrative rules:

A) Department of Public Health, Illinois Plumbing Code (77 Ill. Adm. Code 890)

B) Department of Public Health, Sexual Assault Survivors Emergency

Treatment Code (77 Ill. Adm. Code 545)

C) Department of Public Health, Control of Communicable Diseases Code (77 Ill. Adm. Code 690)

D) Department of Public Health, Food Service Sanitation Code (77 Ill. Adm. Code 750)

E) Department of Public Health, Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)

F) Department of Public Health, Maternal Death Review (77 Ill. Adm. Code 657)

G) Department of Public Health, Control of Sexually Transmissible Infections Code (77 Ill. Adm. Code 693)

H) Department of Public Health, Control of Tuberculosis Code (77 Ill. Adm. Code 696)

I) Department of Public Health, Health Care Worker Background Check Code (77 Ill. Adm. Code 955)

J) Department of Public Health, Language Assistance Services Code (77 Ill. Adm. Code 940)

K) Department of Public Health, Regionalized Perinatal Health Care Code (77 Ill. Adm. Code 640)

L) Health Facilities and Services Review Board, Narrative and Planning Policies (77 Ill. Adm. Code 1100)

M) Health Facilities and Services Review Board, Processing, Classification Policies and Review Criteria (77 Ill. Adm. Code 1110)

N) Department of Public Health, Private Sewage Disposal Code (77 Ill. Adm. Code 905)

O) Department of Public Health, Ambulatory Surgical Treatment Center Licensing Requirements (77 Ill. Adm. Code 205)

P~~O~~) Capital Development Board, Illinois Accessibility Code (71 Ill. Adm. Code 400)

Q~~P~~) State Fire Marshal, Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120)

R~~Q~~) State Fire Marshal, Fire Prevention and Safety (41 Ill. Adm. Code 100)

S~~R~~) Illinois Emergency Management Agency, Standards for Protection Against Radiation (32 Ill. Adm. Code 340)

T~~S~~) Illinois Emergency Management Agency, Use of X-rays in the Healing Arts Including Medical, Dental, Podiatry, and Veterinary Medicine (32 Ill. Adm. Code 360)

3) Federal Statutes:

A) Health Insurance Portability and Accountability Act of 1996 (110 USC 1936)

B) Emergency Medical Treatment & Labor Act [42 USC 1395dd]

(Source: Amended at 39 Ill. Reg. 13041, effective September 3, 2015)

**Section 250.120 Application for and Issuance of a License to Operate a Hospital**

a) Applicant and Licensee. The applicant or licensee is the "person" as defined in Section 3(B) of the Act who establishes, conducts, operates and maintains a hospital, or proposes to do so, and who is responsible for meeting licensing requirements.

b) Hospitals to be Licensed. A license is required of all places that are hospitals as defined in Section 3 of the Act, providing that the place is not specifically excluded by the Act.

c) Places not to be Licensed. The Act excludes the following:

1) *Any person or institution required to be licensed pursuant to the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, or the ID/DD Community Care Act*;

2) *Hospitalization or care facilities maintained by the State or any Department or agency thereof, where* the~~*such*~~ *Department or agency has authority under law to establish and enforce standards for the hospitalization or care facilities under its management and control;*

3) *Hospitalization or care facilities maintained by the federal government or agencies thereof;*

4) *Hospitalization or care facilities maintained by any university or college established under the laws of this State and supported principally by public funds raised by taxation;*

5) *Any person or facility required to be licensed pursuant to the Alcoholism and Other Drug Dependency Act*;

6) *Any facility operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination;*

7) *An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act; or*

8) *Any veterinary hospital or clinic operated by a veterinarian or veterinarians licensed under the Veterinary Medicine and Surgery Practice Act of 2004 or maintained by a State-supported or publicly funded university or college*. (Section (3)(A) of the Act)

d) Application for License

1) The application for a license shall be made to the Department on forms provided by the Department and shall contain information as the Department requires for the administration of the Act.

2) Applications on behalf of a corporation or association or governmental unit or agency shall be made and verified by any two officers of the corporation or association or governmental unit or agency.

3) The application shall be *accompanied by a license fee of $55 per bed*~~No fee shall be charged~~.

A) *The license fee for a critical access hospital, as defined in Section 5-5e*(b)(4) *of the Illinois Public Aid Code, shall be $0 per bed.*

B) *The license fee for a Safety-Net Hospital, as defined in Section 5-5e.1 of the Illinois Public Aid Code shall be $0 per bed*. (Section 5(b) of the Act)

e) Issuance and Renewal of License. Licenses issued under the Act and this Part shall be valid for a period of one year. The Department will issue renewal licenses to those hospitals meeting licensing requirements as determined by an ongoing review of reports, surveys, and recommendations on file with the Department as related to the operation of the hospital *and payment of a license fee as established pursuant to Section 5 of* the *Act* and subsection (d). (Section 6(b) of the Act) Except for hospitals excluded under subsections (d)(3)(A) and (B), payment of the annual license fee shall be made to the Department prior to the expiration of a hospital's license. The Department will mail an invoice to the hospital 60 days prior the expiration of the hospital's license.

f) License not Transferable; Notification of Change of Licensee, Location or Name

1) The license is not transferable. Each license is separate and distinct and shall be issued to a specific licensee for a specific location. The Department shall be notified prior to any change in the licensee, the name, or the location of a hospital.

2) If the hospital's name is changed, a new license certificate will be issued upon notification to the Department of the change.

3) Prior to changing the location of a hospital, the hospital shall meet the requirements of Section 250.110 and this Section.

4) A change in the legal identity of the licensee of a hospital constitutes the

establishment of a new hospital, and the hospital shall meet the requirements of Section 250.110 and this Section.

g) A change of ownership of a hospital occurs when one of the following transactions is completed:

1) When ownership and responsibility for the operation of the assets constituting the licensed entity are transferred from the licensee to another person or another legal entity (including a corporation, limited liability company, partnership or sole proprietor) as part of an asset purchase or similar transaction;

2) A material change in a partnership that is caused by the removal, addition, or substitution of a partner;

3) In a corporation, when the licensee corporation merges into another corporation, or with the consolidation of two or more corporations, one of which is the licensee, resulting in the creation of a new corporation;

4) The leasing of all the hospital's operations to another corporation or partnership.

h) Prior to completing the transactions described in subsection (g)(1) or (g)(2), the new person, legal entity or partnership shall apply for a new license in compliance with Section (6)(b) of the Act. The transaction shall not be complete until the Director issues a new license to the new person, legal entity or partnership.

i) The transactions described in subsection (g) do not constitute a change in ownership when all of the entities that are parties to the transaction are under common control or ownership before and after the transaction is completed. In these transactions, the name of the corporation, its officers, its independent subsidiaries and any other relevant information that the Department may require shall be made available to the Department upon request.

j) Pursuant to subsection (g), the transfer of corporate stock or the merger of another corporation into the licensee corporation does not constitute a change of ownership if the licensee corporation remains in existence.

k) License Category; Approval of Services

1) Each license shall apply only to the categories of service offered by the hospital at the time the license is issued, and as reflected in the CON or COE issued by the Health Facilities and Services Review Board. A general license shall be issued for a hospital that offers a variety of categories of service. A specialized license (e.g., Psychiatric, Pediatric, Rehabilitation, Tuberculosis) shall be issued for a hospital that offers primarily that special category of service.

2) The license shall apply only to the number of beds and the clinical services operating at the time the license is issued. If a new clinical service is to be initiated, or an existing service expanded or discontinued, the approval of the Department shall first be obtained. If a change in clinical service results in change of license category, then a new application for license shall be submitted to the Department and the hospital shall meet the requirements of Section 250.110 and this Section.

l) Provisional License. The Director may issue a provisional license to any hospital that does not substantially comply with the provisions of the Act and this Part provided that the hospital has undertaken changes and corrections that, upon completion, will render the hospital in substantial compliance with the provisions of the Act and this Part, and provided that the health and safety of the patients of the hospital will be protected during the period for which the provisional license is issued. The Director will advise the licensee of the conditions under which the~~such~~ provisional license is issued, including the manner in which the hospital fails to comply with the provisions of the Act and this Part. The Director also will advise the licensee of the time within which the changes and corrections necessary for the hospital to substantially comply with the Act and this Part shall be completed.

~~m) Separate Licenses. The Department may require a hospital that houses patients in more than one building to have separate licenses for one or more of the separate buildings.~~

m~~n~~) Posting of License. The license shall be posted where it may be readily seen and read by the public.

n~~o~~) Notification of Closure of Hospital. The licensee shall notify the Department of the impending closure of the hospital at least 90 days prior to the closure. The

hospital shall be responsible for the removal of patients and their placement in other hospitals. The hospital shall implement the policies for preservation of patient medical records and medical staff credentialing files in accordance with Section 250.1510(d)(2) and Section 250.310(a)(16).

(Source: Amended at 39 Ill. Reg. 13041, effective September 3, 2015)

SUBPART B: ADMINISTRATION AND PLANNING

**Section 250.290 Safety Alert Notifications**

a) Each hospital shall subscribe to the free e-mail notification services of the U.S. Food and Drug Administration and the U.S. Centers for Disease Control and Prevention.

1) FDA: MedWatch E-List , which can be accessed at www.fda.gov/Safety/MedWatch/default.htm~~www.fda.gov/medwatch/elist.htm~~; and

2) CDC: Clinician Outreach and Communication Activity (COCA)~~Rapid Notification System for Healthcare Professionals~~, which can be accessed at http://emergency.cdc.gov/coca/~~www2a.cdc.gov/ncidod/hip/rns/hip_rns_subscribe.html~~. COCA updates and clinical reminders may be requested by sending an email to coca@cdc.gov.

b) Actions in response to these notifications shall be taken promptly.

(Source: Amended at 39 Ill. Reg. 13041, effective September 3, 2015)

SUBPART G: GENERAL HOSPITAL EMERGENCY SERVICES

**Section 250.710 Classification of Emergency Services**

a) Each hospital, *except long-term acute care hospitals and rehabilitation hospitals identified in Section 1.3 of* the Hospital Emergency Service *Act* and in subsection (c) of this Section (Section 1 of the Hospital Emergency Service Act), shall provide emergency services according to one of the following categories:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Comprehensive Emergency Treatment Services

A) At least one licensed physician shall be in the emergency department at all times.

B) Physician specialists who represent the major specialties and sub-specialties, such as plastic surgery, dermatology and ophthalmology, shall be available within minutes.

C) Ancillary services, including laboratory and x-ray, shall be staffed at all times. The pharmacy shall be staffed or on call at all times.

2) Basic Emergency Treatment Services

A) At least one licensed physician shall be in the emergency department at all times.

B) Physician specialists who represent the specialties of medicine, surgery, pediatrics and obstetrics shall be available within minutes.

C) Ancillary services, including laboratory, x-ray and pharmacy, shall be staffed or on call at all times.

3) Standby Emergency Treatment Services

A) A registered nurse on duty in the hospital shall be available for emergency services at all times.

B) A licensed physician shall be on call to the emergency department at all times.

b) All hospitals, irrespective of the category of services provided, shall provide immediate first aid and emergency care to persons requiring first aid emergency treatment on arrival at the hospital.

c) *General acute care hospitals designated by Medicare as long-term acute care hospitals and rehabilitation hospitals are not required to provide hospital emergency services described in* this Section or *Section 1 of* the Hospital Emergency Service *Act. Hospitals defined in this* subsection (c) *may provide*

*hospital emergency services at their option*.

1) *Any hospital* defined in this~~*defined in this*~~ subsection (c) *that opts to discontinue or otherwise not provide emergency services shall*:

A) *Comply with all provisions of the federal Emergency Medical Treatment and~~&~~ Labor Act (EMTALA)*;

B) *Comply with all provisions required under the Social Security Act*;

C) *Provide annual notice to communities in the hospital's service area about available emergency medical services; and*

D) *Make educational materials available to individuals who are present at the hospital concerning the availability of medical services within the hospital's service area*.

2) *Long-term acute care hospitals that operate standby emergency services as of January 1, 2011 may discontinue hospital emergency services by notifying the Department. Long-term acute care hospitals that operate basic or comprehensive emergency services must notify the Health Facilities and Services Review Board and follow the appropriate procedures*. (Section 1.3 of the Hospital Emergency Service Act)

3) *Any rehabilitation hospital that opts to discontinue or otherwise not provide emergency services* shall comply with subsection (c)(1), *shall not use the term "hospital" in its name or on any signage, and shall notify in writing the Department, the Health Facilities and Services Review Board, and* the Division of Emergency Medical Services and Highway Safety *of the discontinuation*. (Section 1.3 of the Hospital Emergency Service Act)

A) "Signage" means any signs or system of signs affixed to, adjacent to, or directing the public to the hospital, including but not limited to informational road signs.

B) Signage does not include materials for advertising, licensure, certification or patient referral materials.

(Source: Amended at 39 Ill. Reg. 13041, effective September 3, 2015)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART N: HOUSEKEEPING AND LAUNDRY SERVICES

**Section 250.1720 Garbage, Refuse and Solid Waste Handling and Disposal**

a) All garbage and refuse shall be collected, stored, and disposed of in a manner that will not permit the transmission of a contagious disease, create a nuisance or fire hazard, or provide a breeding place for vermin or rodents.

b) Solid waste shall be handled in a safe and sanitary manner within the facility. Garbage and refuse receptacles within the facility shall be made of metal or other appropriate material provided with disposable liners or shall be cleaned and disinfected after each emptying. Receptacles in areas where wet or hazardous wastes are generated shall have tight fitting lids and shall be kept closed except during use. Carts used for transport shall be of easily cleanable construction, and shall be kept in a sanitary condition. Trash chutes shall comply with Subpart T or Subpart U, and shall be kept clean and sanitary. Pulping-transport systems, if ~~where~~ installed, shall be operated and maintained in a safe and sanitary manner. All refuse shall~~must~~ be in impervious bags during transport within the facility. Potentially infectious material shall~~hazardous waste must~~ be identified and bagged in durable bags resistant to puncture and tears. Waste may be single-bagged if it can be put in the bag without contaminating the outside, otherwise double-bagging is required. Wastes capable of producing injury, such as needles and scalpel blades, shall~~must~~ be stored and transported in rigid containers. Blood specimens shall be disposed of pursuant to 29 CFR 1910.1030~~may be carefully poured down the drain~~. For handling of radioactive wastes, see Subpart F.

c) Collected garbage and refuse shall be stored in stable, durable, watertight, vermin and rodent proof containers, with tight fitting lids. Lids shall be kept closed except during use. Containers shall be emptied at frequent intervals, and shall be kept clean and sanitary. Garbage storage areas shall be kept in a clean and nuisance-free condition.

d) Final disposal of general hospital solid waste may~~shall~~ be by incineration (see Subpart T or Subpart U), grinding and flushing to the municipal sewerage system, or removal to a sanitary landfill. Incinerators shall be approved by the Illinois Environmental Protection Agency, for the types of wastes being generated. Sanitary landfills shall be approved by the Illinois Environmental Protection Agency. Surgical, obstetrical, and other tissue wastes shall be disposed of by

grinding and flushing, incineration, or burial. Other potentially infectious wastes shall be rendered safe by grinding and flushing, incineration or steam autoclaving.

e) Alternative systems will be permitted when approved in writing by the Department.

~~f) Any *blood* or blood components, organs, semen, or other human tissue *showing* exposure to HIV as evidence by two of three reactive *Elisa* tests results (according to the package insert – product circular), *or any other identified causative agent of AIDS* or originating from a patient diagnosed with AIDS or AIDS-Related Complex (ARC) as defined in 77 Ill. Adm. Code 693.20, shall be disposed of by the hospital in accordance with subsection (g) of this Section, or delivered in accordance with subsection (h) of this Section to a research facility to use such blood, blood components, organs, semen, or other human tissue for AIDS research.~~

fg) Any potentially infectious medical waste such as blood, blood components, organs, semen, or other human tissue, and any other materials or paraphernalia exposed to, or contaminated by, such blood, blood components, organs, semen, or other human tissue shall be completely incinerated, sterilized, or sealed in order to render the materials innocuous before disposal or removal from the premises.

1) The incineration of materials shall be done in accordance with the requirements of the Pollution Control Board concerning the operation of an incinerator (35 Ill. Adm. Code 724).

2) The sterilization of materials shall be done by autoclaving the materials in accordance with the recommendations of the manufacturer of the autoclave. The effectiveness of the autoclave shall be verified and documented at least weekly with a biological spore assay containing B. stearothermophilus.

3) Incinerated or sterilized materials shall be disposed of through routine waste disposal methods without precautions against possible contamination.

4) Materials thatwhich have not been incinerated or sterilized shall be disposed of by a waste hauler with a proper permit from the Illinois Environmental Protection Agency under the rules of the Pollution Control

Board (35 Ill. Adm. Code 809). These materials shall~~must~~ be sealed, transported, and stored in biohazard containers. These containers shall be marked "Biohazard," shall bear the universal biohazard symbol, and shall be orange, orange and black, or red. The containers shall be rigid and puncture-resistant, such as a secondary metal or plastic can with a lid that can be opened by a step-on pedal. These containers shall be lined with one or two high density polyethylene or polypropylene plastic bags with a total thickness of at least 2.5 mil. or equivalent material. The containers that~~which~~ are marked "Biohazard" shall be sealed before being removed from the hospital.

~~h) When a hospital delivers such blood, blood components, organs, semen or other human tissue to any research facility other than the hospital itself, the hospital *shall file a report with the Department* (Division of Laboratories) *which shall include at least the following information:*~~

~~1) *A copy of the request* from the research facility *for blood* or human tissue;~~

~~2) *The quantity of blood* or human tissue *delivered;*~~

~~3) *The name and location of the research facility to which the blood* or human tissue *was delivered;* and~~

~~4) *The date and time of delivery.*~~

~~i) A research facility, for the purposes of this Section, shall mean any clinical laboratory licensed under the Clinical Laboratory Act (Ill. Rev. Stat. 1985, ch. 111½, par. 621 et seq.), any blood bank licensed under the Illinois Blood Bank Act (Ill. Rev. Stat. 1985, ch. 111½, par. 601-101 et seq.) or any hospital licensed under the Hospital Licensing Act (Ill. Rev. Stat. 1985, ch. 111½, par. 142 et seq.)~~

~~j) When the hospital serves as a research facility and uses such blood, blood components, organs, semen, or other human tissue of AIDS research, the hospital shall dispose of such blood, blood components, organs, semen, or other human tissue in accordance with subsection (g) of this Section when such blood, blood components, organs, semen, or other human tissue is no longer being used for research purposes.~~

(Source: Amended at 39 Ill. Reg. 13041, effective September 3, 2015)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART O: OBSTETRIC AND NEONATAL SERVICE

**Section 250.1840 Discharge of Newborn Infants from Hospital**

a) No hospital, nor anyone connected with any hospital, shall place a child for adoption or for foster family care unless the hospital is licensed as a child welfare agency~~ pursuant to the State of Illinois, Child Care Act, approved July 10, 1957 as amended~~.

b) A hospital ~~(or anyone connected with a hospital)~~ shall discharge a newborn infant only to the following:

1) The~~the~~ natural parent;

2) An intended mother, pursuant to the Gestational Surrogacy Act;

3) An intended father, pursuant to the Gestational Surrogacy Act;

4~~2~~) An~~an~~ adult relative (parent, brother, sister, uncle or aunt) or friend of the unwed mother, or of either parent if married;

5~~3~~) An~~an~~ officer of a court of competent jurisdiction or other named person, upon presentation of an order from a court that the child be discharged to his or her custody; or

6~~4~~) A~~a~~ representative of an Illinois licensed child welfare agency, or the Illinois Department of Children and Family Services, or the Illinois Youth Commission, upon presentation of written authorization by the~~such~~ agency to have the child discharged to his or her custody; or a representative of any other social agency who presents written authorization by the Department of Children and Family Services to have the child discharged to his or her custody.

c) If~~Whenever~~ the child is to be discharged to an adult relative or friend as provided in subsection~~paragraph~~ (b)(4~~2~~)~~ above~~, the hospital shall obtain the mother's written consent, naming and identifying the relative or friend.

d) When~~It is recommended that, whenever~~ any child is discharged, the hospital shall

require the recipient to provide proof of his or her identity~~identify~~ and to sign a receipt for the~~such~~ child. The proof of identity shall be a government-issued photo ID.

e) Education on Sudden Infant Death Syndrome Prior to Discharge

1) *A hospital shall provide, free of charge, information and instructional materials regarding sudden infant death syndrome (SIDS), explaining the medical effects upon infants and young children and emphasizing measures that may reduce the risk.*

2) *The information and materials described in subsection* (e)(1) *shall be provided to parents or legal guardians of each newborn, upon discharge from the hospital. Prior to discharge, a nurse or appropriate staff person shall review the proffered materials with the infant's parents or legal guardian and shall discuss best practices to reduce the incidence of SIDS as recommended by the American Academy of Pediatrics.*

3) *Nothing in this* subsection (e) *prohibits a hospital from obtaining free and suitable information from a public or private agency.* (Section 11.7 of the Act)

(Source: Amended at 39 Ill. Reg. 13041, effective September 3, 2015)

SUBPART T: DESIGN AND CONSTRUCTION STANDARDS

**Section 250.2410 Applicability of these Standards**

a) These standards shall apply to all new hospitals and major alterations and additions to existing hospitals. (Major alterations are those that are not defined as minor alterations in Section 250.2420~~(3)~~(b)~~herein~~.) Hospitals shall refer to the Health Facilities and Services Review ~~Planning~~ Board for appropriate action.

b) In the case of types of hospitals not specifically treated in this Part~~herein~~, the standards for general hospitals shall apply, with ~~due~~ allowance being made for the specialized or unusual requirements of the particular hospital involved.

c) If a hospital operates a hospital-based outpatient surgery program in a building that does not meet the requirements of Subpart T, that building shall comply with

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Subparts I, J, K and L of the Ambulatory Surgical Treatment Center Licensing Requirements. The building housing the hospital's outpatient surgery program shall be located on the hospital's campus or within 250 yards of the hospital.

(Source: Amended at 39 Ill. Reg. 13041, effective September 3, 2015)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Emergency Medical Services, Trauma Center, Primary Stroke Center and Emergent Stroke Ready Hospital Code

2) Code Citation: 77 Ill. Adm. Code 515

3)

| Section Numbers: | Adopted Actions: |
|---|---|
| 515.100 | Amendment |
| 515.330 | Amendment |
| 515.830 | Amendment |
| 515.833 | New Section |

4) Statutory Authority: Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

5) Effective Date of Rules: September 8, 2015

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules, 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 published in the *Illinois Register*: May 8, 2015; 39 Ill. Reg. 6217

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: Various typographical, grammatical, and form changes were made in response to the comments from JCAR. No significant changes to the content.

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 an emergency rule currently in effect? No

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

15) Summary and Purpose of Rulemaking: Section 515.100 is being amended to define alternate response vehicle, ambulance service provider and vehicle service provider

upgrades, in-field service level upgrade, rural ambulance service provider, rural in-field service level upgrade and rural vehicle service provider. These definitions will help to implement PA 98-881 and PA 98-608.

Section 515.330 is being amended to implement PA 98-881 and PA 98-608 by requiring policies to be written into the Emergency Medical Services (EMS) System Program Plan. The policies will describe in-field service level upgrades utilizing advance level EMS vehicle service providers and ambulance service provider and vehicle service provider upgrades in the rural populations of 7,500 or fewer. Amendments to this Section will also implement PA 98-234, which requires an EMS System to develop an administrative policy that provides notification to the Division of EMS and High Safety when an Illinois EMS crew member is killed in the line of duty.

Section 515.830 is being amended to implement PA 98-881 and PA 98-608. This Section, Ambulance Licensing Requirements, will reference the operational requirement for ambulance service upgrades; rural population as being located in the new Section 515.833.

A new Section, 515.833, is being created to implement PA 98-608. The PA provides that a currently licensed Emergency Medical Technician (EMT) may perform emergency and non-emergency medical services in accordance with his or her level of education, training, and licensure, regardless of the level (BLS, ILS, or ALS) of the ambulance to which he or she is assigned when performing those services. This Public Act applies only to EMTs who serve in a rural population of fewer than 7,500. This Section is also being created to implement PA 98-881. The Section provides for a rural vehicle service provider to be approved for an in-field service level upgrade, which will allow that rural vehicle service provider the authorization to function at the highest level of emergency medical technician license held by any person staffing the ambulance, alternate response vehicle, or specialized emergency medical services vehicle. This Section provides procedures for rural vehicle service providers to apply for an in-field service level upgrade. This Section also implements PA 98-880, which allows the Department of Public Health to provide an Illinois-licensed pre-hospital RN the ability to participate in a service upgrade for an ambulance service provider that serves a rural population of 7,500 or fewer inhabitants.

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

Elizabeth Paton
Division of Legal Services

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Illinois Department of Public Health
535 W. Jefferson St., 5th floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETY

PART 515
EMERGENCY MEDICAL SERVICES, TRAUMA CENTER, PRIMARY STROKE CENTER AND EMERGENT STROKE READY HOSPITAL CODE

SUBPART A: GENERAL PROVISIONS

Section
515.100 Definitions
515.125 Incorporated and Referenced Materials
515.150 Waiver Provisions
515.160 Facility, System and Equipment Violations, Hearings and Fines
515.165 Suspension, Revocation and Denial of Licensure
515.170 Employer Responsibility
515.180 Administrative Hearings
515.190 Felony Convictions

SUBPART B: EMS REGIONS

Section
515.200 Emergency Medical Services Regions
515.210 EMS Regional Plan Development
515.220 EMS Regional Plan Content
515.230 Resolution of Disputes Concerning the EMS Regional Plan
515.240 Bioterrorism Grants
515.250 Hospital Stroke Care Fund

SUBPART C: EMS SYSTEMS

Section
515.300 Approval of New EMS Systems
515.310 Approval and Renewal of EMS Systems
515.315 Bypass Status Review
515.320 Scope of EMS Service
515.330 EMS System Program Plan
515.340 EMS Medical Director's Course

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

515.350 Data Collection and Submission
515.360 Approval of Additional Drugs and Equipment
515.370 Automated Defibrillation (Repealed)
515.380 Do Not Resuscitate (DNR) Policy
515.390 Minimum Standards for Continuing Operation
515.400 General Communications
515.410 EMS System Communications
515.420 System Participation Suspensions
515.430 Suspension, Revocation and Denial of Licensure of EMTs (Repealed)
515.440 State Emergency Medical Services Disciplinary Review Board
515.445 Pediatric Care
515.450 Complaints
515.455 Intra- and Inter-system Dispute Resolution
515.460 Fees
515.470 Participation by Veterans Health Administration Facilities

SUBPART D: EMERGENCY MEDICAL TECHNICIANS

Section
515.500 Emergency Medical Technician-Basic Training
515.510 Emergency Medical Technician-Intermediate Training
515.520 Emergency Medical Technician-Paramedic Training
515.530 EMT Testing
515.540 EMT Licensure
515.550 Scope of Practice – Licensed EMT
515.560 EMT-B Continuing Education
515.570 EMT-I Continuing Education
515.580 EMT-P Continuing Education
515.590 EMT License Renewals
515.600 EMT Inactive Status
515.610 EMT Reciprocity
515.620 Felony Convictions (Renumbered)
515.630 Evaluation and Recognition of Military Experience and Education
515.640 Reinstatement

SUBPART E: EMS LEAD INSTRUCTOR, EMERGENCY MEDICAL DISPATCHER, FIRST RESPONDER, PRE-HOSPITAL REGISTERED NURSE, EMERGENCY COMMUNICATIONS REGISTERED NURSE, AND TRAUMA NURSE SPECIALIST

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section
515.700 EMS Lead Instructor
515.710 Emergency Medical Dispatcher
515.715 Provisional Licensure for First Responders and Emergency Medical Responders
515.720 First Responder (Repealed)
515.725 First Responder/Emergency Medical Responder
515.730 Pre-Hospital Registered Nurse
515.740 Emergency Communications Registered Nurse
515.750 Trauma Nurse Specialist
515.760 Trauma Nurse Specialist Program Plan

SUBPART F: VEHICLE SERVICE PROVIDERS

Section
515.800 Vehicle Service Provider Licensure
515.810 EMS Vehicle System Participation
515.820 Denial, Nonrenewal, Suspension and Revocation of a Vehicle Service Provider License
515.825 Alternate Response Vehicle
515.830 Ambulance Licensing Requirements
515.833 In-Field Service Level Upgrade – Rural Population
515.835 Stretcher Van Provider Licensing Requirements
515.840 Stretcher Van Requirements
515.845 Operation of Stretcher Vans
515.850 Reserve Ambulances
515.860 Critical Care Transport

SUBPART G: LICENSURE OF SPECIALIZED EMERGENCY MEDICAL SERVICES VEHICLE (SEMSV) PROGRAMS

Section
515.900 Licensure of SEMSV Programs – General
515.910 Denial, Nonrenewal, Suspension or Revocation of SEMSV Licensure
515.920 SEMSV Program Licensure Requirements for All Vehicles
515.930 Helicopter and Fixed-Wing Aircraft Requirements
515.935 EMS Pilot Specifications
515.940 Aeromedical Crew Member Training Requirements
515.945 Aircraft Vehicle Specifications and Operation
515.950 Aircraft Medical Equipment and Drugs

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

515.955 Vehicle Maintenance for Helicopter and Fixed-wing Aircraft Programs
515.960 Aircraft Communications and Dispatch Center
515.963 Flight Program Safety Standards
515.965 Watercraft Requirements
515.970 Watercraft Vehicle Specifications and Operation
515.975 Watercraft Medical Equipment and Drugs
515.980 Watercraft Communications and Dispatch Center
515.985 Off-Road SEMSV Requirements
515.990 Off-Road Vehicle Specifications and Operation
515.995 Off-Road Medical Equipment and Drugs
515.1000 Off-Road Communications and Dispatch Center

SUBPART H: TRAUMA CENTERS

Section
515.2000 Trauma Center Designation
515.2010 Denial of Application for Designation or Request for Renewal
515.2020 Inspection and Revocation of Designation
515.2030 Level I Trauma Center Designation Criteria
515.2035 Level I Pediatric Trauma Center
515.2040 Level II Trauma Center Designation Criteria
515.2045 Level II Pediatric Trauma Center
515.2050 Trauma Center Uniform Reporting Requirements
515.2060 Trauma Patient Evaluation and Transfer
515.2070 Trauma Center Designation Delegation to Local Health Departments
515.2080 Trauma Center Confidentiality and Immunity
515.2090 Trauma Center Fund
515.2100 Pediatric Care (Renumbered)
515.2200 Suspension Policy for Trauma Nurse Specialist Certification

SUBPART I: EMS ASSISTANCE FUND

Section
515.3000 EMS Assistance Fund Administration

SUBPART J: EMERGENCY MEDICAL SERVICES FOR CHILDREN

Section
515.3090 Pediatric Recognition of Hospital Emergency Departments and Inpatient Critical

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Care Services
515.4000 Facility Recognition Criteria for the Emergency Department Approved for Pediatrics (EDAP)
515.4010 Facility Recognition Criteria for the Standby Emergency Department Approved for Pediatrics (SEDP)
515.4020 Facility Recognition Criteria for the Pediatric Critical Care Center (PCCC)

SUBPART K: PRIMARY STROKE CENTERS AND EMERGENT STROKE READY HOSPITALS

Section
515.5000 Definitions
515.5010 Stroke Care – Restricted Practices
515.5020 Primary Stroke Center (PSC) Designation
515.5030 Request for Primary Stroke Center Designation
515.5040 Suspension and Revocation of Primary Stroke Center Designation
515.5050 Emergent Stroke Ready Hospital (ESRH) Designation
515.5060 Emergent Stroke Ready Hospital Designation Criteria
515.5070 Request for Emergent Stroke Ready Hospital Designation
515.5080 Suspension and Revocation of Emergent Stroke Ready Hospital Designation
515.5090 Data Collection and Submission
515.5100 Statewide Stroke Assessment Tool

515.APPENDIX A A Request for Designation (RFD) Trauma Center
515.APPENDIX B A Request for Renewal of Trauma Center Designation
515.APPENDIX C Minimum Trauma Field Triage Criteria
515.APPENDIX D Standing Medical Orders
515.APPENDIX E Minimum Prescribed Data Elements
515.APPENDIX F Template for In-House Triage for Trauma Centers
515.APPENDIX G Credentials of General/Trauma Surgeons Level I and Level II
515.APPENDIX H Credentials of Emergency Department Physicians Level I and Level II
515.APPENDIX I Credentials of General/Trauma Surgeons Level I and Level II Pediatric Trauma Centers
515.APPENDIX J Credentials of Emergency Department Physicians Level I and Level II Pediatric Trauma Centers
515.APPENDIX K Application for Facility Recognition for Emergency Department with Pediatrics Capabilities
515.APPENDIX L Pediatric Equipment Recommendations for Emergency Departments

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

| | |
|---|---|
| 515.APPENDIX M | Inter-facility Pediatric Trauma and Critical Care Consultation and/or Transfer Guideline |
| 515.APPENDIX N | Pediatric Critical Care Center (PCCC)/Emergency Department Approved for Pediatrics (EDAP) Recognition Application |
| 515.APPENDIX O | Pediatric Critical Care Center Plan |
| 515.APPENDIX P | Pediatric Critical Care Center (PCCC) Pediatric Equipment/Supplies/Medications Requirements |

AUTHORITY: Implementing and authorized by the Emergency Medical Services (EMS) Systems Act [210 ILCS 50].

SOURCE: Emergency Rule adopted at 19 Ill. Reg. 13084, effective September 1, 1995 for a maximum of 150 days; emergency expired January 28, 1996; adopted at 20 Ill. Reg. 3203, effective February 9, 1996; emergency amendment at 21 Ill. Reg. 2437, effective January 31, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 5170, effective April 15, 1997; amended at 22 Ill. Reg. 11835, effective June 25, 1998; amended at 22 Ill. Reg. 16543, effective September 8, 1998; amended at 24 Ill. Reg. 8585, effective June 10, 2000; amended at 24 Ill. Reg. 9006, effective June 15, 2000; amended at 24 Ill. Reg. 19218, effective December 15, 2000; amended at 25 Ill. Reg. 16386, effective December 20, 2001; amended at 26 Ill. Reg. 18367, effective December 20, 2002; amended at 27 Ill. Reg. 1277, effective January 10, 2003; amended at 27 Ill. Reg. 6352, effective April 15, 2003; amended at 27 Ill. Reg. 7302, effective April 25, 2003; amended at 27 Ill. Reg. 13507, effective July 25, 2003; emergency amendment at 29 Ill. Reg. 12640, effective July 29, 2005, for a maximum of 150 days; emergency expired December 25, 2005; amended at 30 Ill. Reg. 8658, effective April 21, 2006; amended at 32 Ill. Reg. 16255, effective September 18, 2008; amended at 35 Ill. Reg. 6195, effective March 22, 2011; amended at 35 Ill. Reg. 15278, effective August 30, 2011; amended at 35 Ill. Reg. 16697, effective September 29, 2011; amended at 35 Ill. Reg. 18331, effective October 21, 2011; amended at 35 Ill. Reg. 20609, effective December 9, 2011; amended at 36 Ill. Reg. 880, effective January 6, 2012; amended at 36 Ill. Reg. 2296, effective January 25, 2012; amended at 36 Ill. Reg. 3208, effective February 15, 2012; amended at 36 Ill. Reg. 11196, effective July 3, 2012; amended at 36 Ill. Reg. 17490, effective December 3, 2012; amended at 37 Ill. Reg. 5714, effective April 15, 2013; amended at 37 Ill. Reg. 7128, effective May 13, 2013; amended at 37 Ill. Reg. 10683, effective June 25, 2013; amended at 37 Ill. Reg. 18883, effective November 12, 2013; amended at 37 Ill. Reg. 19610, effective November 20, 2013; amended at 38 Ill. Reg. 9053, effective April 9, 2014; amended at 38 Ill. Reg. 16304, effective July 18, 2014; amended at 39 Ill. Reg. 13075, effective September 8, 2015.

SUBPART A: GENERAL PROVISIONS

**Section 515.100 Definitions**

Act – the Emergency Medical Services (EMS) Systems Act [210 ILCS 50].

*Advanced Life Support Services or ALS Services – an advanced level of pre-hospital and inter-hospital emergency care and non-emergency medical care that includes basic life support care, cardiac monitoring, cardiac defibrillation, electrocardiography, intravenous therapy, administration of medications, drugs and solutions, use of adjunctive medical devices, trauma care, and other authorized techniques and procedures as outlined in the Advanced Life Support National Curriculum of the United States Department of Transportation and any modifications to that curriculum specified in* this Part. (Section 3.10 of the Act)

Aeromedical Crew Member or Watercraft Crew Member or Off-road Specialized Emergency Medical Services Vehicle (SEMSV) Crew Member – an individual, other than an EMS pilot, who has been approved by an SEMSV Medical Director for specific medical duties in a helicopter or fixed-wing aircraft, on a watercraft, or on an off-road SEMSV used in a Department-certified SEMSV Program.

Alternate EMS Medical Director or Alternate EMS MD – the physician who is designated by the Resource Hospital to direct the ALS/ILS/BLS operations in the absence of the EMS Medical Director.

Alternate Response Vehicle – ambulance assist vehicles and non-transport vehicles as defined in Section 515.825.

*Ambulance – any publicly or privately owned vehicle that is specifically designed, constructed or modified and equipped for, and is intended to be used for, and is maintained or operated for, the emergency transportation of persons who are sick, injured, wounded or otherwise incapacitated or helpless, or the non-emergency medical transportation of persons who require the presence of medical personnel to monitor the individual's condition or medical apparatus being used on such an individual.* (Section 3.85 of the Act)

Ambulance Service Provider and Vehicle Service Provider Upgrades – Rural Population – a practice that allows an ambulance, alternate response vehicle, specialized emergency medical services vehicle or vehicle service provider that serves a population of 7,500 or fewer to upgrade the level of service of the provider vehicle using pre-approved System personnel and equipment.

Ambulance Service Provider or Ambulance Provider – any individual, group of individuals, corporation, partnership, association, trust, joint venture, unit of local government or other public or private ownership entity that owns and operates a business or service using one or more ambulances or EMS vehicles for the transportation of emergency patients.

Applicant – an individual or entity applying for a Department-issued license or certification.

Associate Hospital – a hospital participating in an approved EMS System in accordance with the EMS System Program Plan, fulfilling the same clinical and communications requirements as the Resource Hospital. This hospital has neither the primary responsibility for conducting training programs nor the responsibility for the overall operation of the EMS System program. The Associate Hospital must have a basic or comprehensive emergency department with 24-hour physician coverage. It shall have a functioning Intensive Care Unit or a Cardiac Care Unit.

Associate Hospital EMS Coordinator – the EMT-Paramedic (EMT-P) or Registered Nurse at the Associate Hospital who shall be responsible for duties in relation to the ALS, Intermediate Life Support (ILS) or Basic Life Support (BLS) System, in accordance with the Department-approved EMS System Program Plan.

Associate Hospital EMS Medical Director – the physician at the Associate Hospital who shall be responsible for the day-to-day operations of the Associate Hospital in relation to the ALS, ILS, or BLS System, in accordance with the Department-approved EMS System Program Plan.

Basic Emergency Department – a classification of a hospital emergency department where at least one physician is available in the emergency department at all times; physician specialists are available in minutes; and ancillary services, including laboratory, x-ray and pharmacy, are staffed or are "on-call" at all times in accordance with Section 250.710 of the Hospital Licensing Requirements.

*Basic Life Support Services or BLS Services – a basic level of pre-hospital and inter-hospital emergency care and non-emergency medical care that includes airway management, cardiopulmonary resuscitation (CPR), control of shock and bleeding and splinting of fractures, as outlined in a Basic Life Support National*

*Curriculum of the United States Department of Transportation and any modifications to that curriculum specified in* this Part. (Section 3.10 of the Act)

Board Eligible in Emergency Medicine – completion of a residency in Emergency Medicine in a program approved by the Residency Review Committee for Emergency Medicine or the Council on Postdoctoral Training (COPT) for the American Osteopathic Association (AOA).

Certified Registered Nurse Anesthetist or CRNA – a licensed registered professional nurse who has had additional education beyond the registered professional nurse requirements at a school/program accredited by the National Council on Accreditation; who has passed the certifying exam given by the National Council on Certification; and who, by participating in 40 hours of continuing education every two years, has been recertified by the National Council on Recertification.

Child Abuse and Neglect – see the definitions of "abused child" and "neglected child" in Section 3 of the Abused and Neglected Child Reporting Act.

Child Life Specialist – A person whose primary role is to minimize the adverse effects of children's experiences by facilitating coping and the psychosocial adjustment of children and their families through the continuum of care.

Comprehensive Emergency Department – a classification of a hospital emergency department where at least one licensed physician is available in the emergency department at all times; physician specialists shall be available in minutes; ancillary services, including laboratory and x-ray, are staffed at all times; and the pharmacy is staffed or "on-call" at all times in accordance with Section 250.710 of the Hospital Licensing Requirements.

CPR for Healthcare Providers – a course in cardiopulmonary resuscitation that meets or exceeds the American Heart Association course "BLS for Healthcare Providers".

Critical Care Transport – A Specialty Care Transport (SCT) level of inter-facility or 911 service that uses paramedic, pre-hospital registered nurse (PHRN) and, on occasion, specialized nursing staff to perform skills and interventions at levels above the usual and customary scope of paramedic practice within the State of Illinois. Advanced education, continuing education and special certifications are

required. All Critical Care Transport Programs shall be under the direction of a Department-approved ALS EMS System.

*Department* or IDPH – *the Illinois Department of Public Health.* (Section 3.5 of the Act)

*Director – the Director of the Illinois Department of Public Health* or his/her designee. (Section 3.5 of the Act)

Door-to-_____ − The time from patient arrival at the health care facility until the specified result, procedure or intervention occurs.

Dysrhythmia – a variation from the normal electrical rate and sequences of cardiac activity, also including abnormalities of impulse formation and conduction.

Effective Radiated Power or ERP – the power gain of a transmitting antenna multiplied by the net power accepted by the antenna from the connected transmitter.

Electrocardiogram or EKG – a single lead graphic recording of the electrical activity of the heart by a series of deflections that represent certain components of the cardiac cycle.

*Emergency – a medical condition of recent onset and severity that would lead a prudent lay person, possessing an average knowledge of medicine and health, to believe that urgent or unscheduled medical care is required.* (Section 3.5 of the Act)

*Emergency Communications Registered Nurse or ECRN – a registered professional nurse, licensed under the Nurse Practice Act, who has successfully completed supplemental education in accordance with* this Part *and who is approved by an EMS Medical Director to monitor telecommunications from and give voice orders to EMS System personnel, under the authority of the EMS Medical Director and in accordance with System protocols.* (Section 3.80 of the Act)

Emergency Department Approved for Pediatrics or EDAP – a hospital participating in an approved EMS System and designated by the Department

pursuant to Section 515.4000 of this Part as being capable of providing optimal emergency department care to pediatric patients 24 hours per day.

*Emergency Medical Dispatcher – a person who has successfully completed a training course in emergency medical dispatching meeting or exceeding the National Curriculum of the United States Department of Transportation in accordance with* this Part, *who accepts calls from the public for emergency medical services and dispatches designated emergency medical services personnel and vehicles.* (Section 3.70 of the Act)

Emergency Medical Dispatch Priority Reference System or EMDPRS – an EMS System's organized approach to the receipt, management and disposition of a request for emergency medical services.

*Emergency Medical Services System* or EMS System or System – *an organization of hospitals, vehicle service providers and personnel approved by the Department in a specific geographic area, which coordinates and provides pre-hospital and inter-hospital emergency care and non-emergency medical transports at a BLS, ILS and/or ALS level pursuant to a System Program Plan submitted to and approved by the Department and pursuant to the EMS Regional Plan adopted for the EMS Region in which the System is located.* (Section 3.20 of the Act)

Emergency Medical Services System Survey – a questionnaire that provides data to the Department for the purpose of compiling annual reports.

*Emergency Medical Technician-Basic or EMT-B – a person who has successfully completed a course of instruction in basic life support as prescribed by the Department, is currently licensed by the Department in accordance with standards prescribed by* the *Act and* this Part *and practices within an EMS System.* (Section 3.50 of the Act)

Emergency Medical Technician-Coal Miner – for purposes of the Coal Mine Medical Emergencies Act, an EMT-B, EMT-I or EMT-P who has received training emphasizing extrication from a coal mine.

*Emergency Medical Technician-Intermediate or EMT-I – a person who has successfully completed a course of instruction in intermediate life support as prescribed by* the *Act and* this Part *and practices within an Intermediate or*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

*Advanced Life Support EMS System.* (Section 3.50 of the Act)

*Emergency Medical Technician-Paramedic or EMT-P – a person who has successfully completed a course of instruction in advanced life support care as prescribed by the Department, is licensed by the Department in accordance with standards prescribed by* the *Act and* this Part *and practices within an Advanced Life Support EMS System.* (Section 3.50 of the Act)

*Emergent Stroke Care – emergency medical care that includes diagnosis and emergency medical treatment of suspected or known acute stroke patients.* (Section 3.116 of the Act)

*Emergent Stroke Ready Hospital – a hospital that has been designated by the Department as meeting the criteria for providing emergency stroke care* as set forth in the Act and Section 515.5060. (Section 3.116 of the Act)

EMS Administrative Director – the administrator, appointed by the Resource Hospital with the approval of the EMS Medical Director, responsible for the administration of the EMS System.

EMS Medical Director or EMS MD – the physician, appointed by the Resource Hospital, who has the responsibility and authority for total management of the EMS System.

*EMS Lead Instructor – a person who has successfully completed a course of education as prescribed by the Department* in this Part, *and who is currently approved by the Department to coordinate or teach education, training and continuing education courses, in accordance with* this Part. (Section 3.65 of the Act)

EMS Regional Plan – a plan established by the EMS Medical Director's Committee in accordance with Section 3.30 of the Act.

EMS System Coordinator – the designated individual responsible to the EMS Medical Director and EMS Administrative Director for coordination of the educational and functional aspects of the System program.

EMS System Program Plan – the document prepared by the Resource Hospital and approved by the Department that describes the EMS System program and

directs the program's operation.

*First Responder – a person who is at least 18 years of age, who has successfully completed a course of instruction in emergency medical responder as prescribed by the Department, who provides first response services prior to the arrival of an ambulance or specialized emergency medical services vehicle, in accordance with the level of care established in the emergency medical responder course.* (Section 3.60 of the Act)

*First Response Services – a preliminary level of pre-hospital emergency care that includes cardiopulmonary resuscitation (CPR), monitoring vital signs and control of bleeding, as outlined in the First Responder curriculum of the United States Department of Transportation and any modifications to that curriculum specified in* this Part. (Section 3.10 of the Act)

Fixed-Wing Aircraft – an engine-driven aircraft that is heavier than air, and is supported in-flight by the dynamic reaction of the air against its wings.

Full-Time – on duty a minimum of 36 hours, four days a week.

Half-Duplex Communications – a radio or device that transmits and receives signals in only one direction at a time.

*Health Care Facility – a hospital, nursing home, physician's office or other fixed location at which medical and health care services are performed. It does not include "pre-hospital emergency care settings" which utilize EMTs to render pre-hospital emergency care prior to the arrival of a transport vehicle, as defined in* the *Act* and this Part. (Section 3.5 of the Act)

Helicopter or Rotorcraft – an aircraft that is capable of vertical take offs and landings, including maintaining a hover.

Helicopter Shopping − the practice of calling various operators until a helicopter emergency medical services (HEMS) operator agrees to take a flight assignment, without sharing with subsequent operators that the previously called operators declined the flight, or the reasons why the flight was declined.

Hospital – *has the meaning ascribed to that term in* Section 3 of the *Hospital Licensing Act* ~~[210 ILCS 85]~~. (Section 3.5 of the Act)

Hospitalist – a physician who primarily provides unit-based/in-hospital services.

In-Field Service Level Upgrade – a practice that allows the delivery of advanced care from a lower level service provider by a licensed higher level of care ambulance, alternate response vehicle, or specialized emergency medical services vehicle according to a pre-approved written plan approved by the local EMS Medical Director.

Instrument Flight Rules or IFR – the operation of an aircraft in weather minimums below the minimums for flight under visual flight rules (VFR). (See General Operating and Flight Rules, 14 CFR 91.115 through 91.129.)

Instrument Meteorological Conditions or IMC – meteorological conditions expressed in terms of visibility, distance from clouds and ceiling, which require Instrument Flight Rules.

*Intermediate Life Support Services or ILS Services – an intermediate level of pre-hospital and inter-hospital emergency care and non-emergency medical care that includes basic life support care, plus intravenous cannulation and fluid therapy, invasive airway management, trauma care, and other authorized techniques and procedures as outlined in the Intermediate Life Support National Curriculum of the United States Department of Transportation and any modifications to that curriculum specified in* this Part. (Section 3.10 of the Act)

Level I Trauma Center – a hospital participating in an approved EMS System and designated by the Department pursuant to Section 515.2030 of this Part to provide optimal care to trauma patients and to provide all essential services in-house, 24 hours per day.

Level II Trauma Center – a hospital participating in an approved EMS System and designated by the Department pursuant to Section 515.2040 of this Part to provide optimal care to trauma patients, to provide some essential services available in-house 24 hours per day, and to provide other essential services readily available 24 hours a day.

Licensee – an individual or entity to which the Department has issued a license.

*Limited Operation Vehicle – a vehicle which is licensed by the Department to*

*provide basic, intermediate or advanced life support emergency or non-emergency medical services that are exclusively limited to specific events or locales.* (Section 3.85 of the Act)

Local System Review Board – a group established by the Resource Hospital to hear appeals from EMTs or other providers who have been suspended or have received notification of suspension from the EMS Medical Director.

Mobile Radio – a two-way radio installed in an EMS vehicle, which may not be readily removed.

Morbidity – a negative outcome that is the result of the original trauma or treatment rendered or omitted.

911 – an emergency answer and response system in which the caller need only dial 9-1-1 on a telephone to obtain emergency services, including police, fire, medical ambulance and rescue.

*Non-emergency Medical Care – medical services rendered to patients whose condition does not meet* the *Act's definition of emergency, during transportation of such patients to health care facilities for the purpose of obtaining medical or health care services which are not emergency in nature, using a vehicle regulated by* the *Act* and this Part. (Section 3.10 of the Act)

Nurse Practitioner – a person who is licensed as a nurse practitioner under the Nurse Practice Act. For out-of-state facilities that have Illinois recognition under the trauma or pediatric programs, the professional shall have an unencumbered license in the state in which he or she practices.

Off-Road Specialized Emergency Medical Services Vehicle or Off-Road SEMSV or Off-Road SEMS Vehicle – a motorized cart, golf cart, all-terrain vehicle (ATV), or amphibious vehicle that is not intended for use on public roads.

Participating Hospital – a hospital participating in an approved EMS System in accordance with the EMS System Program Plan, which is not a Resource Hospital or an Associate Hospital.

Pediatric Critical Care Center or PCCC – a hospital participating in an approved EMS System and designated by the Department as being capable of providing

optimal critical and specialty care services to pediatric patients, and of providing all essential services either in-house or readily available 24 hours per day.

Pediatric Patient –patient from birth through 15 years of age.

Physician – any person licensed to practice medicine in all of its branches under the Medical Practice Act of 1987.

Physician Assistant – a person who is licensed under the Physician Assistant Practice Act. For out-of-state facilities that have Illinois recognition under the trauma or pediatric programs, the professional shall have an unencumbered license in the state in which he or she practices.

Pilot or EMS Pilot – a pilot certified by the Federal Aviation Administration who has been approved by an SEMSV Medical Director to fly a helicopter or fixed-wing aircraft used in a Department-certified SEMSV Program.

Portable Radio – a hand-held radio that accompanies the user during the conduct of emergency medical services.

*Pre-Hospital Care – those emergency medical services rendered to emergency patients for analytic, resuscitative, stabilizing, or preventive purposes, precedent to and during transportation of such patients to hospitals.* (Section 3.10 of the Act)

Pre-Hospital Care Provider – a System Participant or any EMT-B, I, P, Ambulance, Ambulance Provider, EMS Vehicle, Associate Hospital, Participating Hospital, EMS System Coordinator, Associate Hospital EMS Coordinator, Associate Hospital EMS Medical Director, ECRN or Physician serving on an ambulance or giving voice orders over an EMS System and subject to suspension by the EMS Medical Director of that System in accordance with the policies of the EMS System Program Plan approved by the Department.

*Pre-Hospital Registered Nurse or Pre-Hospital RN* or PHRN – *a registered professional nurse, licensed under the Nurse Practice Act, who has successfully completed supplemental education in accordance with* this Part *and who is approved by an EMS Medical Director to practice within an EMS System as emergency medical services personnel for pre-hospital and inter-hospital emergency care and non-emergency medical transports.* (Section 3.80 of the Act)

*Primary Stroke Center – a hospital that has been certified by a Department-approved, nationally recognized certifying body and designated as* a Primary Stroke Center *by the Department.* (Section 3.116 of the Act)

*Regional EMS Advisory Committee – a committee formed within an Emergency Medical Services (EMS) Region to advise the Region's EMS Medical Directors Committee and to select the Region's representative to the State Emergency Medical Services Advisory Council, consisting of at least the members of the Region's EMS Medical Directors Committee, the Chair of the Regional Trauma Committee, the EMS System Coordinators from each Resource Hospital within the Region, one administrative representative from an Associate Hospital within the Region, one administrative representative from a Participating Hospital within the Region, one administrative representative from the vehicle service provider which responds to the highest number of calls for emergency service within the Region, one administrative representative of a vehicle service provider from each System within the Region, one Emergency Medical Technician (EMT)/Pre-Hospital RN from each level of EMT/Pre-Hospital RN practicing within the Region, and one registered professional nurse currently practicing in an emergency department within the Region. Of the two administrative representatives of vehicle service providers, at least one shall be an administrative representative of a private vehicle service provider. The Department's Regional EMS Coordinator for each Region shall serve as a non-voting member of that Region's EMS Advisory Committee.* (Section 3.25 of the Act)

Regional EMS Coordinator – the designee of the Chief, Division of Emergency Medical Services and Highway Safety, Illinois Department of Public Health.

Regional EMS Medical Directors Committee – a group *comprised of the Region's EMS Medical Directors, along with the medical advisor to a fire department vehicle service provider. For Regions that include a municipal fire department serving a population of over 2,000,000 people, that fire department's medical advisor shall serve on the Committee. For other Regions, the fire department vehicle service providers shall select which medical advisor to serve on the Committee on an annual basis.* (Section 3.25 of the Act)

*Regional Stroke Advisory Subcommittee – a subcommittee formed within each Regional EMS Advisory Committee to advise the Director and the Region's EMS*

*Medical Directors Committee on the triage, treatment, and transport of possible acute stroke patients and to select the Region's representative to the State Stroke Advisory Subcommittee.* (Section 3.116 of the Act) The composition of the Subcommittee shall be as set forth in Section 3.116 of the Act.

*Regional Trauma Advisory Committee – a committee formed within an Emergency Medical Services (EMS) Region, to advise the Region's Trauma Center Medical Directors Committee, consisting of at least the Trauma Center Medical Directors and Trauma Coordinators from each Trauma Center within the Region, one EMS Medical Director from a Resource Hospital within the Region, one EMS System Coordinator from another Resource Hospital within the Region, one representative each from a public and private vehicle service provider which transports trauma patients within the Region, an administrative representative from each Trauma Center within the Region, one EMT representing the highest level of EMT practicing within the Region, one emergency physician and one Trauma Nurse Specialist (TNS) currently practicing in a Trauma Center. The Department's Regional EMS Coordinator for each Region shall serve as a non-voting member of that Region's Trauma Advisory Committee.* (Section 3.25 of the Act)

Registered Nurse or Registered Professional Nurse or RN – a person who is licensed as a professional nurse under the Nurse Practice Act. For out-of-state facilities that have Illinois recognition under the trauma or pediatric programs, the professional shall have an unencumbered license in the state in which he or she practices.

Resource Hospital – the hospital with the authority and the responsibility for an EMS System as outlined in the Department-approved EMS System Program Plan. The Resource Hospital, through the EMS Medical Director, assumes responsibility for the entire program, including the clinical aspects, operations and educational programs. This hospital agrees to replace medical supplies and provide for equipment exchange for participating EMS vehicles.

*Rural Ambulance Service Provider – an ambulance service provider licensed under* the *Act that serves a rural population of 7,500 or fewer inhabitants.* (Section 3.87(a) of the Act)

Rural In-Field Service Level Upgrade – a practice that allows the delivery of advanced care for a lower level service provider that serves a rural population of 7,500 or fewer inhabitants, through use of EMS System approved EMS personnel.

*Rural Vehicle Service Provider – an entity that serves a rural population of 7,500 or fewer inhabitants and is licensed by the Department to provide emergency or non-emergency medical services in compliance with* the *Act,* this Part *and an operational plan approved by the entity's EMS System, utilizing at least an ambulance, alternate response vehicle as defined by the Department in* this Part, *or specialized emergency medical services vehicle.* (Section 3.87(a) of the Act)

Screening – a preliminary procedure or assessment, such as a test or examination, to detect the most characteristic sign or signs of a disorder or condition that may require further investigation (for example, assessing for potential abuse or neglect through interview responses and behavioral/physical symptom clues).

SEMSV Medical Control Point or Medical Control Point – the communication center from which the SEMSV Medical Director or his or her designee issues medical instructions or advice to the aeromedical, watercraft, or off-road SEMSV crew members.

SEMSV Medical Director or Medical Director – the physician appointed by the SEMSV Program who has the responsibility and authority for total management of the SEMSV Program, subject to the requirements of the EMS System of which the SEMSV Program is a part.

SEMSV Program or Specialized Emergency Medical Services Vehicle Program – a program operating within an EMS System, pursuant to a program plan submitted to and certified by the Department, using specialized emergency medical services vehicles to provide emergency transportation to sick or injured persons.

*Specialized Emergency Medical Services Vehicle or SEMSV – a vehicle or conveyance, other than those owned or operated by the federal government, that is primarily intended for use in transporting the sick or injured by means of air, water, or ground transportation, that is not an ambulance as defined in* the *Act. The term includes watercraft, aircraft and special purpose ground transport vehicles not intended for use on public roads.* (Section 3.85 of the Act) "Primarily intended", for the purposes of this definition, means one or more of the

following:

Over 50 percent of the vehicle's operational (i.e., in-flight) hours are devoted to the emergency transportation of the sick or injured;

The vehicle is owned or leased by a hospital or ambulance provider and is used for the emergency transportation of the sick or injured;

The vehicle is advertised as a vehicle for the emergency transportation of the sick or injured;

The vehicle is owned, registered or licensed in another state and is used on a regular basis to pick up and transport the sick or injured within or from within this State; or

The vehicle's structure or permanent fixtures have been specifically designed to accommodate the emergency transportation of the sick or injured.

Standby Emergency Department – a classification of a hospital emergency department where at least one of the registered nurses on duty in the hospital is available for emergency services at all times, and a licensed physician is "on-call" to the emergency department at all times in accordance with Section 250.710 of the Hospital Licensing Requirements.

Standby Emergency Department Approved for Pediatrics or SEDP – a hospital participating in an approved EMS System and designated by the Department, pursuant to Section 515.4010 of this Part, as being capable of providing optimal standby emergency department care to pediatric patients and to have transfer agreements and transfer mechanisms in place when more definitive pediatric care is needed.

*Special-Use Vehicle – any public or privately owned vehicle that is specifically designed, constructed or modified and equipped, and is intended to be used for, and is maintained or operated solely for, the emergency or non-emergency transportation of a specific medical class or category of persons who are sick, injured, wounded or otherwise incapacitated or helpless (e.g., high-risk obstetrical patients, neonatal patients).* (Section 3.85 of the Act)

State EMS Advisory Council – a group that advises the Department on the administration of the Act and this Part whose members are appointed in accordance with Section 3.200 of the Act.

Stretcher Van – a vehicle used by a licensed stretcher van provider to transport non-emergency passengers in accordance with the Act and this Part.

*Stretcher Van Provider – an entity licensed by the Department to provide non-emergency transportation of passengers on a stretcher in compliance with* the *Act* and this Part*, utilizing stretcher vans.* (Section 3.86 of the Act)

Stroke Network – a voluntary association of hospitals, including a hospital with a board eligible or board certified neurosurgeon or neurologist, that may, among other activities, share stroke protocols; provide medical consultations on possible or known acute stroke patients or on inter-facility transfers of possible or known acute stroke patients; or provide education specific to improving acute stroke care. Participating hospitals in a stroke network may be in-state or out-of-state.

Substantial Compliance – meeting requirements except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved.

Substantial Failure – the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved.

Sustained Hypotension – two systolic blood pressures of 90 mmHg five minutes apart or, in the case of a pediatric patient, two systolic blood pressures of 80 mmHg five minutes apart.

System Participation Suspension – the suspension from participation within an EMS System of an individual or individual provider, as specifically ordered by that System's EMS Medical Director.

Telecommunications Equipment – a radio capable of transmitting and receiving voice and electrocardiogram (EKG) signals.

Telemetry – the transmission of data by wire, radio, or other means from remote sources to a receiving station for recording and analysis.

*Trauma – any significant injury which involves single or multiple organ systems.* (Section 3.5 of the Act)

Trauma Category I – a classification of trauma patients in accordance with Appendix C and Appendix F of this Part.

Trauma Category II – a classification of trauma patients in accordance with Appendix C and Appendix F of this Part.

*Trauma Center – a hospital which: within designated capabilities provides care to trauma patients; participates in an approved EMS System; and is duly designated pursuant to the provisions of* the *Act.* (Section 3.90 of the Act)

Trauma Center Medical Director – the trauma surgeon appointed by a Department-designated Trauma Center who has the responsibility and authority for the coordination and management of patient care and trauma services at the Trauma Center. He or she must have 24-hour independent operating privileges and shall be board certified in surgery with at least one year of experience in trauma care.

Trauma Center Medical Directors Committee – a group composed *of the Region's Trauma Center Medical Directors.* (Section 3.25 of the Act)

Trauma Coordinator – a registered nurse working in conjunction with the Trauma Medical Director. The Trauma Coordinator is responsible for the organization of service and systems necessary for a multidisciplinary approach throughout the continuum of trauma care.

*Trauma Nurse Specialist or TNS – a registered professional nurse who has successfully completed education and testing requirements as prescribed by the Department, and is certified in accordance with* this Part. (Section 3.75 of the Act)

Trauma Nurse Specialist Course Coordinator or TNSCC – a registered nurse appointed by the Chief Executive Officer of a hospital designated as a TNS Training Site, who meets the requirements of Section 515.750 of this Part.

Trauma Service – an identified hospital surgical service in a Level I or Level II

Trauma Center functioning under a designated trauma director in accordance with Sections 515.2030(c) and 515.2040(c) of this Part.

Unit Identifier – a number assigned by the Department for each EMS vehicle in the State to be used in radio communications.

*Vehicle Service Provider – an entity licensed by the Department to provide emergency or non-emergency medical services in compliance with* the *Act* and this Part *and an operational plan approved by its EMS System(s), utilizing at least ambulances or specialized emergency medical service vehicles (SEMSV).* (Section 3.85(a) of the Act)

Watercraft – a nautical vessel, boat, airboat, hovercraft or other vehicle that operates in, on or across water.

(Source: Amended at 39 Ill. Reg. 13075, effective September 8, 2015)

SUBPART C: EMS SYSTEMS

**Section 515.330 EMS System Program Plan**

An Emergency Medical Services (EMS) System Program Plan shall contain the following information:

a) The name, address and fax number of the Resource Hospital;

b) The names and resumes of the following persons:

1) The EMS MD,

2) The Alternate EMS MD,

3) The EMS Administrative Director,

4) The EMS System Coordinator;

c) The name, address and fax number of each Associate or Participating Hospital (see subsection (i));

d) The name and address of each ambulance provider participating within the EMS System;

e) A map of the EMS System's service area indicating the location of all hospitals and ambulance providers participating in the System;

f) Current letters of commitment from the following persons at the Resource Hospital, which describe the commitment of the writer and his or her office to the development and ongoing operation of the EMS System, and which state the writer's understanding of and commitment to any necessary changes, such as emergency department staffing and educational requirements:

1) The Chief Executive Officer of the hospital,

2) The Chief of the Medical Staff, and

3) The Director of the Nursing Services;

g) A letter of commitment from the EMS MD that describes the EMS MD's agreement to:

1) Be responsible for the ongoing education of all System personnel, including coordinating didactic and clinical experience;

2) Develop written standing orders (treatment protocols, standard operating procedures) to be used in the EMS MD's absence and certify that all involved personnel will be knowledgeable in emergency care and capable of providing treatment and using communications equipment once the program is operational;

3) Be responsible for supervising all personnel participating within the System, as described in the System Program Plan;

4) Develop or approve one or more ambulance emergency run reports (run sheets) covering all types of ambulance runs performed by System ambulance providers;

5) Ensure that the Department has access to all records, equipment and vehicles under the authority of the EMS MD during any Department

inspection, investigation or site survey;

6) Notify the Department of any changes in personnel providing pre-hospital care in accordance with the EMS System Program Plan approved by the Department;

7) Be responsible for the total management of the System, including the enforcement of compliance with the System Program Plan by all participants within the System;

8) Ensure that a copy of the application for renewal (a form supplied by the Department) is provided to every EMT-B, EMT-I or EMT-P within the System who has not been recommended for re-licensure by the EMS MD; and

9) Be responsible for compliance with the provisions of Sections 515.400 and 515.410 of this Part;

h) A description of the method of providing EMS services, which includes:

1) Single vehicle response and transport;

2) Dual vehicle response;

3) Level of first response vehicle;

4) Level of transport vehicle;

5) A policy that describes in-field service level upgrade, using advanced level EMS vehicle service providers;

6) A policy that describes ambulance service provider and vehicle service provider upgrade – rural population (optional);

7~~5~~) Use of mutual aid agreements; and

8~~6~~) Informing the caller requesting an emergency vehicle of the estimated time of arrival when this information is requested by the caller;

i) A letter of commitment from each Associate Hospital, Participating Hospital or Veterans Health Administration facility within the System, which includes the following:

1) Signed statements by the hospital's Chief Executive Officer, Chief of the Medical Staff and Director of the Nursing Service describing their commitments to the standards and procedures of the System;

2) A description of how the hospital will relate to the EMS System Resource Hospital, its involvement in the ongoing planning and development of the program, and its use of the education and continuing education aspects of the program;

3) Only at an Associate Hospital, a commitment to meet the System's educational standards for ECRNs;

4) An agreement to provide exchange of all drugs and equipment with all pre-hospital providers participating in the System or other EMS system whose ambulances transport to them;

5) An agreement to use the standard treatment orders as established by the Resource Hospital;

6) An agreement to follow the operational policies and protocols of the System;

7) A description of the level of participation in the training and continuing education of pre-hospital personnel;

8) An agreement to collect and provide relevant data as determined by the Resource Hospital;

9) A description of the hospital's data collection and reporting methods and the personnel responsible for maintaining all data;

10) An agreement to allow the Department access to all records, equipment and vehicles relating to the System during any Department inspection, investigation or site survey;

11) If the hospital is a participant in another System, a description of how it will interact within both Systems and how it will ensure that communications interference as a result of this dual participation will be minimized; and

12) The names and resumes of the Associate Hospital EMS MD and Associate Hospital EMS Coordinator;

j) A letter of commitment from each ambulance provider participating within the System, which indicates compliance with Section 515.810 of this Part;

k) Descriptions and documentation of each communications requirement provided in Section 515.400 of this Part;

l) The Program Plan shall consist of the EMS System Manual, which shall be provided to all System participants and shall include the following Sections:

1) Education and Training

A) Content and curricula of training programs for EMT, Emergency Medical Dispatcher, First Responder, Pre-Hospital RN, ECRN and Lead Instructor candidates, including:

i) Entrance and completion requirements;

ii) Program schedules;

iii) Goals and objectives;

iv) Subject areas;

v) Didactic requirements, including skills laboratories;

vi) Clinical requirements; and

vii) Testing formats.

B) Training program for Pre-arrival Medical Instructions, if applicable, including:

i) Entrance and completion requirements;

ii) Description of course materials; and

iii) Testing formats.

C) Continuing education for EMTs, Pre-Hospital RNs, and ECRNs, including:

i) System requirements (hours, types of programs, etc.);

ii) System program for System participants: types of activities covered (e.g., telemetry review, and morbidity and mortality conferences) and protocols for enrollment and completion;

iii) Requirements for approval of academic course work;

iv) Didactic programs offered by the System;

v) Clinical opportunities available within the System; and

vi) Record-keeping requirements for participants, which must be maintained at the Resource Hospital.

D) Renewal Protocols

i) System examination requirements for EMTs, Pre-Hospital RNs, ECRNs;

ii) Procedures for renewal of Pre-Hospital RN and ECRN approvals;

iii) Requirements for submission of transaction cards for EMTs meeting renewal requirements; and

iv) Department renewal application forms for EMTs who have not met renewal requirements according to System records.

E) System participant education and information, including:

i) Distribution of System Manual amendments;

ii) In-services for policy and protocol changes;

iii) Methods for communicating updates on System and Regional activities, and other matters of medical, legal and/or professional interest; and

iv) Locations of library/resource materials, forms, schedules, etc.

F) A plan that describes how Emergency Medical dispatch agencies and First Responders participate within the EMS System Program Plan (see Sections 515.710 and 515.720 of this Part).

G) A System may require that up to one-half of the continuing education hours that are required toward re-licensure, as determined by the Department, be earned through attendance at system-taught courses.

H) A didactic continuing education course that has received a State site code shall be accepted by the System, subject only to the requirements of subsection (l)(1)(C).

2) Drugs and Equipment

A) A list of all drugs and equipment required for each type of System vehicle; and

B) Procedures for obtaining replacements at System hospitals.

3) Personnel Requirements for EMTs

A) Minimum staffing for each type and level of vehicle; and

B) Guidelines for EMT patient interaction.

4) In-Field Protocols, including medical-legal policies, but not limited to:

A) The Regional Standing Medical Orders;

B) System Standing Medical Orders as listed in Section 515.Appendix D, to include Department-approved protocols for medical treatment, including, but not limited to, burns, hypothermia, respiratory distress, shock, trauma, cardiac arrest and toxic exposure (e.g., Department-approved BLS medical treatment protocol, EMSC medical treatment protocol) at a minimum;

C) Appropriate interaction with law enforcement on the scene;

D) When and how to notify a coroner or medical examiner;

E) Appropriate interaction with an independent physician/nurse on the scene;

F) The use of restraints;

G) Consent for treatment of minors;

H) Patient choice and refusal regarding treatment, transport, or destination;

I) The duty to perform all services without unlawful discrimination;

J) Offering immediate and adequate information regarding services available to victims of abuse, for any person suspected to be a victim of domestic abuse;

K) Patient abandonment;

L) Emotionally disturbed patients;

M) Patient confidentiality and release of information;

N) Durable power of attorney for health care;

O) Do Not Resuscitate (DNR) orders (see Section 515.380); and

P) A policy concerning the use of latex-free supplies.

5) Communications standards and protocols, including:

A) The information contained in the System Program Plan relating to the requirements of Sections 515.410(a)(1), (2), (3) and (4) and 515.390(b) and (g);

B) Protocols ensuring that physician direction and voice orders to EMS vehicle personnel and other hospitals participating in the System are provided from the operational control point of the Resource or Associate Hospital;

C) Protocols ensuring that the voice orders via radio and using telemetry shall be given by or under the direction of the EMS MD or the EMS MD's designee, who shall be either an ECRN, or physician; and

D) Protocols defining when an ECRN should contact a physician.

6) Quality improvement measures for both adult and pediatric patient care shall be performed on a quarterly basis and be available upon Department request; ambulance operation and System training activities, including, but not limited to, monitoring training activities to ensure that the instructions and materials are consistent with United States Department of Transportation training standards for EMTs and Section 3.50 of the Act; unannounced inspections of pre-hospital services; and peer review.

7) Data collection and evaluation methods that include:

A) The process that will facilitate problem identification, evaluation and monitoring in reference to patient care and/or reporting discrepancies from hospital and pre-hospital providers;

B) A copy of the pre-hospital reporting form; and

C) A sample of the information and data to be reported to the Department summarizing System activity (see Section 515.350).

8) Operational policies that delineate the respective roles and responsibilities of all providers in the System regarding the provision of emergency service, including:

A) Resource Hospital overrides (situations in which Associate Hospital orders are overruled by the Resource Hospital);

B) Infectious disease and disinfection procedures, including the policy on significant exposure;

C) Reporting and documenting~~documentation of~~ problems; and

D) Protocols for ILS/ALS System personnel to assess the condition of a patient being initially treated in the field by BLS personnel, for the purpose of determining whether a higher level of care is warranted and transfer of care of the patient to the ILS or ALS personnel is therefore appropriate. The protocols shall include a requirement that neither the assessment nor the transfer of care can be initiated if it would appear to jeopardize the patient's condition, and shall require that the activities of the System personnel be under the immediate direction of the EMS MD or designee.

9) Any procedures regarding disciplinary or suspension decisions and the review of those decisions that the System has elected to follow in addition to those required by the Act.

10) Any System policies regarding abuse of controlled substances or conviction of a felony crime by System personnel whether on or off duty.

11) The responsibilities of the EMS Coordinator, as designated by the EMS MD, including data evaluation, supervision of clinical, didactic and field experience training, and physician and nurse education as required.

12) Each EMS System shall develop an administrative policy that provides the IDPH Division of EMS and Highway Safety and its State Regional EMS

Coordinator with notification the next business day when an Illinois licensed EMS crew member is killed in the line of duty.

13~~12~~) The responsibilities of the EMS MD;

m) *Written protocols for the bypassing of or diversion to any hospital, trauma center or regional trauma center,* Primary Stroke Center or Emergent Stroke Ready Hospital, *which provide that a person shall not be transported to a facility other than the nearest hospital, regional trauma center or trauma center,* Primary Stroke Center or Emergent Stroke Ready Hospital *unless the medical benefits to the patient reasonably expected from the provision of appropriate medical treatment at a more distant facility outweigh the increased risks to the patient from transport to the more distant facility, or the transport is in accordance with the System's protocols for patient choice or refusal.* (Section 3.20(c)(5) of the Act) The bypass status policy shall include criteria to address how the hospital will manage pre-hospital patients with life threatening conditions within the hospital's then-current capabilities while the hospital is on bypass status. In addition, a hospital can declare a resource limitation, which is further outlined in the System Plan, for the following conditions:

1) There are no critical or monitored beds available in the hospital; or

2) An internal disaster occurs in the hospital;

n) Bypass status may not be honored if three or more hospitals in a geographic area are on bypass status and transport time by an ambulance to the nearest facility exceeds 15 minutes;

o) Each hospital shall have a policy addressing peak census procedures, such as the model policy developed by the Department.

(Source: Amended at 39 Ill. Reg. 13075, effective September 8, 2015)

SUBPART F: VEHICLE SERVICE PROVIDERS

**Section 515.830 Ambulance Licensing Requirements**

a) Vehicle Design

1) Each new vehicle used as an ambulance shall comply with the criteria established by the U.S. General Services Administration's Specification for Ambulance (KKK-A-1822F), with the exception of Section 3.16.2, Color, Paint and Finish.

2) *A licensed vehicle* shall be exempt *from subsequent vehicle design standards or specifications required by the Department* in this Part, *as long as* the~~*said*~~ *vehicle is continuously in compliance with the vehicle design standards and specifications originally applicable to that vehicle, or until* the~~*said*~~ *vehicle's title of ownership is transferred*. (Section 3.85(b)(8) of the Act)

3) The following requirements listed in Specification KKK-A-1822F shall be considered mandatory in Illinois even though they are listed as optional in that publication:

A) 3.7.7.1 Each vehicle will be equipped with either a battery charger or battery conditioner (see 3.15.3 item 7).

B) 3.8.5.2 Patient compartment checkout lights will be provided (see 3.15.3 item 9).

C) 3.12.1 An oxygen outlet will be provided above the secondary patient (see 3.15.4 M9).

D) 3.15.4M3 Electric clock with sweep second hand will be provided.

b) Equipment Requirements – Basic Life Support Vehicles
Each ambulance used as a Basic Life Support vehicle shall meet the following equipment requirements, as determined by the Department by an inspection:

1) Stretchers, Cots~~,~~ and Litters

A) Primary Patient Cot
Shall meet the requirements of sections 3.11.5, 3.11.8.1 of KKK-A-1822F.

B) Secondary Patient Stretcher
Shall meet the requirements of sections 3.11.5, 3.11.5.1, 3.11.8.1

of KKK-A-1822F.

2) Oxygen, portable
Shall meet the operational requirements of section 3.12.2 of KKK-A-1822-F.

3) Suction, portable

A) Shall meet the operational requirements of section 3.12.4 of KKK-A-1822F.

B) A manually operated suction device is acceptable if approved by the Department.

4) Medical Equipment

A) Squeeze bag-valve-mask ventilation unit with adult size transparent mask and child size bag-valve-mask ventilation unit with child, infant and newborn size transparent masks

B) Lower-extremity traction splint, adult and pediatric sizes

C) Blood pressure cuff, one each, adult, child and infant sizes and gauge

D) Stethoscopes, two per vehicle

E) Pneumatic counterpressure trouser kit, adult size, optional

F) Long spine board with three sets of torso straps, 72" x 16" minimum

G) Short spine board (32" x 16" minimum) with two 9-foot torso straps, one chin and head strap or equivalent vest type (wrap around) per vehicle; extrication device optional

H) Airway, oropharyngeal – adult, child, and infant, sizes 00-5

I) Airway, nasopharyngeal with lubrication, sizes 12-34F

J) Two adult and two pediatric sized non-rebreather oxygen masks per vehicle

K) Two infant partial re-breather oxygen masks per vehicle

L) Three nasal cannulas, adult and child size, per vehicle

M) Bandage shears, one per vehicle

N) Extremity splints, adult, two long and short per vehicle

O) Extremity splints, pediatric, two long and short per vehicle

P) Rigid cervical collars – one pediatric, small, medium, and large sizes or adjustable size collars per vehicle. Shall be made of rigid material to minimize flexion, extension, and lateral rotation of the head and cervical spine when spine injury is suspected

Q) Patient restraints, arm and leg, sets

R) Pulse oximeter with pediatric and adult probes

S) AED or defibrillator that includes pediatric capability

5) Medical Supplies

A) Trauma dressing – six per vehicle

B) Sterile gauze pads – 20 per vehicle, 4 inches by 4 inches

C) Bandages, soft roller, self-adhering type, 10 per vehicle, 4 inches by 5 yards

D) Vaseline gauze – two per vehicle, 3 inches by 8 inches

E) Adhesive tape rolls – two per vehicle

F) Triangular bandages or slings – five per vehicle

G) Burn sheets – two per vehicle, clean, individually wrapped

H) Sterile solution (normal saline) – four per vehicle, 500 cc or two per vehicle, 1,000 cc plastic bottles or bags

I) Thermal absorbent blanket and head cover, aluminum foil roll or appropriate heat reflective material – minimum one

J) Obstetrical kit, sterile – minimum one, pre-packaged with instruments and bulb syringe

K) Cold packs, three per vehicle

L) Hot packs, three per vehicle, optional

M) Emesis basin – one per vehicle

N) Drinking water – one quart, in non-breakable~~nonbreakable~~ container; sterile water may be substituted

O) Ambulance emergency run reports – 10 per vehicle, on a form prescribed by the Department or one that contains the data elements from the Department-prescribed form as described in Section 515.Appendix E~~ of this Part~~ or electronic documentation with paper backup

P) Pillows – two per vehicle, for ambulance cot

Q) Pillowcases – two per vehicle, for ambulance cot

R) Sheets – two per vehicle, for ambulance cot

S) Blankets – two per vehicle, for ambulance cot

T) CPR mask – one per vehicle, with safety valve to prevent backflow of expired air and secretions

U) Urinal

V) Bedpan

W) Remains bag, optional

X) Nonporous disposable gloves

Y) Impermeable red biohazard-labeled isolation bag

Z) Face protection through any combination of masks and eye protection and field shields

AA) Suction catheters – sterile, single use, two each, 6, 8, 10, 12, 14 and 18F, plus three tonsil tip semi-rigid pharyngeal suction tip catheters per vehicle; all shall have a thumb suction control port

BB) Child and infant or convertible car seats

CC) Current equipment/drug dosage sizing tape or pediatric equipment/drug age/weight chart

DD) Flashlight, two per vehicle, for patient assessment

EE) Current Illinois Department of Transportation Safety Inspection sticker in accordance with Section 13-101 of the~~(see~~ Illinois Vehicle Code~~ [625 ILCS 5/13-101])~~

FF) Illinois Poison Center telephone number

GG) Department of Public Health Central Complaint Registry telephone number posted where visible to the patient

HH) Medical Grade Oxygen

c) Equipment Requirements – Intermediate and Advanced Life Support Vehicles
Each ambulance used as an Intermediate Life Support vehicle or as an Advanced Life Support vehicle shall meet the requirements in subsections (b) and (d)~~ of this Section~~ and shall also comply with the equipment and supply requirements as determined by the EMS Medical Director in the System in which the ambulance

and its crew participate. Drugs shall include both adult and pediatric dosages. These vehicles shall have a current pediatric equipment/drug dosage sizing tape or pediatric equipment/drug dosage age/weight chart.

d) Equipment Requirements – Rescue and/or Extrication
The following equipment shall be carried on the ambulance, unless the ambulance is routinely accompanied by a rescue vehicle:

1) Wrecking bar, 24"

2) Goggles for eye safety

3) Flashlight – one per vehicle, portable, battery operated

4) Fire Extinguisher – two per vehicle, ABC dry chemical, minimum 5-pound unit with quick release brackets. One mounted in driver compartment and one in patient compartment

e) Equipment Requirements – Communications Capability
Each ambulance shall have reliable ambulance-to-hospital radio communications capability and meet the requirements provided in Section 515.400 of this Part.

f) Equipment Requirements – Epinephrine
*A person currently licensed as an EMT-B, EMT-I, or EMT-P who has successfully completed a Department-approved course in the administration of epinephrine shall be required to carry epinephrine* (both adult and pediatric doses) *with him or her* in the ambulance or drug box *as part of the EMT medical supplies whenever he or she is performing the duties of an emergency medical technician,* within the context of the EMS System plan. (Section 3.55(a-7) of the Act)

g) Personnel Requirements

1) Each Basic Life Support ambulance shall be staffed by a minimum of one EMT Basic, Intermediate, Paramedic or Pre-Hospital RN and one other EMT Basic, Intermediate, Paramedic, Pre Hospital RN or physician on all responses.

2) Each ambulance used as an Intermediate Life Support vehicle shall be staffed by a minimum of one Intermediate, Paramedic or Pre-Hospital RN

and one other EMT Basic, Intermediate, Paramedic, Pre-Hospital RN or physician on all responses.

3) Each ambulance used as an Advanced Life Support vehicle shall be staffed by a minimum of one Paramedic or Pre-Hospital RN and one other EMT Basic, Intermediate, Paramedic, Pre-Hospital RN or physician on all responses.

h) Alternate Rural Staffing Authorization

1) A Vehicle Service Provider *that serves a rural or semi-rural population of 10,000 or fewer inhabitants and exclusively uses volunteers or paid-on-call personnel or a combination* to provide patient care may apply for alternate rural staffing authorization to authorize the ambulance, Non-Transport Vehicle, Special-Use Vehicle, or Limited Operation Vehicle to be staffed by one EMT licensed at or above the level at which the vehicle is licensed, plus one First Responder/Emergency Medical Responder when two licensed Emergency Services Personnel are not available to respond. (Section 2.85(b)(3) of the Act)

2) The EMT licensed at or above the level at which the ambulance is licensed shall be the primary patient care provider in route to the health care facility.

3) The Vehicle Service Provider shall obtain the prior written approval for alternate rural staffing from the EMS MD. The EMS MD shall submit to the Department a request for an amendment to the existing EMS System plan that clearly demonstrates the need for alternate rural staffing in accordance with subsection (h)(4) and that the alternate rural staffing will not reduce the quality of medical care established by the Act and this Part.

4) A Vehicle Service Provider requesting alternate rural staffing authorization shall clearly demonstrate all of the following:

A) That it has undertaken extensive efforts to recruit and train licensed EMS personnel;

B) That, despite its exhaustive efforts, licensed EMS personnel are not available; and

C) That, without alternate rural staffing authorization, the rural or semi-rural population of 10,000 or fewer inhabitants served will be unable to meet staffing requirements as specified in subsection (g).

5) The alternate rural staffing authorization and subsequent authorizations shall include beginning and termination dates not to exceed 48 months. The EMS MD shall re-evaluate subsequent requests for authorization for compliance with subsections (h)(4)(A) through (C)~~ of this Section~~. Subsequent requests for authorization shall be submitted to the Department for approval in accordance with this Section.

6) Alternate rural staffing authorization may be suspended or revoked, after an opportunity for hearing, if the Department determines that a violation of this Part has occurred. Alternate rural staffing authorization may be summarily suspended by written order of the Director~~ or designee~~, served on the Vehicle Service Provider, if the Director~~ or designee~~ determines that continued operation under the alternate rural staffing authorization presents an immediate threat to the health or safety of the public. After summary suspension, the Vehicle Service Provider shall have the opportunity for an expedited hearing.

7) Vehicle Service Providers that cannot meet the alternate rural staffing authorization requirements of this Section may apply through the EMS MD to the Department for a staffing waiver pursuant to Section 515.150.

i) Alternate Response Authorization

1) A Vehicle Service Provider that exclusively uses volunteers or paid-on-call personnel or a combination to provide patient care who are not required to be stationed with the vehicle may apply to the Department for alternate response authorization to authorize the ambulance, Non-Transport Vehicle, Special-Use Vehicle, or Limited Operation Vehicle licensed by the Department to travel to the scene of an emergency staffed by at least one licensed Emergency Medical Responder, Emergency Medical Technician, Advanced Emergency Medical Technician, Emergency Medical Technician-Intermediate, Paramedic or Pre-Hospital RN ("Emergency Services Personnel").

2) A Vehicle Service Provider operating under alternate response authorization shall ensure that a second licensed Emergency Services Personnel is on scene or in route to the emergency response location.

3) The Vehicle Service Provider shall demonstrate to the Department that it has safeguards to ensure that no patient will be transported with fewer than two EMTs, at least one of whom shall be licensed at or above the level of the license for the vehicle, unless the Vehicle Service Provider is approved for alternate rural staffing authorization.

4) Alternate response authorization may be suspended or revoked, after an opportunity for hearing, if the Department determines that a violation of this Part has occurred. Alternate response authorization may be summarily suspended by written order of the Director ~~or designee~~, served on the Vehicle Service Provider, if the Director ~~or designee~~ determines that continued operation under the alternate response authorization presents an immediate threat to the health or safety of the public. After summary suspension, the licensee shall have the opportunity for an expedited hearing (see Section 515.180).

j) Alternate Response Authorization – Secondary Response Vehicles

1) A Vehicle Service Provider that uses volunteers or paid-on-call personnel or a combination to provide patient care, and staffs its primary response vehicle with personnel stationed with the vehicle, may apply for alternate response authorization for its secondary response vehicles. The secondary or subsequent ambulance, Non-Transport Vehicle, Special-Use Vehicle, or Limited Operation Vehicle licensed by the Department at the BLS, ILS or ALS level, when personnel are not stationed with the vehicle, may respond to the scene of an emergency when the primary vehicle is on another response. The vehicle shall be staffed by at least one licensed Emergency Services Personnel.

2) A Vehicle Service Provider operating under the alternate response authorization shall ensure that a second licensed Emergency Services Personnel provider is on the scene or in route to the emergency response location.

3) The Vehicle Service Provider shall demonstrate to the Department that it

has written safeguards to ensure that no patient will be transported with fewer than two EMTs, at least one of whom shall be licensed at or above the level of the license for the ambulance, unless the Vehicle Service Provider is approved for alternate rural staffing authorization under subsection (h).

4) Alternate response authorization for secondary response vehicles may be suspended or revoked, after an opportunity for hearing, if the Department determines that a violation of this Part has occurred. Alternate response authorization for secondary response vehicles may be summarily suspended by written order of the Director ~~or designee~~, served on the Vehicle Service Provider, if the Director ~~or designee~~ determines that continued operation under the alternate response authorization for secondary vehicles presents an immediate threat to the health or safety of the public. After summary suspension, the Vehicle Service Provider shall have the opportunity for an expedited hearing (see Section 515.180).

k) Operational Requirements

1) An ambulance that is transporting a patient to a hospital shall be operated in accordance with the requirements of the Act and this Part.

2) A licensee shall operate its ambulance service in compliance with this Part, 24 hours a day, every day of the year. Except as required in this subsection (k), each individual vehicle within the ambulance service shall not be required to operate 24 hours a day, as long as at least one vehicle for each level of service covered by the license is in operation at all times. An ALS vehicle can be used to provide coverage at either an ALS, ILS or BLS level, and the coverage shall meet the requirements of this Section.

A) At the time of application for initial or renewal licensure, and upon annual inspection, the applicant or licensee shall submit to the Department for approval a list containing the anticipated hours of operation for each vehicle covered by the license.

i) A current roster shall also be submitted that lists the EMS Personnel, Pre-Hospital RNs and physicians who are employed or available to staff each vehicle during its hours of operation. The roster shall include each staff person's

name, license number, license expiration date and daytime telephone number, and shall state whether the person is scheduled to be on site or on call.

ii) An actual or proposed four-week staffing schedule shall also be submitted, which covers all vehicles, includes staff names from the submitted roster, and states whether each staff member is scheduled to be on site or on call during each work shift.

B) Licensees shall obtain the EMS MD's approval of their vehicles' hours of operation prior to submitting an application to the Department. An EMS MD may require specific hours of operation for individual vehicles to assure appropriate coverage within the System.

C) A Vehicle Service Provider that advertises its service as operating a specific number of vehicles or more than one vehicle shall state in the advertisement the hours of operation for those vehicles, if individual vehicles are not available 24 hours a day. Any advertised vehicle for which hours of operation are not stated shall be required to operate 24 hours a day.

3) For each patient transported to a hospital, the ambulance staff shall, at a minimum, measure and record the information required in Section 515.Appendix E.

4) A Vehicle Service Provider shall provide emergency service within the service area on a per-need basis without regard to the patient's ability to pay for the service.

5) A Vehicle Service Provider shall provide documentation of procedures to be followed when a call for service is received and a vehicle is not available, including copies of mutual aid agreements with other ambulance providers. (See Section 515.810(h)~~ of this Part~~.)

6) A Vehicle Service Provider shall not operate its ambulance at a level exceeding the level for which it is licensed (basic life support, intermediate life support, advanced life support), unless the vehicle is

operated pursuant to an EMS System-approved in-field service level upgrade or ambulance service upgrades – rural population.

7) The Department will inspect ambulances each year. If the Vehicle Service Provider has no violations of this Section that threaten the health of safety of patients or the public for the previous five years and has no substantiated complaints against it, the Department will inspect the Vehicle Service Provider's ambulances in alternate years, and the Vehicle Service Provider may, with the Department's prior approval, self-inspect its ambulances in the other years. The Vehicle Service Provider shall use the Department's inspection form for self-inspection. Nothing contained in this subsection (k)(7) shall prevent the Department from conducting unannounced inspections.

l) A licensee may use a replacement vehicle for up to 10 days without a Department inspection, provided that the Department is notified of the use of the vehicle by the second working day.

m) *Patients, individuals who accompany a patient, and emergency services personnel may not smoke while inside an ambulance or SEMSV. The Department of Public Health* shall *impose a civil penalty on an individual who violates this subsection* (m) *in the amount of $100.* (Section 3.155(h) of the Act)

n) Any provider may request a waiver of any requirements in this Section under the provisions of Section 515.150.

(Source: Amended at 39 Ill. Reg. 13075, effective September 8, 2015)

**Section 515.833 In-Field Service Level Upgrade – Rural Population**

a) *Ambulance Service Provider and Vehicle Service Provider Upgrades – Rural Population*

1) *An ambulance operated by a rural ambulance service provider or a specialized emergency medical services vehicle or alternate response vehicle operated by a rural vehicle service provider may be upgraded, as defined by the EMS System Medical Director in a policy or procedure, as long as the EMS System Medical Director and the Department have approved the proposal, to the highest level of EMT license (advanced life*

*support/paramedic, intermediate life support,* advanced EMT *or basic life support)* or Pre-Hospital RN *held by any person staffing that ambulance, specialized emergency medical services vehicle, or alternate response vehicle. The ambulance service provider's proposal or rural services vehicle provider's proposal for an upgrade must include all of the following:*

A) *The manner in which the provider will secure and store advanced life support equipment, supplies and medications.*

B) *The type of quality assurance the provider will perform.*

C) *An assurance that the provider will advertise only the level of care that can be provided 24 hours a day.*

D) *A statement that the provider will have that vehicle inspected by the Department annually.*

2) *If a rural ambulance service provider or rural vehicle service provider is approved to provide an in-field service level upgrade based on the licensed personnel on the vehicle, all the advanced life support medical supplies, durable medical equipment, and medications must be environmentally controlled, secured, and locked with access by only the personnel who have been authorized by the EMS System Medical Director to utilize those supplies.*

3) *The EMS System shall routinely perform quality assurance, in compliance with the EMS System's quality assurance plan approved by the Department, on in-field service level upgrades authorized under this Section to ensure compliance with the EMS System plan.*

4) *The EMS System Medical Director may define what constitutes an in-field service level upgrade through an EMS System policy or procedure. An in-field service level upgrade may include, but need not be limited to, an upgrade to a licensed ambulance, alternate response vehicle or specialized emergency medical services vehicle.*

b) *If the EMS System Medical Director approves a proposal for a rural in-field service level upgrade under this Section, he or she shall submit the proposal to*

*the Department along with a statement of approval signed by him or her. Once the Department has approved the proposal, the rural ambulance service provider or rural vehicle service provider will be authorized to function at the highest level of EMT license (advanced life support/paramedic*, advanced EMT, *intermediate life support, or basic life support)* or Pre-Hospital RN *held by any person staffing the vehicle*. (Section 3.87 of the Act)

c) The Department will approve or deny the request based on the Department's review and determination of the provider's ability to comply with requirements as outlined in the Act and this Part. Any application found deficient will be returned to the provider with a request for additional information or clarification.

(Source: Added at 39 Ill. Reg. 13075, effective September 8, 2015)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: White-Tailed Deer Hunting By Use of Bow and Arrow

2) Code Citation: 17 Ill. Adm. Code 670

3) Section Number: 670.30 — Emergency Action: Amendment

4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.5, 2.20, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.5, 2.20, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36]

5) Effective Date of Emergency Rule: September 3, 2015

6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: This rule will not expire before the end of the 150-day period.

7) Date filed with the Index Department: September 3, 2015

8) A copy of the emergency rule, including any material incorporated by reference, is on file in the Department of Natural Resource's principal office and is available for public inspection.

9) Reason for Emergency: HB 3674 was recently passed by the Illinois General Assembly, and signed into law as PA 99-308, effective August 7, 2015. The new law contains language which, unless clarified by administrative rule, will cause confusion among our constituents and potentially cause inadvertent violations. The Department wants to avoid this, and since the affected hunting season begins October 1, the Department believes an emergency rule change is necessary to best serve the interests of the citizens of Illinois.

10) A Complete Description of the Subjects and Issues Involved: This Part is being amended to add young hunters that possess a Youth Hunting License and an archery deer permit to the list of hunters eligible to use a crossbow during the archery deer hunting season; to require that eligible youth who desire to take advantage of the new crossbow regulation must be under the direct supervision of a parent, grandparent, or guardian who is 21 years of age or older; to require that the adult supervisor accompanying the youth (while hunting with a crossbow) must possess both a valid Illinois hunting license and a valid archery permit; and to provide that accompaniment by a parent, grandparent, or guardian

shall serve as evidence that express permission of an adult was granted to obtain the deer permit.

11) Are there any proposed rulemakings pending on this Part? Yes

| Section Number: | Proposed Action: | *Illinois Register* Citation: |
|---|---|---|
| 670.20 | Amendment | 39 Ill. Reg. 8873; July 6, 2015 |

12) Statement of Statewide Policy Objective: This rulemaking will not affect units of local governments.

13) Information and questions regarding this rulemaking shall be directed to:

Robert G. Mool, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 670
WHITE-TAILED DEER HUNTING BY USE OF BOW AND ARROW

Section
670.10 Statewide Open Seasons and Counties
670.20 Statewide Deer Permit Requirements
670.21 Deer Permit Requirements – Landowner/Tenant Permits
670.30 Statewide Legal Bow and Arrow
EMERGENCY
670.40 Statewide Deer Hunting Rules
670.50 Rejection of Application/Revocation of Permits
670.55 Reporting Harvest
670.60 Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.5, 2.20, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.5, 2.20, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36].

SOURCE: Adopted at 5 Ill. Reg. 8888, effective August 25, 1981; codified at 5 Ill. Reg. 10641; emergency amendment at 5 Ill. Reg. 11402, effective October 14, 1981, for a maximum of 150 days; emergency expired March 13, 1982; amended at 6 Ill. Reg. 10721, effective August 20, 1982; emergency amendment at 6 Ill. Reg. 15581, effective December 14, 1982, for a maximum of 150 days; emergency expired May 13, 1983; amended at 7 Ill. Reg. 10790, effective August 24, 1983; amended at 8 Ill. Reg. 19004, effective September 26, 1984; amended at 9 Ill. Reg. 14317, effective September 9, 1985; amended at 10 Ill. Reg. 16658, effective September 22, 1986; amended at 11 Ill. Reg. 2275, effective January 20, 1987; amended at 12 Ill. Reg. 12042, effective July 11, 1988; amended at 13 Ill. Reg. 12839, effective July 21, 1989; amended at 14 Ill. Reg. 14787, effective September 4, 1990; amended at 14 Ill. Reg. 19859, effective December 3, 1990; amended at 15 Ill. Reg. 10021, effective June 24, 1991; amended at 15 Ill. Reg. 16691, effective October 31, 1991; amended at 16 Ill. Reg. 11116, effective June 30, 1992; amended at 17 Ill. Reg. 286, effective December 28, 1992; amended at 17 Ill. Reg. 13452, effective July 30, 1993; amended at 18 Ill. Reg. 5842, effective April 5, 1994; amended at 19 Ill. Reg. 7560, effective May 26, 1995; amended at 19 Ill. Reg. 15411, effective October 26, 1995; amended at 20 Ill. Reg. 6723, effective May 6, 1996; amended at 21 Ill. Reg. 5561, effective April 19, 1997; amended at 22 Ill. Reg. 7995, effective April 28, 1998; amended at 23 Ill. Reg. 6829, effective

May 20, 1999; amended at 24 Ill. Reg. 6908, effective April 20, 2000; amended at 25 Ill. Reg. 7217, effective May 22, 2001; amended at 25 Ill. Reg. 11471, effective August 14, 2001; amended at 26 Ill. Reg. 9356, effective June 17, 2002; amended at 27 Ill. Reg. 10025, effective June 23, 2003; amended at 28 Ill. Reg. 9968, effective July 6, 2004; amended at 29 Ill. Reg. 9761, effective June 24, 2005; amended at 30 Ill. Reg. 12196, effective June 28, 2006; amended at 31 Ill. Reg. 8202, effective May 25, 2007; amended at 32 Ill. Reg. 9337, effective June 13, 2008; amended at 33 Ill. Reg. 11571, effective July 27, 2009; amended at 34 Ill. Reg. 4839, effective March 19, 2010; amended at 35 Ill. Reg. 10739, effective June 23, 2011; amended at 36 Ill. Reg. 13450, effective August 10, 2012; amended at 37 Ill. Reg. 14926, effective August 30, 2013; amended at 38 Ill. Reg. 22752, effective November 18, 2014; amended at 39 Ill. Reg. 10905, effective July 27, 2015; emergency amendment at 39 Ill. Reg. 13125, effective September 3, 2015, for a maximum of 150 days.

**Section 670.30 Statewide Legal Bow and Arrow**
EMERGENCY

a) The only legal hunting devices to take, or attempt to take, deer are:

1) Vertical bows, limited to longbows, recurve bows or compound bows with minimum pull of 40 pounds at some point within a 28-inch draw. Minimum arrow length is 20 inches. Any mechanical device capable of maintaining a drawn or partially drawn position on a vertical bow without the hunter exerting full string tension is illegal.

2) Crossbows, so long as one or more of the following conditions are met:

A) *If the user is a person age 62 and older* with a valid photo ID containing proof of age [520 ILCS 5/2.5]; or

B) *If the user is a disabled person to whom the Department has issued a permit to use a crossbow as provided by* 17 Ill. Adm. Code 760 [520 ILCS 5/2.5]; or

C) *If the date is between the second Monday following the Thanksgiving holiday through the last day of the archery deer hunting season (both inclusive)* [520 ILCS 5/2.5]; or~~.~~

D) If the user possesses a valid *Youth Hunting License* and archery *deer hunting permit,* and *remains under the direct supervision of a*

*parent, grandparent, or guardian who is 21 years of age or older* and *who possesses a valid Illinois hunting license and valid archery deer permit.* Accompaniment by a parent, grandparent, or guardian shall serve as evidence that express permission of an adult was granted to obtain the deer permit. [520 ILCS 5/2.5a and 520 ILCS 5/3.1-9]

b) Broadheads must be used for archery deer hunting. Broadheads may have fixed or expandable cutting surfaces, but they must be a minimum ⅞ inch in diameter when fully opened. Broadheads with fixed cutting surfaces must be metal or flint-, chert- or obsidian-knapped; broadheads with expandable cutting surfaces must be metal. Nothing in this subsection shall be construed to prohibit the possession of arrows with field tips or blunt tips for the purpose of legally taking small game or for target practice during the course of the hunt, but those arrows may not be used in any attempt to take deer.

c) Specifications for legal crossbows and bolts are contained in 17 Ill. Adm. Code 760.

d) All other hunting devices, including electronic arrow tracking devices utilizing radio telemetry, are illegal. It is unlawful to carry any firearm or sidearm while hunting deer with a bow and arrow.

e) Use of an unlawful device is a Class B misdemeanor (see 520 ILCS 5/2.24), except that unlawful use of a crossbow is a Class A misdemeanor with a minimum $500 and maximum $5,000 fine, in addition to other statutory penalties (see 520 ILCS 5/2.33(o)).

(Source: Amended by emergency rulemaking at 39 Ill. Reg. 13125, effective September 3, 2015, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of September 1, 2015 through September 8, 2015. Rulemakings are scheduled for review at the Committee's September 16, 2015 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

| Second Notice Expires | Agency and Rule | Start of First Notice | JCAR Meeting |
|---|---|---|---|
| 10/15/15 | Department of Labor, Health and Safety (56 Ill. Adm. Code 350) | 7/17/15 39 Ill. Reg. 9860 | 10/13/15 |
| 10/16/15 | Secretary of State, Issuance of Licenses (92 Ill. Adm. Code 1030) | 6/26/15 39 Ill. Reg. 8773 | 10/13/15 |
| 10/16/15 | Secretary of State, Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill. Adm. Code 1040) | 6/19/15 39 Ill. Reg. 8372 | 10/13/15 |
| 10/18/15 | Secretary of State, Motor Vehicle Accident Prevention Courses For Liability Insurance Premium Reduction (50 Ill. Adm. Code 8000) | 7/17/15 39 Ill. Reg. 9915 | 10/13/15 |

# ILLINOIS ADMINISTRATIVE CODE
## Issue Index - With Effective Dates

Rules acted upon in Volume 39, Issue 38 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**


89 - 337 ..... 12658
68 - 1500 ..... 12677
68 - 1505 ..... 12699
50 - 2004 ..... 12715
17 - 150 ..... 12719
17 - 670 ..... 12723
2 - 3000 ..... 12725
2 - 3001 ..... 12730
2 - 3002 ..... 12767
50 - 8000 ..... 12796
92 - 1030 ..... 12800
23 - 2700 ..... 12813
23 - 2743 ..... 12818


**ADOPTED RULES**


89 - 140 9/4/2015 ..... 12825
35 - 101 9/8/2015 ..... 12848
35 - 103 9/8/2015 ..... 12898
35 - 104 9/8/2015 ..... 12905
35 - 106 9/8/2015 ..... 12914
35 - 108 9/8/2015 ..... 12921
35 - 848 9/8/2015 ..... 12934
77 - 250 9/3/2015 ..... 13041
77 - 515 9/8/2015 ..... 13075


**EMERGENCY RULES**


17 - 670 9/3/2015 ..... 13125

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