

TABLE OF CONTENTS

May 6, 2016 Volume 40, Issue 19

PROPOSED RULES

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment 74 Ill. Adm. Code 900.....	6891
COMMERCE AND ECONOMIC OPPORTUNITY, DEPARTMENT OF Illinois Promotion Act Programs 14 Ill. Adm. Code 510.....	6907
COMMUNITY COLLEGE BOARD, ILLINOIS Administration of the Illinois Public Community College Act 23 Ill. Adm. Code 1501.....	6923
HEALTHCARE AND FAMILY SERVICES, DEPARTMENT OF Medical Payment 89 Ill. Adm. Code 140.....	6936
Hospital Reimbursement Changes 89 Ill. Adm. Code 152.....	6966
OFFICE OF THE STATE FIRE MARSHAL Boiler and Pressure Vessel Safety 41 Ill. Adm. Code 2120.....	6974
POLLUTION CONTROL BOARD Underground Storage Tanks 35 Ill. Adm. Code 731.....	6991
PUBLIC HEALTH, DEPARTMENT OF Certified Local Health Department Code 77 Ill. Adm. Code 600.....	7021
SECRETARY OF STATE Secretary of State Standard Procurement 44 Ill. Adm. Code 2000.....	7043

ADOPTED RULES

NATURAL RESOURCES, DEPARTMENT OF The Illinois Oil and Gas Act 62 Ill. Adm. Code 240.....	7051
PUBLIC HEALTH, DEPARTMENT OF Nursing Education Scholarships 77 Ill. Adm. Code 597.....	7113
Control of Communicable Diseases Code 77 Ill. Adm. Code 690.....	7146
TRANSPORTATION, DEPARTMENT OF Prequalification of Contractors, Authorization to Bid, and Subcontractor Registration 44 Ill. Adm. Code 650.....	7170

JOINT COMMITTEE ON ADMINISTRATIVE RULES AGENDA

JOINT COMMITTEE ON ADMINISTRATIVE RULES

May Agenda.....7211

SECOND NOTICES RECEIVED

JOINT COMMITTEE ON ADMINISTRATIVE RULES

Second Notices Received.....7216

INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2016

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

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Joint Rules of the Comptroller and the Department of Central Management Services: Prompt Payment
- 2) Code Citation: 74 Ill. Adm. Code 900
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
900.60	Amendment
900.70	Amendment
900.100	Amendment
900.120	Amendment
900.125	Amendment
- 4) Statutory Authority: Implementing and authorized by the Prompt Payment Act [30 ILCS 540]
- 5) A Complete Description of the Subjects and Issues Involved: In 2012, Section 3-2 of the Prompt Payment Act was amended to provide that, beginning in Fiscal Year 2012, "any bill approved for payment under this Section must be paid or the payment issued to the payee within 90 days of receipt of a proper bill or invoice. If payment is not issued to the payee within this 90-day period, an interest penalty of 1.0% of any amount approved and unpaid shall be added for each month, or 0.033% (one-thirtieth of one percent) of any amount approved and unpaid for each day, after the end of this 90-day period, until final payment is made". In prior fiscal years, interest was to begin accruing after 60 days following receipt of a proper bill or invoice. The rules on prompt payment do not currently reflect that statutory change. This rule revision will clean up the rules so that they are consistent with the time period set forth in the statute. This rule revision also provides that bills submitted for services provided on or after July 1, 2015 for utility service provided by a municipal or other local government utility are not excluded from having Prompt Payment Act interest penalties applied.
- 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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: These proposed amendments neither create nor expand any State mandate on units of local government, school districts or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:
- Kelly Weston
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield IL 62706
- 217/524-7518
fax: 217/558-2697
- 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 next page:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 74: PUBLIC FINANCE

CHAPTER VIII: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 900

JOINT RULES OF THE COMPTROLLER AND
THE DEPARTMENT OF CENTRAL MANAGEMENT SERVICES:
PROMPT PAYMENT

Section	
900.10	Scope
900.20	Definitions
900.30	General Duties of State Agencies
900.35	Duties of State Agencies: Interest Payments
900.40	Statement Indicating That Interest Penalty May Be Available
900.50	Other Interest Provisions
900.60	When a Payment is Late
900.70	Approval by the State
900.80	Submission and Receipt of Bills
900.90	When and How Vendors Must Request Interest
900.100	Calculation of Interest
900.110	No Interest on Interest
900.120	Exclusions
900.125	Vendor Payment Program
900.130	Special Rules and Procedures Regarding the Application of the Act to the State Employee's Group Insurance Program
900.140	Resolution of Disputes

AUTHORITY: Implementing the State Prompt Payment Act [30 ILCS 540].

SOURCE: Emergency rule adopted at 17 Ill. Reg. 11168, effective July 1, 1993, for a maximum of 150 days; emergency expired November 28, 1993; adopted at 18 Ill. Reg. 11498, effective July 11, 1994; amended at 24 Ill. Reg. 19049, effective December 18, 2000; amended at 25 Ill. Reg. 11351, effective August 28, 2001; emergency amendment at 26 Ill. Reg. 10939, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 14666, effective September 19, 2002; amended at 31 Ill. Reg. 5751, effective March 29, 2007; emergency amendment at 34 Ill. Reg. 16587, effective October 8, 2010, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 35 Ill. Reg. 3792, effective February 16, 2011, for the remainder of the 150 days; emergency amendment at 35 Ill. Reg. 5619, effective March 18,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

2011, for a maximum of 150 days; amended at 35 Ill. Reg. 13109, effective July 29, 2011; amended at 40 Ill. Reg. _____, effective _____.

Section 900.60 When a Payment is Late

For bills payable from funds appropriated prior to FY03, a payment is late if the Date of Payment is not within 60 days after the Date of Approval of the Vendor's bill. For bills payable from funds appropriated on and after July 1, 2002, a payment is late if the Date of Payment is not within 60 days after the receipt of a Proper Bill. For bills payable from funds appropriated on and after December 28, 2012, a payment is late if the Date of Payment is not within 90 days after the receipt of a Proper Bill.

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

Section 900.70 Approval by the State

- a) A State agency shall review in a timely manner each bill after its receipt to determine if the bill is a Proper Bill. A bill is not a Proper Bill if it contains one of the following defects:
 - 1) lacks sufficient and/or correct information required by the agency to process the bill;
 - 2) lacks the Vendor's taxpayer identification number or a completed Internal Revenue Service Form W-9 or Form 147C certifying that the Vendor's taxpayer identification number has been applied for but not received and the Vendor is not subject to backup withholding due to underreporting; or
 - 3) is directed to an address or person other than the one designated in written instructions from the State.
- b) An agency shall approve Proper Bills or deny bills with defects, in whole or in part, within 30 days after receipt. Vendor bills denied during this 30 day period shall be assigned a new Date of Receipt when a corresponding Proper Bill is subsequently received.
- c) The State agency shall notify the Vendor upon the discovery of a defect, as soon as possible. The notification shall indicate the nature of the defect and any additional information necessary to correct the defect. The notification may be

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

verbal or in writing, as the agency may determine is appropriate given the circumstances surrounding the payment and the nature of the defect in the bill. The State agency shall maintain adequate documentation of all such notifications and subsequent agency and Vendor actions so as to determine when and from what date late payment interest is due and to resolve any related Vendor disputes.

- d) If a Vendor bill is approved, in whole or in part, after the required 30 day period to approve or deny bills, late payment interest shall be due for the approved portion of the bill if the Date of Payment is not within ~~90~~ days after receipt of the Proper Bill or part of the bill, except as to bills payable from funds appropriated prior to December 28, 2012, in which case late payment interest shall be due for the approved portion of the bill if the Date of Payment is not within 60 days after receipt of the Proper Bill or part of the bill.
- e) If a Vendor bill is denied, in whole or in part, after the required 30 day period to approve or deny bills and the denied bill or part of bill is subsequently approved for payment as originally submitted and denied, late payment interest shall be due for the approved portion of the bill if the Date of Payment is not within ~~90~~ days after original receipt of the Proper Bill or part of the bill, except as to bills payable from funds appropriated prior to December 28, 2012, in which case late payment interest shall be due for the approved portion of the bill if the Date of Payment is not within 60 days after receipt of the Proper Bill or part of the bill. Vendor bills denied, in whole or in part, and not subsequently approved for payment as originally submitted and denied shall be assigned a new Date of Receipt when a Proper Bill is subsequently received.
- f) If the agency and the Vendor have not formally executed a contract and State law requires a written contract, any bills submitted before the formal execution shall be deemed to be received when the contract is executed. State law allows payments to be made only after the formal contract is executed for Supplies or Services over \$10,000 or Professional and Artistic Services over \$5,000.

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

Section 900.100 Calculation of Interest

- a) Interest is calculated at the rate of 1% per month. This results in a daily interest factor of .00033 (01/30).

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- b) For each day payment is late, the amount late shall be multiplied by the daily interest factor to determine the late payment charge.
- c) The interest penalty shall be simple interest and not compound interest, meaning that the interest penalty is computed on the amount of the bill only and shall not include previously accrued interest.
- d) For bills payable from funds appropriated on and after December 28, 2012, interest~~Interest~~ shall begin accruing on the 91st~~61st~~ day after receipt of a Proper Bill and shall continue to accrue until the bill is paid by the Comptroller's Office. For bills payable from funds appropriated prior to December 28, 2012, interest shall begin accruing on the 61st day after receipt of a Proper Bill and shall continue to accrue until the bill is paid by the Comptroller's Office.
- e) Interest shall not accrue on the Date of Payment. In the event the Date of Payment is the same date that interest begins to accrue, there shall be no interest payable by the State for purposes of efficiency to the State.

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

Section 900.120 Exclusions

The following non-exhaustive list represents the types of payments that are excluded from the Act and consequently do not qualify for interest penalties:

- a) Inter- and intra-agency payments. This includes transfers and payments to revolving funds, reimbursement of petty cash funds and imprest accounts, inter-fund transfers and inter-fund payments in which an agency or department serves as the Vendor of Goods or Services.
- b) Payments to State employees for personal services (salary only and not including health insurance benefits).
- c) Awards and grants, as defined by the Comptroller's Office in SAMS Manual Procedure 15, including pass-through grants and distributive payments and refunds.
- d) Contract retainers associated with construction contracts.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- e) State Board of Education categorical grants.
- f) Community College Board grants.
- g) Illinois Student Assistance Commission grants.
- h) Payments to local government entities, including school districts. For bills submitted for services provided on or after July 1, 2015, payments made for utility service provided by a municipal or other local government utility are not excluded from the Act, and therefore are eligible for interest penalties.
- i) Payments of interest penalties.
- j) Payments made to contractual employees (these payments are generally made via a Contractual Services Payroll Voucher).
- k) Payments from accounts or funds not appropriated by the General Assembly.
- l) Gratuitous payments made to induce a business to remain in or to locate in this State.
- m) Any type of payment to a Vendor assigned or sold by that Vendor to a different payee (including any assignments or sales made by the vendors to the Department of Healthcare and Family Services), except for assignments or sales made pursuant to a vendor payment program approved by the Department of Central Management Services and the Comptroller.
- n) Barter transactions.
- o) Payments made by a State agency comprised of federal funds only and no State or local funds.
- p) Medical and claims payments under the Workers' Compensation and Workers' Occupational Diseases Acts.
- q) Tax refunds.
- r) State Employee's Group Insurance Program payments covered by late payment interest provisions in Section 6.12 of the State Employees Group Insurance Act of

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

1971 [5 ILCS 375/6.12].

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

Section 900.125 Vendor Payment Program

The requirements set forth in this Section establish the criteria for participation by participating vendors and qualified purchasers in a vendor payment program. Information regarding the program may be found at <http://www.payments.illinois.gov>.

- a) Authority. The State Comptroller and the Department are authorized to establish and implement the program pursuant to Section 3-3 of the Prompt Payment Act [~~30 ILCS 540/3-3~~].
- b) Applicability. This Section applies to all qualified accounts receivable not otherwise excluded from receiving prompt payment interest pursuant to Section 900.120. Section 900.125 shall not apply to the purchase of any accounts receivable related to payments made under a medical assistance program, including Medicaid payments, or any other purchase of accounts receivable that is otherwise prohibited by law.
- c) Definitions:

"Applicant" is any entity seeking to be designated as a qualified purchaser.

"Application Period" is the time period when the program is accepting applications as determined by the Department.

"Assigned Penalties" are penalties payable by the State in accordance with the Prompt Payment Act and this Part that are assigned to the qualified purchaser of an assigned receivable.

"Assigned Receivable" is the base invoice amount of a qualified account receivable and any associated assigned penalties due, currently and in the future, in accordance with the Prompt Payment Act.

"Assignment Agreement" is an agreement executed and delivered by a participating vendor and a qualified purchaser pursuant to which the participating

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

vendor will assign one or more qualified accounts receivable to the qualified purchaser and make certain representations and warranties in respect thereof.

"Base Invoice Amount" is the unpaid principal amount of the invoice associated with an assigned receivable.

"Department" is the Department of Central Management Services.

"Medical Assistance Program" is any program which provides medical assistance pursuant to Article V of the Illinois Public Aid Code [305 ILCS 5/5], including Medicaid.

"Participating Vendor" is a vendor whose application for the sale of a qualified account receivable is accepted for purchase by a qualified purchaser pursuant to the program terms.

"Program" is a vendor payment program.

"Prompt Payment Act" is the State Prompt Payment Act [30 ILCS 540].

"Prompt Payment Penalties" are penalties payable by the State in accordance with the Prompt Payment Act and this Part.

"Purchase Price" is 100% of the base invoice amount associated with an assigned receivable minus:

- any deductions against the assigned receivable arising from State offsets; and
- if and to the extent exercised by a qualified purchaser, other deductions for amounts owed by the participating vendor to the qualified purchaser for State offsets applied against other accounts receivable assigned by the participating vendor to the qualified purchaser pursuant to the program.

"Qualified Account Receivable" is an account receivable due and payable by the State that is outstanding for ~~90~~60 days or more, is eligible to accrue prompt payment penalties under the Prompt Payment Act and is verified by the relevant State agency. A qualified account receivable shall not include any account receivable related to medical assistance program (including Medicaid) payments

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

or any other accounts receivable, the transfer or assignment of which is prohibited by, or otherwise prevented by, applicable law.

"Qualified Purchaser" is any entity that, during any application period, is approved by the Department to participate in the program on the basis of certain qualifying criteria as determined by the Department.

"State" is the State of Illinois.

"State Comptroller" is the Illinois Office of the Comptroller.

"State Offsets" is any amount deducted from payments made by the State in respect of any qualified account receivable due to the State's exercise of any offset or other contractual rights against a participating vendor. For the purpose of this Section, State offsets include statutorily required administrative fees imposed pursuant to the State Comptroller Act [15 ILCS 405].

"Sub-Participant" is any individual or entity that intends to purchase assigned receivables, directly or indirectly, by or through an applicant or qualified purchaser for the purposes of the program.

"Sub-Participant Certification" is an instrument executed and delivered to the Department by a sub-participant pursuant to which the sub-participant certifies its agreement, among others, to be bound by the terms and conditions of the program as a condition to its participation in the program as a sub-participant.

- d) Criteria for a vendor payment program.
- 1) Under the program, qualified purchasers may purchase from participating vendors certain qualified accounts receivable owed by the State to the participating vendors. A participating vendor shall not simultaneously apply to sell the same qualified account receivable to more than one qualified purchaser.
 - 2) In consideration of the payment of the purchase price, a participating vendor shall assign to the qualified purchaser all of its rights to payment of the qualified account receivable, including all current and future prompt payment penalties due relating to that qualified account receivable in accordance with the Prompt Payment Act.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- e) Criteria for vendor participation. A vendor may apply to participate in the program if:
- 1) the vendor is owed an account receivable by the State for which prompt payment penalties have commenced accruing;
 - 2) the vendor's account receivable is eligible to accrue prompt payment penalty interest under the Prompt Payment Act;
 - 3) the vendor's account receivable is not for payments under a medical assistance program; and
 - 4) the vendor's account receivable is not prohibited by, or otherwise prevented by, applicable law from being transferred or assigned pursuant to this Section.
- f) Criteria for qualified purchasers. Factors to be considered by the Department in determining qualification to be a qualified purchaser shall include but are not limited to:
- 1) the qualified purchaser's agreement to commit a minimum purchase amount as established from time to time by the Department based upon the current needs of the program and the qualified purchaser's demonstrated ability to fund its commitment;
 - 2) the demonstrated ability of a qualified purchaser's sub-participants to fund their portions of a qualified purchaser's minimum purchase commitment;
 - 3) the ability of a qualified purchaser and its sub-participants to meet standards of responsibility substantially in accordance with the requirements of the Standards of Responsibility found in 44 Ill. Adm. Code 1.2046(b) (Government Contracts, Procurement, and Property Management);
 - 4) the agreement of each qualified purchaser, at its sole cost and expense, to administer and facilitate the operation of the program with respect to that qualified purchaser, including without limitation, assisting potential participating vendors with the application and assignment process;

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 5) the agreement of each qualified purchaser, at its sole cost and expense, to establish a website that is determined by the Department to be sufficient to administer the program in accordance with the terms and conditions of the program;
- 6) the agreement of each qualified purchaser, at its sole cost and expense, to market the program to potential participating vendors;
- 7) the agreement of each qualified purchaser, at its sole cost and expense, to educate participating vendors about the benefits and risks associated with participation in the program;
- 8) the agreement of each qualified purchaser, at its sole cost and expense, to deposit funds into, release funds from, and otherwise maintain all required accounts in accordance with the terms and conditions of the program. Subject to the program terms, all required accounts shall be maintained and controlled by the qualified purchaser at the qualified purchaser's sole cost and at no cost, whether in the form of fees or otherwise, to the participating vendors;
- 9) the agreement of each qualified purchaser, at its sole cost and expense, to submit a monthly written report, in both hard copy and Excel format, to the State Comptroller or its designee and the Department or its designee, within 10 days after the end of each month, which, unless otherwise specified by the Department, at a minimum, shall contain:
 - A) a listing of each assigned receivable purchased by that qualified purchaser during the month, specifying the base invoice amount and invoice date of that assigned receivable and the name of the participating vendor, State contract number, voucher number and State agency associated with that assigned receivable;
 - B) a listing of each assigned receivable with respect to which the qualified purchaser has received payment of the base invoice amount from the State during that month, including the amount of and date on which that payment was made and the name of the participating vendor, State contract number, voucher number, and State agency associated with the assigned receivable, and

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- identifying the relevant application period for each assigned receivable;
- C) a listing of any payments of assigned penalties received from the State during the month, including the amount of and date on which the payment was made, the name of the participating vendor, the voucher number for the assigned penalty receivable, and the associated assigned receivable, including the State contract number, voucher number and State agency associated with the assigned receivable and identifying the relevant application period for each assigned receivable;
 - D) the aggregate number and dollar value of assigned receivables purchased by the qualified purchaser from the date on which such qualified purchaser commenced participating in the program through the last day of the month;
 - E) the aggregate number and dollar value of assigned receivables purchased by the qualified purchaser for which no payment by the State of the base invoice amount has yet been received, from the date on which the qualified purchaser commenced participating in the program through the last day of the month; and
 - F) such other data as the State Comptroller and the Department may reasonably request from time to time.
- 10) the agreement of each qualified purchaser to use its reasonable best efforts, and for any sub-participant to cause a qualified purchaser to use its reasonable best efforts, to diligently pursue receipt of assigned penalties associated with the assigned receivables, including, without limitation, by promptly notifying the relevant State agency that an assigned penalty is due and, if necessary, seeking payment of assigned penalties through the Illinois Court of Claims; and
 - 11) the agreement of each qualified purchaser and any sub-participant to use their reasonable best efforts to implement the program terms and to perform their obligations under the program in a timely fashion.
- g) Right to review performance of qualified purchaser's obligations.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

Each qualified purchaser's performance and implementation of its obligations under subsection (f) shall be subject to review by the Department and the State Comptroller at any time to confirm that the qualified purchaser is undertaking such obligations in a manner consistent with the terms and conditions of the program. A qualified purchaser's failure to so perform its obligations including, without limitation, its obligations to diligently pursue receipt of assigned penalties associated with assigned receivables, shall be grounds for the Department and the State Comptroller to terminate the qualified purchaser's participation in the program in accordance with subsection (i) of this Section. Any such termination shall be without prejudice to any rights a participating vendor may have against that qualified purchaser, in law or in equity, including without limitation, the right to enforce the terms of the assignment agreement and of the program against the qualified purchaser.

- h) Right to Review Sub-Participants.
- 1) In determining whether any applicant shall be designated as a qualified purchaser, the Department shall have the right to review or approve sub-participants that intend to purchase assigned receivables, directly or indirectly, by or through the applicant.
 - 2) The Department reserves the right to reject or terminate the designation of any applicant as a qualified purchaser or require an applicant to exclude a proposed sub-participant in order to become or remain a qualified purchaser on the basis of a review, whether prior to or after the designation.
 - 3) Each applicant and each qualified purchaser has an affirmative obligation to promptly notify the Department of any change or proposed change in the identity of the sub-participants that it disclosed to the Department no later than 3 business days after that change.
 - 4) Each sub-participant shall be required to execute a sub-participant certification that will be attached to the corresponding qualified purchaser designation.
 - 5) Sub-participants shall meet, at a minimum, the requirements of subsections (f)(2), (3), (10), and (11).

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

- i) Term and termination.
 - 1) The program shall commence in March 2011 and shall continue until terminated:
 - A) by the State Comptroller, after consulting with the Department, by giving 10 days prior written notice to the Department and the qualified purchasers in the program;
 - B) by the Department, after consulting with the State Comptroller, by giving 10 days prior written notice to the State Comptroller and the qualified purchasers in the program.
 - 2) In the event a qualified purchaser or sub-participant breaches or fails to meet any of the terms or conditions of the program, that qualified purchaser or sub-participant may be terminated from the program:
 - A) by the State Comptroller, after consulting with the Department. The termination shall be effective immediately upon the State Comptroller giving written notice to the Department and the qualified purchaser or sub-participant; or
 - B) by the Department, after consulting with the State Comptroller. The termination shall be effective immediately upon the Department giving written notice to the State Comptroller and the qualified purchaser or sub-participant.
 - 3) A qualified purchaser or sub-participant may terminate its participation in the program, solely with respect to its own participation in the program, in the event of any change to the Prompt Payment Act or this Part from the form that existed on the date that the qualified purchaser or the sub-participant, as applicable, submitted the necessary documentation for admission into the program if the change materially and adversely affects the qualified purchaser's or the sub-participant's ability to purchase and receive payment on receivables on the terms described in this Section.
 - 4) If the program, a qualified purchaser, or a sub-participant is terminated under subsection (i)(1) or (2), the program, qualified purchaser, or sub-

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENTS

participant may be reinstated only by written agreement of the State Comptroller and the Department.

- 5) No termination under subsections (i)(1), (2), or (3) shall alter or affect the qualified purchaser's or sub-participant's obligations with respect to assigned receivables purchased by or through the qualified purchaser prior to the termination.

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Illinois Promotion Act Programs
- 2) Code Citation: 14 Ill. Adm. Code 510
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
510.20	Amendment
510.30	Amendment
510.50	Amendment
510.80	Amendment
510.410	New Section
510.420	New Section
510.430	New Section
510.440	New Section
510.450	New Section
510.460	New Section
- 4) Statutory Authority: Implementing and authorized by the Illinois Promotion Act [20 ILCS 665]
- 5) A Complete Description of the Subjects and Issues Involved: The purpose of this rulemaking is to implement a new statute, PA 99-476.
- 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 rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandate Act [30 ILCS 805].
- 12) Comments regarding these rules shall be presented within 45 days after the date of this issue of the *Illinois Register* in writing to:

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

Jolene Clarke
Rules Administrator
Department of Commerce and Economic Opportunity
500 East Monroe Street
Springfield IL 62701

217/557-1820
217/524-3701
jolene.clarke@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses and small municipalities affected: Units of Local Government that are promoting tourism
 - 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 Department did not anticipate the changes.

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

TITLE 14: COMMERCE

SUBTITLE C: ECONOMIC DEVELOPMENT

CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

PART 510

ILLINOIS PROMOTION ACT PROGRAMS

SUBPART A: GENERAL PROGRAM PROVISIONS

Section	
510.10	Authority
510.20	Definitions
510.30	Form of Application
510.40	Application Procedures
510.50	Grant Agreement
510.60	Computation of Time
510.70	Severability (Repealed)
510.80	Administrative Requirements for Grants

SUBPART B: TOURISM MARKETING PARTNERSHIP PROGRAM

Section	
510.110	Purpose
510.120	Eligible Uses of Grant Funds
510.130	Allocation of Appropriations
510.140	Funding Limitation
510.150	Matching Funds
510.160	Evaluation and Selection Process

SUBPART C: TOURISM ATTRACTION DEVELOPMENT
GRANT AND LOAN PROGRAM

Section	
510.210	Purpose
510.220	Eligible Uses of Grant and Loan Funds
510.230	Allocation of Appropriations
510.240	Funding Limitation
510.250	Matching Funds
510.260	Evaluation and Selection Process

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

510.270 Administrative Requirements for Loans

SUBPART D: TOURISM PRIVATE SECTOR GRANT PROGRAM

Section

510.310	Purpose
510.320	Eligible Uses of Grant Funds
510.330	Allocation of Appropriations
510.340	Funding Limitation
510.350	Matching Funds
510.360	Evaluation and Selection Process

SUBPART E: MUNICIPAL CONVENTION CENTER AND
SPORTS FACILITY INCENTIVE GRANT PROGRAM

Section

<u>510.410</u>	<u>Purpose</u>
<u>510.420</u>	<u>Eligible Applicant</u>
<u>510.430</u>	<u>Allocation of Appropriations</u>
<u>510.440</u>	<u>Funding Limitations</u>
<u>510.450</u>	<u>Annual Certification</u>
<u>510.460</u>	<u>Certification Supporting Documentation</u>

AUTHORITY: Implementing and authorized by the Illinois Promotion Act [20 ILCS 665].

SOURCE: Filed December 30, 1977; codified at 6 Ill. Reg. 15011; emergency amendment at 14 Ill. Reg. 13298, effective August 6, 1990, for a maximum of 150 days; emergency expired January 3, 1991; amended at 15 Ill. Reg. 2673, effective February 1, 1991; amended at 15 Ill. Reg. 8848, effective June 10, 1991; emergency amendment at 17 Ill. Reg. 22096, effective December 13, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5813, effective April 1, 1994; amended at 18 Ill. Reg. 8387, effective May 23, 1994; amended at 20 Ill. Reg. 5064, effective March 11, 1996; amended at 22 Ill. Reg. 10394, effective June 1, 1998; emergency amendment at 24 Ill. Reg. 6718, effective April 17, 2000, for a maximum of 150 days; emergency expired September 13, 2000; amended at 24 Ill. Reg. 15044, effective September 27, 2000; emergency amendment at 24 Ill. Reg. 18834, effective December 8, 2000, for a maximum of 150 days; emergency expired May 6, 2001; old Part repealed and new Part adopted at 25 Ill. Reg. 8993, effective July 1, 2001; amended at 32 Ill. Reg. 13443, effective July 29, 2008; amended at 35 Ill. Reg. 18608, effective October 28, 2011; amended at 40 Ill. Reg. _____, effective _____.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

SUBPART A: GENERAL PROGRAM PROVISIONS

Section 510.20 Definitions

The following definitions are applicable to this Part:

"Act": means the Illinois Promotion Act [20 ILCS 665].

"Applicant": means an organization, unit of local government or other eligible entity, as defined in Section 510.110, 510.210, ~~or 510.310~~ or 510.410 ~~of this Part~~, submitting a written request for Program funds appropriated under the Act.

"Application": means a written request for grant funds containing the required information and attachments.

"Convention Center Authority": means an Authority, as defined by the Civic Center Code [70 ILCS 200/2-5], that operates a municipal convention center with contiguous exhibition space ranging between 30,000 and 125,000 square feet. [20 ILCS 665/3(h)]

"Department": means the Department of Commerce and Economic Opportunity of the State of Illinois [20 ILCS 665/3(a)].

"Director": means the Director of the Department of Commerce and Economic Opportunity.

"Economic Impact": means the direct financial result of visitor spending at a tourism destination, attraction or event.

"Eligible Project": means a project that is eligible for funding as defined in Sections 510.120, 510.220, and 510.320 ~~of this Part~~.

"Fiscal Year": means July 1 through June 30, the Fiscal Year of the State of Illinois.

"Grant Agreement": means a written document executed between the Grantee and the Department setting forth the obligations of the Parties, describing the purpose of the grant, identifying the manner in which Grant Funds will be paid

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

and expended, specifying the grant terms during which Grant Funds may be expended, and requiring unspent Grant Funds to be returned to the State.

"Grant Amount" or "Grant Funds": means a monetary amount that the Department shall award to a Grantee for its expenditure on an Eligible Project.

"Grantee": means an organization, unit of local government or other eligible entity, as defined in Section 510.110, 510.210, or 510.310 ~~of this Part~~, eligible to receive Program funds appropriated under the Act.

"Incentive": means:

an incentive provided by a municipal convention center or convention center authority for a convention, meeting, or trade show held at a municipal convention center that, but for the incentive, would not have occurred in the State or been retained in the State; or

an incentive provided by a unit of local government for a sporting event held at a municipal amateur sports facility that, but for the incentive, would not have occurred in the State or been retained in the State. [20 ILCS 665/3(i)]

"Ineligible Project": means a project that is ineligible for funding as defined in Sections 510.120, 510.220, and 510.320 ~~of this Part~~.

"In Kind Contribution": means noncash contributions necessary to complete the Project for which the cash value is easily documented (i.e., donated labor, equipment, supplies and materials), and that are eligible grant and match line-item expenditures identified in the budget of the Grant Agreement.

"Local Promotion Group": means any non-profit corporation, organization, association, agency or committee thereof formed for the primary purpose of publicizing, promoting, advertising or otherwise encouraging the development of tourism in any Municipality, county or region of Illinois. [20 ILCS 665/3(b)]

"Matching Funds": means the portion of the Total Project Cost that is provided by the Grantee. Matching Funds shall not be funds from other Department funded grant programs or used to match any other grant, and are necessary and irrevocably obligated to the Project.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

"Municipal Amateur Sports Facility": means a sports facility that:

is owned by a unit of local government;

has contiguous indoor sports competition space;

is designed to principally accommodate and host amateur competitions for youths, adults, or both; and

is not used for professional sporting events for which participants are compensated for their participation. [20 ILCS 665/3(f)]

"Municipal Convention Center": means a convention center or civic center owned by a unit of local government or operated by a convention center authority, or a municipal convention hall as defined in Section 11-65-1(1) of the Illinois Municipal Code [65 ILCS 5], with contiguous exhibition space ranging between 30,000 and 125,000 square feet. [20 ILCS 655/3(g)]

"Municipality": means "Municipality" as defined in Section 1-1-2(1) of the Illinois Municipal Code ~~[65 ILCS 5/1-1-2(1)]~~. [20 ILCS 665/3(d)]

"Office of Tourism": means the division of the Department that has delegated authority to perform all administrative functions relating to the Act.

"Private Sector": means any non-governmental entity.

"Program": means the Tourism Marketing Partnership Program, Tourism Attraction Development Loan and Grant Program, or the Tourism Private Sector Grant Program described in this Part.

"Project": means the activity or program of activities, described by the Applicant in the Application and approved by the Department, for which a grant is awarded.

"Promotional Activities" means:

preparing, planning and conducting campaigns of information, advertising and publicity through such media as newspapers, radio, television, magazines, trade journals, moving and still photography,

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

posters, outdoor signboards and personal contact within and without the State of Illinois;

dissemination of information, advertising, publicity, photographs and other literature and material designed to carry out the purpose of the Act;
and

participation in and attendance at meetings and conventions concerned primarily with tourism, including travel to and from those meetings. [20 ILCS 665/3(c)]

"Supporting Visitor Services": means accommodations, restaurants, shopping, and recreational and cultural activities located within a reasonable distance from the location of the Tourism Attraction, Tourism Destination or Tourism Event being promoted.

"Total Project Cost": means all necessary and reasonable costs related to the completion of the Project as identified in the budget of the Grant Agreement.

"Tourism": means travel 50 miles or more one-way, or an overnight trip outside of a person's normal routine. [20 ILCS 665/3(e)]

"Tourism Attraction": means fishing and hunting areas, State parks, historical/cultural sites, areas of historic or scenic interest, museums, recreation areas, botanical gardens, theme/amusement parks, interpretive programs and other facilities or businesses that attract or serve visitors that are open to the public for a minimum of 100 days per year (if the Tourism Attraction is entirely event driven, then it shall be open for a minimum of 200 hours per year), and are marketed and promoted to visitors from more than 50 miles away.

"Tourism Destination": means a city, town or other area the economy of which is dependent on revenues accruing from tourism.

"Tourism Event": means an event, such as a major convention, trade show, sporting activity, or festival, with potential to attract visitors from outside a 50-mile radius and to produce significantly increased Economic Impact for the State of Illinois through overnight stays.

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

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

Section 510.30 Form of Application

- a) All communications relating to the Application procedures defined in Section 510.40 shall be sent to the Illinois Office of Tourism of the Illinois Department of Commerce and Economic Opportunity, located at 620 East Adams, Springfield, Illinois 62701.
- b) An Application shall be typed or computer generated using the current approved format provided by the Department.
- c) An Application shall contain one original and five copies.
- d) An Application shall include information and supporting documents that will enable the Department to evaluate the Application based on the criteria described in Sections 510.160, 510.260 and 510.360 ~~of this Part~~.
- e) Each Application, including supporting documents and attachments, shall be contained under a single cover.

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

Section 510.50 Grant Agreement

- a) When an Application has been approved for funding, the Grantee and the Department shall execute a Grant Agreement. If the Project is initiated and costs are incurred before the Department approves the Application, the Department bears no responsibility for those costs in the event the Application is denied or the grant is funded at less than the amount requested.
- b) The Grant Agreement shall contain substantive provisions, including, but not limited to, the following:
 - 1) A recitation of legal authority pursuant to which the agreement is made;
 - 2) An identification of the Project scope and schedule, and the work or services to be performed or conducted by the Grantee;
 - 3) An identification of the Grant Amount;

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

- 4) The conditions and manner in which the Department shall pay the Grant Amount, subject at all times to annual appropriation by the Illinois General Assembly;
- 5) The Grantee agrees to provide and pay the applicable Matching Funds of the Total Project Cost;
- 6) The Grantee agrees not to assign or transfer any of the rights, duties or obligations of the Grantee without the written consent of the Department;
- 7) The Grantee agrees not to amend the Project scope or budget without the Department's written consent. Failure to do so will result in a cost disallowance. The Project must be completed by the end date stated in the Grant Agreement unless a written modification request for an extension of time is submitted before the grant end date and approved by the Department;
- 8) The Grantee agrees to expend the Grant Amount and any accrued interest only for the purposes of the Project as stated in the Grant Agreement and approved by the Department;
- 9) The Grantee agrees not to enter into any written or oral agreement or understanding with any party that might be construed as an obligation of the State of Illinois or the Department for the payment of any funds under the Act; and
- 10) The Grantee agrees to acknowledge the Department's participation in the Project by displaying the Department's current logo and/or providing a statement that identifies the Project as being developed and/or funded in cooperation with the Department/Office of Tourism. Grantee's failure to utilize the Department logo correctly (e.g., size, placement, etc.) or statement may result in a 10% deduction of the Total Project Cost.

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

Section 510.80 Administrative Requirements for Grants

- a) Termination of Grant – Grants shall be terminated for the following reasons:

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

- 1) Termination Due to Loss of Funding – In the absence of State funding for a Fiscal Year, all grants for that year will be terminated in full. In the event of a partial loss of State funding, the Department will make proportionate cuts to all Grantees. In the event the Department suffers such a loss of funding in full or part, the Department will give the Grantee written notice setting forth the effective date of full or partial termination or, if a change in funding is required, setting forth the change in funding and changes in the approved budget.
- 2) Termination for Cause
 - A) If the Department determines that the Grantee has failed to comply with the terms and conditions of the grant or this Part, the Department may terminate the grant in whole, or in part, at any time before the date of completion. Circumstances that will result in the termination of a grant include, but are not necessarily limited to, the following: consistent failure to submit required reports; failure to maintain required records; evidence of fraud and abuse; and consistent failure to meet performance standards. These circumstances are explained in the Grant Agreement.
 - B) The Department shall notify the Grantee in writing, within 10 working days after the determination to terminate, of the reasons for the termination and the effective date of the termination. Payments made to the Grantee or recoveries by the Department shall be made in accordance with legal rights and liabilities in the Grant Agreement and the Illinois Grant Funds Recovery Act [30 ILCS 705].
- 3) Termination by Agreement – The Department and the Grantee shall terminate the grant in whole or in part when the Department and the Grantee agree that the continuation of the Program objectives would not produce beneficial results commensurate with the future expenditure of funds. The Department and the Grantee shall agree upon termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated. The Grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Department shall

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

allow full credit to the Grantee for the Department's share of the noncancelable obligations, properly incurred by the Grantee prior to termination.

- b) Interest on Grant Funds – In accordance with Section 10 of the Illinois Grant Funds Recovery Act, all interest earned on Grant Funds held by the Grantee under the grant shall become part of the grant when earned. Any interest earned under the grant, and not expended as grant principal during the term of the grant, shall be returned to the Department under the grant close-out process described in subsection (c).
- c) Grant Close-out – In accordance with Section 4 of the Illinois Grant Funds Recovery Act, any Grant Funds not expended or legally obligated, including any interest, remaining at the end of the grant period or at the expiration of the period of time Grant Funds were available for expenditure or obligation by the Grantee, shall be returned to the Department within 45 days after the end of the grant term.
- d) Audits – A Grantee shall be responsible for securing an audit for any grant award exceeding \$500,000. Additionally, an audit may be required when certain risk conditions exist, including, but not limited to, a negative compliance history and disclosure of previous material audit findings. The audit shall be performed by an independent certified public accountant, licensed by authority of the State of Illinois pursuant to the Illinois Public Accounting Act [225 ILCS 450]. The audit shall be conducted in accordance with generally accepted auditing standards contained in the publication entitled AICPA Professional Standards, American Institute of Certified Public Accountants, 1211 Avenue of the Americas, New York, New York 10036 (June 2007, no later editions are incorporated).
- e) Special Audits – The Department reserves the right to conduct special audits, including but not limited to an agency-wide audit, at any time during normal working hours, of the funds expended under Department grants.
- f) Monitoring and Evaluation – Grantee shall permit any agent authorized by the Department, the Office of Inspector General, the Auditor General of the State of Illinois, or any of their duly authorized representatives, upon presentation of credentials, in accordance with the constitutional limitation on administrative searches, to have full access to and the right to examine any documents, papers, and records of the Grantee involving transactions related to a grant from the Department. Once the Department has concluded its monitoring activities, the

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

Grantee will be notified of the Department's determination and findings, if any. If a determination containing findings of noncompliance has been made by the Department, the Grantee will be allowed an opportunity to cure any and all noncompliance issues. If any noncompliance issues cannot be resolved, the Department will issue a final determination requesting that the Grantee repay any funds that are determined by the Department to have been spent in violation of the Grant Agreement. If the Grantee fails to comply with the Department's final determination, the Department shall issue a final notice to the Grantee providing it the opportunity to invoke its rights under the Illinois Grant Funds Recovery Act.

- g) Complaint Process – An administrative hearing is initiated by a party serving a Petition for Hearing on the Department, or by the Department serving a Notice of Charges on the Grantee. In either case, the Department and the Grantee shall follow the Administrative Hearing Rules ~~as~~ set forth in 56 Ill. Adm. Code 2605.
- h) Certifications – The Grantee shall certify that it has not been barred from contracting with a unit of State or local government as a result of a violation of Sections 720 ILCS 5/33E-3 and 33E-4 of the Criminal Code [720 ILCS 5].
- i) Reports – Grantee shall submit, as required by the Department, reports on the financial status of the Project and reports on outcomes and results of the Project.

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

SUBPART E: MUNICIPAL CONVENTION CENTER AND
SPORTS FACILITY INCENTIVE GRANT PROGRAM

Section 510.410 Purpose

Section 8b of the Act authorizes the Department, until July 1, 2020, to make grants to a unit of local government, municipal convention center, or convention center authority that provides incentives for the purpose of attracting conventions, meetings and trade shows to municipal convention centers and attracting sporting events to municipal amateur sports facilities.

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

Section 510.420 Eligible Applicant

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

- a) Eligible Projects and Activities – The Municipal Convention Center and Sports Facility Incentive Grant Program shall provide grants to a unit of local government, municipal convention center, or convention center authority for Projects and activities including, but not limited to, publicizing, promoting, advertising or otherwise attracting:
- 1) conventions, meetings and trade shows to municipal convention centers;
or
 - 2) sporting events to municipal amateur sports facilities.
- b) Grants awarded under Section 8b of the Act shall be based upon the net proceeds received under the Hotel Operators' Occupation Tax Act for the renting, leasing or letting of hotel rooms in the municipality for the month in which the convention, meeting, trade show or sporting event occurs.

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

Section 510.430 Allocation of Appropriations

Annual appropriations made by the General Assembly to the Department for the purpose of making grants under Section 8b of the Act may be used by the Department in any county in the State.

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

Section 510.440 Funding Limitations

- a) The net proceeds received under the Hotel Operators' Occupation Tax Act for the same month in the three immediately preceding years must exceed the average of those three years in order to be reimbursed.
- b) Grants shall not exceed 80% of the incentive amount provided by the unit of local government, municipal convention center, convention center authority or municipal sports facility.
- c) In no event may the aggregate amount of grants awarded to a single municipal convention center, convention center authority or municipal sports facility exceed \$200,000 in any calendar year.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

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

Section 510.450 Annual Certification

- a) The unit of local government, municipal convention center, convention center authority or municipal sports facility shall certify, no later than May 15 of each year through May 15, 2020, to the Department the amounts of funds expended in the previous fiscal year to provide qualified incentives; however, in no event may the amount certified exceed \$200,000 for any municipal convention center, convention center authority or municipal amateur sports facility in any calendar year.
- b) The unit of local government, convention center, convention center authority or municipal sports facility shall certify:
- 1) The net proceeds received under the Hotel Operators' Occupation Tax Act for the renting, leasing or letting of hotel rooms in the municipality for the month in which the convention, meeting or trade show occurs; and
 - 2) The average of the net proceeds received under the Hotel Operators' Tax for the renting, leasing or letting of hotel rooms in the municipality for the same month in the three immediately preceding years.
- c) The unit of local government, municipal convention center or convention center authority shall include the incentive amounts as part of its regular audit identified in subsection (a).

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

Section 510.460 Certification Supporting Documentation

When Grantee submits a Department approved application for reimbursement, it shall also include the supporting documentation, including the following:

- a) A statement, with supporting documentation, reflecting the net proceeds received for the month in which the convention, meeting or trade show occurs; and

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF PROPOSED AMENDMENTS

- b) A statement, with supporting documentation, comparing the average net proceeds received for the same month in the three immediately preceding years; and
- c) A letter from the Grantee certifying that the statements, as appropriate, were reviewed and audited by the appropriate staff of the Grantee or an independent monitor or accountant and that the monitor or accountant concurs with and certifies the findings.

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

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Administration of the Illinois Public Community College Act
- 2) Code Citation: 23 Ill. Adm. Code 1501
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1501.101	Amendment
1501.507	Amendment
- 4) Statutory Authority: Implementing and authorized by Articles II and III and Section 6-5.3 of the Public Community College Act [110 ILCS 805/Arts. II and III and 6-5.3]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to make changes to the ICCB Administrative Rules on Dual Credit in order to remain compliant with the Dual Credit Quality Act (110 ILCS27/1-30). These changes help to codify current practices in dual credit and provide clarification of language and process.
- 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? Yes
- 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: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Illinois Community College Board
Attn: Matt Berry
401 East Capitol Avenue
Springfield IL 62701-1711

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

217/785-7411
fax: 217/524-4981

Matt.berry@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: High schools and community colleges offering dual credit programs
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Dual credit instructors teaching credit, college-level courses must meet the same requirements as on-campus faculty, and dual credit instructors teaching career and technical education courses must have appropriate credentials and teaching competencies.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not anticipated at the time the Agendas were published.

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

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER VII: ILLINOIS COMMUNITY COLLEGE BOARD

PART 1501

ADMINISTRATION OF THE ILLINOIS PUBLIC COMMUNITY COLLEGE ACT

SUBPART A: ILLINOIS COMMUNITY COLLEGE BOARD ADMINISTRATION

Section

1501.101	Definition of Terms and Incorporations by Reference
1501.102	Advisory Groups
1501.103	Rule Adoption (Recodified)
1501.104	Manuals
1501.105	Advisory Opinions
1501.106	Executive Director
1501.107	Information Request (Recodified)
1501.108	Organization of ICCB
1501.109	Appearance at ICCB Meetings
1501.110	Appeal Procedure
1501.111	Reporting Requirements (Repealed)
1501.112	Certification of Organization (Repealed)
1501.113	Administration of Detachments and Subsequent Annexations
1501.114	Recognition

SUBPART B: LOCAL DISTRICT ADMINISTRATION

Section

1501.201	Reporting Requirements
1501.202	Certification of Organization
1501.203	Delineation of Responsibilities
1501.204	Maintenance of Documents or Information
1501.205	Recognition Standards (Repealed)

SUBPART C: PROGRAMS

Section

1501.301	Definition of Terms
1501.302	Units of Instruction, Research, and Public Service

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

1501.303	Program Requirements
1501.304	Statewide and Regional Planning
1501.305	College, Branch, Campus, and Extension Centers
1501.306	State or Federal Institutions (Repealed)
1501.307	Cooperative Agreements and Contracts
1501.308	Reporting Requirements
1501.309	Course Classification and Applicability

SUBPART D: STUDENTS

Section	
1501.401	Definition of Terms
1501.402	Admission of Students
1501.403	Student Services
1501.404	Academic Records
1501.405	Student Evaluation
1501.406	Reporting Requirements

SUBPART E: FINANCE

Section	
1501.501	Definition of Terms
1501.502	Financial Planning
1501.503	Audits
1501.504	Budgets
1501.505	Student Tuition
1501.506	Published Financial Statements
1501.507	Credit Hour Claims
1501.508	Special Populations Grants (Repealed)
1501.509	Workforce Preparation Grants (Repealed)
1501.510	Reporting Requirements
1501.511	Chart of Accounts
1501.514	Business Assistance Grants (Repealed)
1501.515	Advanced Technology Equipment Grant (Repealed)
1501.516	Capital Renewal Grants
1501.517	Retirees Health Insurance Grants (Repealed)
1501.518	Uncollectible Debts
1501.519	Special Initiatives Grants
1501.520	Lincoln's Challenge Scholarship Grants

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1501.521 Technology Enhancement Grants
- 1501.522 Deferred Maintenance Grants (Repealed)
- 1501.523 Foundation Matching Grants

SUBPART F: CAPITAL PROJECTS

Section

- 1501.601 Definition of Terms
- 1501.602 Approval of Capital Projects
- 1501.603 State Funded Capital Projects
- 1501.604 Locally Funded Capital Projects
- 1501.605 Project Changes
- 1501.606 Progress Reports (Repealed)
- 1501.607 Reporting Requirements
- 1501.608 Approval of Projects in Section 3-20.3.01 of the Act
- 1501.609 Completion of Projects Under Section 3-20.3.01 of the Act
- 1501.610 Demolition of Facilities

SUBPART G: STATE COMMUNITY COLLEGE

Section

- 1501.701 Definition of Terms
- 1501.702 Applicability
- 1501.703 Recognition
- 1501.704 Programs
- 1501.705 Finance
- 1501.706 Personnel
- 1501.707 Facilities

SUBPART H: PERSONNEL

Section

- 1501.801 Definition of Terms
- 1501.802 Sabbatical Leaves

AUTHORITY: Implementing and authorized by Articles II and III and Section 6-5.3 of the Public Community College Act [110 ILCS 805/Arts. II and III and 6-5.3].

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Adopted at 6 Ill. Reg. 14262, effective November 3, 1982; codified at 7 Ill. Reg. 2332; amended at 7 Ill. Reg. 16118, effective November 22, 1983; Sections 1501.103, 1501.107 and 1501.108 recodified to 2 Ill. Adm. Code 5175 at 8 Ill. Reg. 6032; amended at 8 Ill. Reg. 14262, effective July 25, 1984; amended at 8 Ill. Reg. 19383, effective September 28, 1984; emergency amendment at 8 Ill. Reg. 22603, effective November 7, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 24299, effective December 5, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 3691, effective March 13, 1985; amended at 9 Ill. Reg. 9470, effective June 11, 1985; amended at 9 Ill. Reg. 16813, effective October 21, 1985; amended at 10 Ill. Reg. 3612, effective January 31, 1986; amended at 10 Ill. Reg. 14658, effective August 22, 1986; amended at 11 Ill. Reg. 7606, effective April 8, 1987; amended at 11 Ill. Reg. 18150, effective October 27, 1987; amended at 12 Ill. Reg. 6660, effective March 25, 1988; amended at 12 Ill. Reg. 15973, effective September 23, 1988; amended at 12 Ill. Reg. 16699, effective September 23, 1988; amended at 12 Ill. Reg. 19691, effective November 15, 1988; amended at 13 Ill. Reg. 1182, effective January 13, 1989; amended at 13 Ill. Reg. 14904, effective September 12, 1989; emergency amendment at 14 Ill. Reg. 299, effective November 9, 1989, for a maximum of 150 days; emergency amendment expired on April 9, 1990; amended at 14 Ill. Reg. 4126, effective March 1, 1990; amended at 14 Ill. Reg. 10762, effective June 25, 1990; amended at 14 Ill. Reg. 11771, effective July 9, 1990; amended at 14 Ill. Reg. 13997, effective August 20, 1990; expedited correction at 18 Ill. Reg. 3027, effective August 20, 1990; amended at 15 Ill. Reg. 10929, effective July 11, 1991; amended at 16 Ill. Reg. 12445, effective July 24, 1992; amended at 16 Ill. Reg. 17621, effective November 6, 1992; amended at 17 Ill. Reg. 1853, effective February 2, 1993; amended at 18 Ill. Reg. 4635, effective March 9, 1994; amended at 18 Ill. Reg. 8906, effective June 1, 1994; amended at 19 Ill. Reg. 2299, effective February 14, 1995; amended at 19 Ill. Reg. 2816, effective February 21, 1995; amended at 19 Ill. Reg. 7515, effective May 26, 1995; amended at 21 Ill. Reg. 5891, effective April 22, 1997; amended at 22 Ill. Reg. 2087, effective January 12, 1998; amended at 22 Ill. Reg. 17472, effective July 10, 1998; amended at 24 Ill. Reg. 249, effective December 21, 1999; amended at 24 Ill. Reg. 17522, effective November 20, 2000; amended at 25 Ill. Reg. 7161, effective May 18, 2001; emergency amendment at 25 Ill. Reg. 12863, effective September 28, 2001, for a maximum of 150 days; emergency expired February 24, 2002; amended at 26 Ill. Reg. 646, effective January 7, 2002; amended at 27 Ill. Reg. 17204, effective October 31, 2003; amended at 28 Ill. Reg. 14092, effective October 18, 2004; amended at 29 Ill. Reg. 6239, effective April 25, 2005; amended at 30 Ill. Reg. 2755, effective February 21, 2006; amended at 32 Ill. Reg. 16396, effective September 23, 2008; amended at 40 Ill. Reg. _____, effective _____.

SUBPART A: ILLINOIS COMMUNITY COLLEGE BOARD ADMINISTRATION

Section 1501.101 Definition of Terms [and Incorporations by Reference](#)

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

a) Definitions

~~Act.~~ The "Act" ~~means~~ the Public Community College Act [110 ILCS 805]. (~~Ill. Rev. Stat. 1989, ch. 122, par. 101-1 et seq.~~)

~~Board.~~ The "Board" ~~means~~ the Board of Trustees of an Illinois public community college district.

~~"College" means~~ College. A "college" is an Illinois public community college.

~~Executive Director.~~ The "Executive Director" ~~means~~ the executive officer and the executive secretary of the ICCB.

~~ICCB.~~ The "ICCB" or "State Board" ~~means~~ the Illinois Community College Board; also referred to in statute as the "State Board".

~~ICCB Grants.~~ "ICCB Grants" ~~means~~ funds appropriated by the State of Illinois to the ICCB for community colleges.

~~ICCB Student Member.~~ The "Student Member" ~~means~~ the member of the ICCB who has been selected by the ICCB's Student Advisory Committee. The student member has all the privileges of membership defined in Section 2-3 of the Act.

~~Recognition Continued.~~ "Recognition ~~Continued~~" ~~means~~ a status granted to a district ~~that~~ generally meets ICCB standards.

~~Recognition Continued With Conditions.~~ "Recognition ~~Continued~~ with ~~Conditions~~" ~~means~~ a status granted to a district ~~that~~ generally does not meet ICCB standards. A district is judged not to meet ICCB standards when one or more of the following conditions exist:

the district continues to be out of compliance with standards cited during the previous visit;

applicable standards are disregarded; and/or

the district is found to be out of compliance with significant applicable standards.

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

~~Recognition Interrupted.~~—"Recognition ~~Interrupted~~~~interrupted~~" is a status granted to a district ~~thatwhich~~ fails to meet ICCB standards within a specified period of time after being assigned a status of recognition continued-with conditions.

~~"Student Advisory Committee" or "(SAC)" means.~~—The "Student Advisory Committee" ~~is~~ the ICCB student advisory committee ~~created by~~~~specified in~~ Section 2-1 of the Act.

- b) Incorporation by Reference
"Program Classification Structure", 2nd Edition (Technical Report 106) (1978). Collier, Douglas J. This document may be obtained from the National Center for Higher Education Management Systems (NCHEMS), 3035 Center Green Drive, Suite 150, Boulder CO 80301-2251 or from info@ncems.org. This incorporation by reference does not include any later editions or amendments.

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

SUBPART E: FINANCE

Section 1501.507 Credit Hour Claims

- a) Claims. Claims for credit hours shall be submitted within 30 days after the end of each term in a format used by ~~the~~ ICCB.
- b) Course Requirements. Courses ~~thatwhich~~ produce credit hours eligible for ICCB grants shall satisfy the following requirements:
- 1) Courses shall be offered for the number of credit hours for which they are approved by ~~the~~ ICCB.
 - 2) Courses ~~thatwhich~~ have variable credit hours shall be claimed in specified increments only up to the maximum credit value approved for the course.
 - 3) Course data shall be posted to the permanent academic record of each student claimed.
 - 4) Courses shall be a part of units of instruction ~~thatwhich~~ have been approved by ~~the~~ ICCB, or the courses must be authorized extensions of existing units of instruction.

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

- 5) Courses shall have specific written objectives.
- 6) A course outline shall be available for review by any student or citizen.
- 7) Courses shall have a method of evaluating student performance ~~that~~which follows the adopted college grading system.
- 8) Courses shall follow the adopted college policies on student tuition.
- 9) The following categories of physical education courses shall be the only ones to produce eligible credit hours:
 - A) Elective physical education courses;
 - B) Required courses for majors and minors in physical education, recreational leadership, and related programs;
 - C) Physical education courses in teacher education programs as required by the State Educator Preparation and Licensure~~Teachers Certification~~ Board.
- 10) Courses shall produce a maximum rate of one semester credit hour or equivalent per week. Requests for exceptions to this requirement may be submitted to ~~the~~ICCB. The criteria utilized by ~~the~~ICCB for exceptions shall include:
 - A) documentation of need for an intensified or accelerated schedule;
 - B) student population identified with testing and/or screening to indicate special needs and/or competencies;
 - C) how courses are instructed, including schedule of classes, study time allotted for students, method of instruction and how students are evaluated;
 - D) time period of instructional activity and projected termination date;
 - E) procedures to evaluate the accelerated instructional activity.

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

- 11) Dual Credit courses~~Courses~~ offered by the college for high school students during the regular school day ~~at the secondary school~~ shall be college-level and shall meet the following requirements:
- A) State Laws and Regulations and Accreditation Standards. All State laws, ICCB regulations, accreditation standards specified by the North Central Association, and local college policies that apply to courses, instructional procedures and academic standards at the college apply to college-level courses offered by the college on campus, at off-campus sites, and at secondary schools. These policies, regulations, instructional procedures and academic standards apply to students, faculty and staff associated with these courses.
- B) Instructors. The instructors for these courses shall be selected, employed and evaluated by the community college. They shall be selected from individuals~~full time faculty and/or from adjunct faculty~~ with appropriate credentials and demonstrated teaching competencies at the college level. For transfer courses (1.1 PCS), these qualifications shall include a minimum of a Master's Degree with 18 graduate hours appropriate to the academic field of study or in the discipline in which they will be teaching. For CTE (1.2 PCS) courses, these qualifications shall include 2,000 hours of work experience and appropriate recognizable credentials, depending on the specific field.
- C) Qualification of Students. Students accepted for enrollment in college-level courses must have appropriate academic qualifications, a high level of motivation, and adequate time to devote to studying a college-level course. The students' course selections shall be made in consultation with high school counselors and/or principals and ~~ordinarily~~ are restricted to students who are able to demonstrate readiness for college-level work, as determined by placement procedures consistent with those that would be used with college level students in the junior and senior years of high school. The students shall meet all college criteria and follow all college procedures for enrolling in courses. Credit hours generated by freshman and sophomore

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

students for dual credit courses are not eligible for reimbursement.

- D) Placement Testing and Prerequisites. High school students~~Students~~ enrolling in college-level courses must satisfy the same course placement tests or course prerequisites as other college level students, when applicable, to assure that they are qualified and prepared~~have the same qualifications and preparation as other college students.~~
- E) Course Offerings. Courses shall be selected from transfer courses that have been articulated with baccalaureate~~senior~~ institutions in Illinois (see 23 Ill. Adm. Code 1501.309(d)) or from ~~the first-year~~ courses in ICCB approved certificate or associate in applied science degree programs.
- F) Course Requirements. The course outlines utilized for these courses shall be the same as for courses offered on campus and at other off-campus sites and shall contain the content articulated with colleges and universities in the State. Course prerequisites, descriptions, outlines, requirements, learning outcomes and methods of evaluating students shall be the same as for on-campus offerings.
- G) Concurrent Credit. The determination of whether a college course is offered for concurrent high school and college credit shall be made at the secondary level, according to the school's policies and practices of the district.
- c) Student Requirements. The following requirements shall apply to students who generate credit hours eligible for ICCB grants:
- 1) Students shall be certified by their instructors as being in attendance at midterm by including a certification statement on the midterm class roster, signed and dated by the instructor.
 - 2) Students who complete a course with a passing grade by the end of the term and who were not certified as being in attendance at midterm by the instructor shall be considered as having been in attendance at midterm.

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

- 3) Students enrolled in variable entry/variable exit classes or short-term classes of less than eight weeks may be certified by their instructors as having been in attendance at midterm by including a certification statement on the final class roster, signed and dated by the instructor.
 - 4) Students shall be residents of the State of Illinois.
 - 5) Auditors or visitors in a course shall not produce eligible credit hours.
 - 6) Students who repeat enrollment in a course shall produce credit hours eligible for ICCB grants when one of the following conditions is met:
 - A) If the student completed the course the first time of enrollment with less than a grade of C (or equivalent) and if the student was claimed for funding, the student may enroll and be claimed in the course one additional time;~~;~~~~or~~
 - B) If the student enrolled in the course previously and withdrew before completing the course, and if the student was claimed for funding, the student may enroll and be claimed in the course one additional time;~~;~~~~or~~
 - C) If a student completed the course previously and was claimed for funding, the student may be claimed for retaking the course if the student uses his/her option to retake the course tuition free under the college's educational guarantee program;~~;~~~~or~~
 - D) If the last time the student completed the course was at least four years previously, the student may be claimed for funding if the student repeats the course to upgrade his/her skills in that area;~~;~~ or
 - E) If a course has been approved by ~~the~~ ICCB to be repeated, the student may repeat the course and be claimed as often as approved by ~~the~~ ICCB.
- d) Exceptions. The following credits will not be eligible for ICCB funding:
- 1) Credit by examination;

ILLINOIS COMMUNITY COLLEGE BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) Military service credit for physical education;
 - 3) Transfer of credit earned at other institutions or in the armed forces;
 - 4) Proficiency examinations;
 - 5) Advanced placement credits;
 - 6) Other methods of program acceleration ~~that~~^{which} do not include instruction.
- e) Midterm Class List Certification Requirements~~class list certification requirements:~~
- 1) The midterm class lists' primary purpose shall be for certification of students' credit hours for State funding eligibility or ineligibility.
 - 2) The process must rely on the course section's instructor's assessment of the students' pursuit of successful completion at the midpoint of the class, as indicated by that instructor's midterm certification signature.
 - 3) The college shall document and communicate district requirements to faculty each semester.
 - 4) The college must be able to provide, upon request, a hardcopy midterm class list print out of each course section, submitted on ICCB credit hour claims, containing either a manual faculty signature or an authenticated electronic faculty signature for either ICCB or external audit purposes.

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
140.435	Amendment
140.523	Amendment
140.TABLE D	Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: The proposed amendments implement revisions to collaborative agreement requirements pursuant to the Nurse Practice Act; add language regarding the payment of therapeutic bed holds for certain facilities with residents who have a TBI diagnosis; and clarify language that allows children in need of dental services the ability to receive those services in an office or school setting.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Mollie Zito
General Counsel

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

217/782-1233
HFS.Rules@illinois.gov

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: 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 anticipated by the Department when the most recent regulatory agendas were published.

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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 PROPOSED AMENDMENTS

- 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 PROPOSED AMENDMENTS

- 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 PROPOSED AMENDMENTS

- 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 PROPOSED AMENDMENTS

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 PROPOSED AMENDMENTS

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 PROPOSED AMENDMENTS

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 PROPOSED AMENDMENTS

- 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 PROPOSED AMENDMENTS

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 PROPOSED AMENDMENTS

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 PROPOSED AMENDMENTS

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

Section

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

140.TABLE E	Time Limits for Processing of Prior Approval Requests
140.TABLE F	Podiatry Service Schedule
140.TABLE G	Travel Distance Standards
140.TABLE H	Areas of Major Life Activity
140.TABLE I	Staff Time and Allocation for Training Programs (Recodified)
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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. 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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Reg. 18323, effective November 12, 2008; preemptory 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; preemptory 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.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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; emergency expired December 6, 2015; amended at 39 Ill. Reg. 12825, effective September 4, 2015; amended at 39 Ill. Reg. 13380, effective September 25, 2015; amended at 39 Ill. Reg. 14138, effective October 14, 2015; amended at 40 Ill. Reg. _____, effective _____.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.435 Advanced Practice Nurse Services

- a) For purposes of enrollment in the Medical Assistance Program, an advanced practice nurse (APN) means a person who is licensed as a registered professional nurse, holds a valid license in the state of practice and is legally authorized under state law or rule to practice as an advanced practice nurse, so long as that practice is not in conflict with the Nurse Practice Act [225 ILCS 65], the Medical Practice Act of 1987 [225 ILCS 60] and implementing rules (68 Ill. Adm. Code 1305). Categories of APNs include:
- 1) Certified Registered Nurse Anesthetist (CRNA);
 - 2) Certified Nurse Midwife (CNM);
 - 3) Certified Nurse Practitioner (CNP); and
 - 4) Clinical Nurse Specialist (CNS).

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- b) A written collaborative agreement with a collaborating physician or practitioner is required for all APNs engaged in clinical practice, except for APNs practicing in a hospital, a hospital affiliate or an Ambulatory Surgical Treatment Center. An APN must have and maintain a current collaborative or written practice agreement with a collaborating physician or practitioner under whom the APN will be practicing, as set forth in the Nurse Practice Act.
- e) Depending on the site of care, CRNAs may or may not be required to possess a written collaborative or written practice agreement as set forth in the Nurse Practice Act. CRNAs may work in a hospital, a physician's, dentist's or podiatrist's office, or an Ambulatory Surgical Treatment Center.
- cd) The agreement or agreements required under subsections~~subsections~~ (b) and (e) shall comply with all requirements ~~as~~ described in the Nurse Practice Act and 68 Ill. Adm. Code 1300+305. Agreements required under the Act and 68 Ill. Adm. Code 1300+305 must be updated, be maintained on file at each practice location, and be available upon the Department's request.
- de) The APN must notify the Department within 10 business days if an agreement is dissolved or if a change occurs in the collaborating physician, dentist or podiatric physician~~or practitioner~~ under the agreement. The Department will then re-evaluate the APN's enrollment status.
- ef) The collaborating physician, dentist or podiatric physician~~or practitioner~~ is not required to be enrolled with the Department. However, the collaborating physician or practitioner may not be terminated, suspended or barred by the Department from participating in the Medical Assistance Program.
- fg) An APN who is required to maintain a collaborative or written practice agreement must submit the following information with the initial application for enrollment:
- 1) Documentation of specialty of practice.
 - 2) Name and address of collaborating physician, dentist or podiatric physician.~~Collaborating physician's or practitioner's name and address.~~
 - 3) Collaborating physician's or practitioner's Federal Employer Identification Number (FEIN) of collaborating physician, dentist or podiatric physician.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 4) ~~Medical Collaborating physician's or practitioner's medical~~ license number of collaborating physician, dentist or podiatric physician.
- 5) ~~State Collaborating physician's or practitioner's state~~ of licensure, if other than Illinois, and address of collaborating physician, dentist or podiatric physician.
- h) ~~An APNA-CRNA~~ who is not required to maintain a collaborative or written practice agreement and who provides services in a hospital, hospital affiliate or Ambulatory Surgical Treatment Center setting must submit with the initial application for enrollment the names and addresses of the hospitals or Ambulatory Surgical Treatment Centers where he or she practices.
- i) To be eligible for reimbursement for individual psychiatric services, as defined in the American Medical Association Current Procedural Terminology (CPT) book, CPT code range ~~90791-90801~~ through 90899, ~~excluding 90853~~, the rendering APN must hold a current certification in Psychiatric and Mental Health Nursing as set forth in 68 Ill. Adm. Code ~~1300.1305~~.Appendix A.

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

SUBPART E: GROUP CARE

Section 140.523 Bed Reserves

- a) Effective for dates of service on or after July 1, 2012, no payments for bed reserve days will be made to a facility licensed under the Nursing Home Care Act [210 ILCS 45] or the Specialized Mental Rehabilitation Act [210 ILCS 48]. However, beginning June 1, 2015, for purposes of therapeutic home visits for individuals scoring as TBI on the MDS 3.0, payment shall be approved for bed reserve days in facilities that have at least a 90% occupancy level if at least 80% of their residents are Medicaid eligible. Payment shall be at 75% of the facility's current Medicaid per diem rate and shall not exceed 10 days in a calendar month.
- b) Effective July 22, 2013, ICF/MR Facilities (including ICF/DD and SNF/Ped licenses)
 - 1) All bed reserves must:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- A) be authorized by the interdisciplinary team (IDT); and
 - B) be limited to residents who desire to return to the same facility.
- 2) There is no minimum occupancy level ICF/MR facilities must meet for receiving bed reserve payments.
- 3) In no facility may the number of vacant beds be less than the number of beds identified for residents having an approved bed reserve. The number of vacant beds in the facility must be equal to or greater than the number of residents allowed bed reserve.
- 4) For persons who are under 21 years of age, payment may be approved for hospitalization for a period not to exceed 45 consecutive days. The day the resident is transferred to the hospital is the first day of the reserve bed period. Payment for approved bed reserves for hospitalization is a daily rate at:
- A) 100% of a facility's current Medicaid per diem for the first 10 days of an admission to a hospital;
 - B) 75% of a facility's current Medicaid per diem for days 11 through 30 of the admission;
 - C) 50% of a facility's current Medicaid per diem for days 31 to 45 of the admission.
- 5) Payment may be approved for therapeutic visits which have been indicated by the IDT as therapeutically beneficial. There is no limitation on the bed reserve days for such approved therapeutic visits. The day after the resident leaves the facility is the first day of the bed reserve period. Payment for approved bed reserves for therapeutic visits is a daily rate at:
- A) 100% of a facility's current Medicaid per diem for a period not to exceed 10 days per State fiscal year;
 - B) 75% of a facility's current Medicaid per diem for a period ~~that~~which exceeds 10 days per State fiscal year.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 140. TABLE D Schedule of Dental Procedures

Effective ~~January 1, 2016~~ July 1, 2014. Additional dental services may be approved based on medical necessity.

- a) Diagnostic Services
 - 1) Clinical Oral Evaluations
 - A) Oral Exams (ages 0-20) – limited to one every 6 months per patient in an office ~~and/or~~ school setting
 - B) Limited Exam (ages 0-99)
 - C) Comprehensive Exam (ages 0-99)
 - 2) X-rays (ages 0-99)
- b) Preventive Services (ages 0-20)
 - 1) Prophylaxis – limited to one every 6 months per patient in an office or school setting
 - 2) Topical Application of Fluoride – limited to one every 6 months per patient in an office or school setting
 - 3) Fluoride Varnish – limited to three per 12 months per patient ages 0-2 years in an office setting
 - 4) Sealants – limited to one per lifetime per tooth regardless of place of service
 - 5) Space Maintenance – limited to one per lifetime per quadrant
- c) Restorative Services (ages 0-99)
 - 1) Amalgams
 - 2) Resins

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 3) Crowns
- 4) Other Restorative Services
- d) Endodontic Services (ages 0-20)
 - 1) Pulpotomy
 - 2) Endodontic Therapy (ages 21 and over; limited to anterior teeth only)
 - 3) Apexification/Recalcification Procedures
 - 4) Apicoectomy/Periradicular Services
- e) Periodontal Services (ages 0-20)
 - 1) Surgical Services
 - 2) Non-Surgical Periodontal Services
 - 3) Other Periodontal Services
- f) Removable Prosthodontic Services (ages 0-99)
 - 1) Complete Denture
 - 2) Partial Denture (ages 0-20)
 - 3) Repairs to Complete Denture
 - 4) Repairs to Partial Denture
 - 5) Denture Reline Procedures
- g) Maxillofacial Prosthetics (ages 0-99)
- h) Prosthodontics Fixed (ages 0-20)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Fixed Partial Denture Pontics
- 2) Fixed Partial Denture Retainers – Crowns
- 3) Other Fixed Partial Denture Services
- i) Oral and Maxillofacial Services (ages 0-99)
 - 1) Extractions
 - 2) Surgical Extractions
 - 3) Other Surgical Procedures
 - 4) Alveoloplasty
 - 5) Surgical Excision of Intra-osseous Lesions
 - 6) Surgical Incision
 - 7) Treatment of Fractures – Simple
 - 8) Treatment of Fractures – Compound
 - 9) Reduction of Dislocation and Management of Other Temporomandibular Joint Dysfunctions
 - 10) Other Repair Procedures
- j) Orthodontic Services (ages 0-20)
 - 1) Comprehensive Orthodontic
 - 2) Other Orthodontic Services
- k) Adjunctive General Services (ages 0-99)
 - 1) Unclassified Treatment

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 2) Anesthesia
- 3) Professional Consultation
- 4) Drugs

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Hospital Reimbursement Changes
- 2) Code Citation: 89 Ill. Adm. Code 152
- 3) Section Number: 152.150 Proposed Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Complete Description of the Subjects and Issues Involved: The proposed amendment through technical changes is needed to further clarify the methodology used to track the increase in inpatient case mix under the new system. The new system is due to documentation and coding improvements.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in which Interested Persons may Comment on this Proposed Rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

217/782-1233
HFS.Rules@illinois.gov

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Medicaid funded providers
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not anticipated by the Department when the most recent regulatory agendas were published.

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER e: GENERAL TIME-LIMITED CHANGES

PART 152

HOSPITAL REIMBURSEMENT CHANGES

Section

152.100	Hospital Rate Reductions
152.150	Hospital Payment Documentation and Coding Improvement Adjustment
152.200	Non-DRG Reimbursement Methodologies (Repealed)
152.250	Appeals (Repealed)
152.300	Adjustment for Potentially Preventable Readmissions
152.350	Inpatient and Outpatient Rate Adjustments

AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Sections 12-13 and 14-8 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and Sections 12-13 and 14-8].

SOURCE: Emergency rules adopted at 18 Ill. Reg. 2150, effective January 18, 1994, for maximum of 150 days; adopted at 18 Ill. Reg. 10141, effective June 17, 1994; emergency amendment at 19 Ill. Reg. 6706, effective May 12, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10236, effective June 30, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16272, effective November 27, 1995; emergency amendment at 20 Ill. Reg. 9272, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15712, effective November 27, 1996; emergency amendment at 21 Ill. Reg. 9544, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16153, effective November 26, 1997; emergency amendment at 25 Ill. Reg. 218, effective January 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6966, effective May 28, 2001; emergency amendment at 25 Ill. Reg. 16122, effective December 3, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 7309, effective April 29, 2002; emergency amendment at 29 Ill. Reg. 10299, effective July 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 19997, effective November 23, 2005; emergency amendment at 30 Ill. Reg. 11847, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18703, effective November 27, 2006; emergency amendment at 32 Ill. Reg. 529, effective January 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 8730, effective May 29, 2008; amended at 35 Ill. Reg. 10114, effective June 15, 2011; emergency amendment at 36 Ill. Reg. 10410, effective July 1, 2012 through June 30, 2013; emergency amendment at 37 Ill. Reg. 282, effective January 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 10517, effective June 27, 2013; emergency amendment at 37 Ill. Reg. 13589, effective August 1, 2013,

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

for a maximum of 150 days; emergency amendment at 37 Ill. Reg. 16003, effective September 27, 2013, for a maximum of 150 days; amended at 38 Ill. Reg. 882, effective December 23, 2013; amended at 38 Ill. Reg. 15527, effective July 2, 2014; amended at 40 Ill. Reg. _____, effective _____.

Section 152.150 Hospital Payment Documentation and Coding Improvement Adjustment

Effective for dates of service on or after July 1, 2014:

- a) Inpatient Hospital Payment Documentation and Coding Improvement (DCI) Adjustment
 - 1) The Department shall monitor changes in inpatient hospital statewide average case mix for services provided in the first two years following implementation of the APR-DRG payment methodology, and retrospectively adjust DRG base rates to offset the impact of paid case mix differential attributable to DCI.
 - 2) Measuring case mix differential attributable to DCI:
 - A) Calculate the percentage point change, rounded to the nearest hundredth, in statewide average case mix using Version 30 of the Medicare-Severity DRG (MS-DRG) grouper and relative weights for:
 - i) Claims with dates of service in State fiscal year 2011 of like populations when compared to fiscal years 2015 and 2016.
 - ii) Claims with dates of service in State fiscal years 2015 and 2016 of like populations when compared to fiscal year 2011, consistent with subsection (a)(3).
 - B) Calculate the percentage point change, rounded to the nearest hundredth, in statewide average case mix using Version 30 of the APR-DRG weighting factors for the same periods specified in subsection (a)(1)(A).

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- C) The case mix differential that is attributable to DCI is equal to the difference between the change in the aggregate APR-DRG case mix and the change in the aggregate MS-DRG case mix for the claims described in subsection (a)(1)(A).
 - D) Claims for services provided in State fiscal years 2015 and 2016 that were not paid by the Department using the APR-DRG payment methodology shall be excluded when measuring the case mix differential.
- 3) Timing:
- A) Calculate case mix differential attributable to DCI for claims with Dates of Service (DOS) in SFY 2015 (first year of implementation) as of:
 - i) July 1, 2015, using all claims adjudicated as of that date with DOS in SFY 2015.
 - ii) January 1, 2016, using all claims adjudicated as of that date with DOS in SFY 2015.
 - iii) April 1, 2016, using all claims adjudicated as of that date with DOS in SFY 2015.
 - B) Calculate case mix differential attributable to DCI for claims with DOS in SFY 2016 (second year of implementation) as of:
 - i) July 1, 2016, using all claims adjudicated as of that date with DOS in SFY 2016.
 - ii) January 1, 2017, using all claims adjudicated as of that date with DOS in SFY 2016.
 - iii) April 1, 2017, using all claims adjudicated as of that date with DOS in SFY 2016.
- 4) Adjusting for case mix changes attributable to DCI:

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- A) For any measurement period described in subsection (a)(3), if the case mix differential attributable to DCI is greater than two percentage points, the Department will adjust the DRG base rates by the measured case mix differential less two percentage points.
 - B) For any measurement period described in subsection (a)(3), if the case mix differential attributable to DCI is less than minus two percentage points, the Department will adjust the DRG base rates by the measured case mix differential plus two percentage points.
 - C) The Department will retroactively adjust the payments for all claims adjudicated as of the measurement period for the changes in the DRG base rates.
- b) Outpatient Hospital Payment Documentation and Coding Improvement Adjustment
- 1) The Department shall monitor changes in outpatient hospital case mix for services provided in the first two years following implementation of the Enhanced Ambulatory Procedure Grouping (EAPG) payment methodology, and retrospectively adjust EAPG conversion factors to offset the impact of the case mix differential attributable to DCI.
 - 2) Measuring case mix differential attributable to DCI:
 - A) Calculate the percentage point change, rounded to the nearest hundredth, in statewide average case mix using Ambulatory Procedures List (APL) relative values for the claims data periods listed in this subsection (b)(2)(A). Relative values will be determined for each APL using SFY 2011 outpatient claims data [priced using APL payment amounts in effect on December 31, 2010](#), by dividing the APL's average payment per service unit by the statewide APL payment for service unit.
 - i) Claims with DOS in SFY 2011.
 - ii) Claims with DOS in SFY 2015 and 2016, consistent with subsection (b)(3).

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- B) Calculate the percentage point change, rounded to the nearest hundredth, in statewide average case mix using Version 3.7 of the EAPG grouper and the EAPG weighting factors for the same periods.
 - C) The case mix differential that is attributable to DCI is equal to the difference between the change in the aggregate EAPG case mix and the change in the aggregate APL case mix, for the claims described in subsections (b)(2)(A)(i) and (ii).
 - D) Claims for services provided in SFY 2015 and 2016 that were not paid by the Department using the EAPG payment methodology shall be excluded when measuring the case mix differential.
- 3) Timing:
- A) Calculate case mix differential attributable to DCI for claims with DOS in SFY 2015 (first year of implementation) as of:
 - i) July 1, 2015, using all claims adjudicated as of that date with DOS in SFY 2015.
 - ii) January 1, 2016, using all claims adjudicated as of that date with DOS in SFY 2015.
 - iii) April 1, 2016, using all claims adjudicated as of that date with DOS in SFY 2015.
 - B) Calculate case mix differential attributable to DCI for claims with DOS in SFY 2016 (second year of implementation) as of:
 - i) July 1, 2016, using all claims adjudicated as of that date with DOS in SFY 2016.
 - ii) January 1, 2017, using all claims adjudicated as of that date with DOS in SFY 2016.
 - iii) April 1, 2017, using all claims adjudicated as of that date with DOS in SFY 2016.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 4) Adjusting for case mix changes attributable to DCI:
- A) For any measurement period described in subsection (b)(3), if the case mix differential attributable to DCI is greater than two percentage points, the Department will adjust the EAPG conversion factor by the measured case mix differential less two percentage points.
 - B) For any measurement period described in subsection (b)(3), if the case mix differential attributable to DCI is less than minus two percentage points, the Department will adjust the EAPG conversion factor by the measured case mix differential plus two percentage points.
 - C) The Department will retroactively adjust the payments for all claims adjudicated as of the measurement period for the changes in the EAPG conversion factors.
 - D) The EAPG conversion factor, after adjustments pursuant to subsections (b)(4)(A) and (B), shall be in effect until the next measurement period.
- c) Public Act 98-651, effective June 16, 2014, authorizes the Department, after consulting with the hospital community, to replace this Section within 12 months after its effective date. If the Department does not file rules to replace this Section within 12 months after the effective date of PA 98-651, this Section as amended effective July 1, 2014 shall remain in effect until modified by rule by the Department. *Nothing in PA 98-651 shall be construed to mandate that the Department file a replacement rule* [305 ILCS 5/14-12(c)].

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

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Boiler and Pressure Vessel Safety
- 2) Code Citation: 41 Ill. Adm. Code 2120
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
2120.20	Amendment
2120.40	Amendment
2120.1420	Amendment
- 4) Statutory Authority: Boiler and Pressure Vessel Safety Act [430 ILCS 75]
- 5) A Complete Description of the Subjects and Issues Involved: These proposed rule changes would require that carbon dioxide detectors be placed inside every commercial building where any portion of a pressurized carbon dioxide vessel system is located. The changes would also, for newly installed systems only, require that the exit points of boiler ventilation piping (both intake and exhaust) be located outside of an occupancy at least 36 inches above grade to prevent carbon monoxide buildup during times of high snowfall. Third, the changes would clarify the inspection cycle for a historical boiler in the event that one or more required inspections are not conducted by the owner or operator. If four consecutive years of inspections are not conducted, this rulemaking would require the owner to start a new cycle of regular inspections at 2-year intervals with an initial inspection that conducts ultrasonic testing (UT) of 100% of the surface of the object using certified UT testing personnel. These amendments would also update the national technical codes incorporated into these rules as required by Section 2 of the Boiler and Pressure Vessel Safety Act, 430 ILCS 75/2.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or enlarge a State mandate.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

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

Tom Andryk
Legal Division
Attn: Part 2120 Rules
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703

217/785-5758
fax: 217/524-5487

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking could have an impact on those small businesses, small municipalities and not for profit entities that own a boiler or pressure vessel.
 - B) Reporting, bookkeeping or other procedures required for compliance: Individuals and companies must maintain copies of maintenance and inspection records.
 - C) Types of Professional skills necessary for compliance: No new professional skills required.
- 14) Regulatory Agenda on which this rulemaking was summarized: January and July 2015; and January 2016

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

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

TITLE 41: FIRE PROTECTION

CHAPTER III: BOARD OF BOILER AND PRESSURE VESSEL RULES

PART 2120

BOILER AND PRESSURE VESSEL SAFETY

SUBPART A: DEFINITIONS AND ADMINISTRATION

Section	
2120.10	Definitions
2120.20	Incorporation of National Standards
2120.30	Fees
2120.40	Administration
2120.50	Inspectors, Examinations, Certificate of Competency and Commission

SUBPART B: CONSTRUCTION, INSTALLATION, INSPECTION,
MAINTENANCE, AND USE

Section	
2120.100	New Installations of Boilers, Miniature Boilers, Heating Boilers and Hot Water Supply Boilers
	2120.200 New Installations of Pressure Vessels
2120.300	Existing Installations of Power Boilers
2120.400	Operation of Boilers and Pressure Vessels
2120.500	Existing Installation of Pressure Vessels

SUBPART C: REPAIR AND ALTERATION

Section	
2120.1000	Repairs and Alterations to Boilers and Pressure Vessels by Welding
2120.1010	Authorization to Repair Boilers and Pressure Vessels
2120.1020	Issuance and Renewal of the Certificate
2120.1030	Changes to Certificates of Authorization
2120.1040	Quality Control Requirements
2120.1041	Repair and Alteration Requirements

SUBPART D: STATE SPECIALS

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

Section

2120.1100 Procedure for the Issuance of a State Special Permit

SUBPART E: REPAIR OF SAFETY AND SAFETY RELIEF VALVES

Section

2120.1200 Authorization for Repair of Safety & Safety Relief Valves
2120.1210 Authorization to Repair ASME and National Board Stamped Safety and Safety Relief Valves
2120.1220 Issuance and Renewal of the Certificate
2120.1240 Changes to Certificates of Authorization
2120.1250 Repairs to Safety and Safety Relief Valves
2120.1260 Quality Control System
2120.1270 Nameplates
2120.1275 Field Repair
2120.1280 Performance Testing of Repaired Valves
2120.1285 Training of Valve Repair Personnel
2120.1290 ASME "V", "UV" or National Board "VR" Certificate Holders

SUBPART F: OWNER-USER QUALITY CONTROL REQUIREMENTS

Section

2120.1300 Introduction
2120.1301 Authority and Responsibility
2120.1305 Organization
2120.1310 Inservice Inspection Program
2120.1320 Drawings, Design Calculations, and Specification Control
2120.1325 Material Control
2120.1330 Examination and Inspection Program
2120.1335 Correction of Nonconformities
2120.1340 Welding
2120.1345 Nondestructive Examination
2120.1350 Calibration of Measurement and Test Equipment
2120.1355 Records
2120.1360 Inspectors

SUBPART G: HISTORICAL BOILERS

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

Section

2120.1400	Scope
2120.1410	Historical Boiler Definition
2120.1420	Historical Boiler Inspections
2120.1430	Fees
2120.1440	Repairs and Alterations
2120.APPENDIX A	Operational and Maintenance Log
2120.EXHIBIT A	Hot Water Heating Boilers
2120.EXHIBIT B	Steam Heating Boilers

AUTHORITY: Implementing the Boiler and Pressure Vessel Safety Act [430 ILCS 75] and authorized by Sections 2 and 2.1 of the Boiler and Pressure Vessel Safety Act [430 ILCS 75/2 and 2.1].

SOURCE: Boiler and Pressure Vessel Safety Act Rules and Regulations adopted at 4 Ill. Reg. 7, p. 126, effective January 31, 1980; codified at 5 Ill. Reg. 10677; amended at 7 Ill. Reg. 6925, effective July 1, 1983; amended at 10 Ill. Reg. 9510, effective July 1, 1985; amended at 11 Ill. Reg. 16587, effective January 1, 1988; amended at 16 Ill. Reg. 6808, effective July 1, 1992; amended at 17 Ill. Reg. 14917, effective September 1, 1993; amended at 19 Ill. Reg. 11904, effective August 15, 1995; amended at 20 Ill. Reg. 9540, effective July 3, 1996; amended at 21 Ill. Reg. 997, effective January 1, 1997; amended at 23 Ill. Reg. 162, effective January 1, 1999; amended at 24 Ill. Reg. 18555, effective December 7, 2000; amended at 25 Ill. Reg. 11914, effective January 1, 2002; amended at 27 Ill. Reg. 518, effective January 01, 2003; emergency amendment at 27 Ill. Reg. 14855, effective September 2, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 1737, effective January 13, 2004; amended at 28 Ill. Reg. 13509, effective September 24, 2004; amended at 32 Ill. Reg. 17198, effective October 16, 2008; amended at 35 Ill. Reg. 9028, effective July 1, 2011; amended at 37 Ill. Reg. 13424, effective August 1, 2013; amended at 38 Ill. Reg. 18925, effective September 4, 2014; recodified from Chapter I, 41 Ill. Adm. Code 120, to Chapter III, 41 Ill. Adm. Code 2120, at 39 Ill. Reg. 10645; amended at 40 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS AND ADMINISTRATION

Section 2120.20 Incorporation of National Standards

- a) Where standards are incorporated by reference in this Part, the incorporated material does not include any later editions or amendments.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

b) The Board hereby adopts the following nationally recognized standards and addenda:

- 1) American Petroleum Institute (API)
1220 L Street, Northwest
Washington DC 20005

API-510, ~~Tenth~~^{Ninth} Edition, ~~May 2014~~^{June 2006}, Pressure Vessel Inspection Code: ~~In-service~~^{Maintenance} Inspection, Rating, Repair, and Alteration

- 2) American Society of Mechanical Engineers (ASME)
United Engineering Center
Three Park Avenue
New York NY 10017
www.asme.org

A) ASME Boiler and Pressure Vessel Code, ~~2015~~²⁰¹³ Edition

Section I	Rules for Construction of Power Boilers
Section II	Material Specifications – Part A – Ferrous
Section II	Material Specifications – Part B – Nonferrous
Section II	Material Specifications – Part C – Welding Rods, Electrodes and Filler Metals
Section II	Material Specifications – Part D – Properties (Customary)
Section IV	Rules for Construction of Heating Boilers
Section V	Nondestructive Examination
Section VI	Recommended Rules for the Care and Operation of Heating Boilers
Section VII	Recommended Guidelines for the Care of Power Boilers
Section VIII	Pressure Vessels – Division 1, Rules for Construction of Pressure Vessels (Including Appendix M)

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

Section VIII	Pressure Vessels – Division 2 – Alternative Rules
Section VIII	Pressure Vessels – Division 3 – Alternative Rules for Construction of High Pressure Vessels
Section IX	<u>Welding, Brazing and Fusing Qualification Standard for Welding and Brazing Procedures, Welders, Brazers, and Welding and Brazing Operators</u>
Section X	Fiberglass-Reinforced Plastic Pressure Vessels

B) ASME CSD-1 ~~2012~~2009 – Controls and Safety Devices for Automatically Fired Boilers

3) National Board of Boiler and Pressure Vessel Inspectors (NB)
1055 Crupper Avenue
Columbus OH 43229
www.nationalboard.org

National Board Inspection Code (NBIC), ~~2015~~2013 Edition

4) National Fire Protection Association (NFPA)
1 Batterymarch Park
Quincy MA 02269-9101
www.nfpa.org

NFPA 85 Boiler and Combustion Systems Hazards Code,
~~2015~~2011 Edition

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

Section 2120.40 Administration

a) Applying State Serial Number. The State serial number on boilers shall be not less than $\frac{5}{16}$ " in height and shall be preceded by the letter "B". The State serial number on pressure vessels shall be not less than $\frac{5}{16}$ " in height and shall be preceded by the letter "U". The inspector shall make certain that the correct Illinois State serial number is affixed to the boiler or pressure vessel at the time of inspection.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- b) First Time Inspection. Effective January 1, 1999, all first time inspections of boilers and pressure vessels shall be performed by the Chief or a Deputy Inspector employed by the Division.
- c) Basis for Extending Certificate of Internal Inspection for Power Boilers. The Chief Inspector is authorized to extend, for a period not exceeding one year, or 2 years for power boilers having an output rated at or above 450,000 lbs/hr, the time within which power boilers are required to be internally inspected, subject to the following conditions and qualifications:
- 1) The analysis and treatment of feedwater for power boilers shall be under the supervision of a person qualified in the field of water chemistry.
 - 2) The analysis and treatment of the boiler feedwater shall be for the purpose of controlling and limiting serious deteriorating, encrusting and sludging factors affecting the safety of the boiler.
 - 3) The owner or user of power boilers must maintain, for examination by the inspector, accurate records of chemical and physical laboratory analyses of samples of the boiler water taken at regular intervals of not more than 24 hours operation and of the treatment applied. These records must specify dates and times of analyses, by whom analyzed, and the treatment applied at that time, and should be certified by the responsible authority. These records will adequately show the conditions of the water and any constituents or characteristics that are capable of producing corrosion or other deterioration of the boiler or its parts.
 - 4) The Chief Inspector is authorized to review the qualifications of the supervisor and the acceptability of supervision in accordance with the requirements of subsections (c)(1) through (c)(3).
 - 5) An internal inspection must have been performed during a pre-planned outage allowing appropriate time for a complete and comprehensive evaluation, including inspections of watersides, furnace area and all gas passages, with no deficiencies found that would preclude extending the internal inspection for one year, or 2 years for power boilers having an output rated at or above 450,000 lbs/hr.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- 6) At no time shall the period between internal inspections for boilers having an output rated at or above 450,000 lbs/hr exceed a 36-month time interval.
 - 7) Application for extension shall be by letter setting forth facts establishing compliance with the requirements of subsections (c)(1) through (c)(7) and shall be accompanied by the report of external inspection.
- d) **Unsafe Boilers or Pressure Vessels.** Any boiler or pressure vessel having been inspected and declared unsafe by an inspector shall have the Inspection Certificate suspended.
- e) **Factors of Safety for Existing Installations.** An inspector shall increase the factors of safety if the condition of a boiler or pressure vessel warrants it. If the owner or user does not concur with the inspector's decision, the owner or user may appeal to the Board.
- f) **Frequency of Inspection of Boilers and Pressure Vessels**
- 1) Power boilers and high temperature water boilers shall receive a certificate inspection annually, which shall be an internal inspection where conditions permit unless authorization is granted by the chief inspector to extend the internal inspection as permitted in subsection (c). The boilers shall also be inspected externally annually while under representative operating conditions, if possible, except that a power boiler having an output rated at or above 450,000 lbs/hr may forgo the external inspection for the year the internal inspection is conducted.
 - 2) Low pressure steam and hot water heating boilers and hot water supply boilers shall receive a certificate inspection every 2 years. Groups of heating and hot water supply boilers connected together shall be registered as one unit and receive one Inspection Certificate when the following conditions are met:
 - A) No unit exceeds 400,000 BTU input;
 - B) All units being considered in the assembled modular unit are connected to a common header or manifold; and

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- C) No more than 8 units can be grouped together and registered as one unit.
- 3) Inspection of the flame safeguard equipment shall be in conjunction with the regular inspections of boilers.
- 4) Pressure vessels subject to internal corrosion shall receive a certificate inspection every 3 years. This inspection shall be external and internal where conditions permit. However, owner-users qualified in accordance with Section 15 of the Act shall have the option of using API-510 or the NBIC for inspection intervals.
- 5) Pressure vessels not subject to internal corrosion shall receive a certificate inspection every 3 years. However, owner-users qualified in accordance with Section 15 of the Act shall have the option of using API-510 or the NBIC for inspection intervals.
- g) Inspection and Inspection Certificate Fees
 - 1) If a boiler or pressure vessel shall, upon inspection, be found to be suitable and to conform to this Part, the owner or user will be invoiced the fees established by the Board for each boiler and pressure vessel inspected. The fee must be paid before an Inspection Certificate will be issued.
 - 2) If the owner or user of each boiler or pressure vessel required to be inspected refuses or fails to allow an inspection to be made or refuses or fails to pay the appropriate fees, the Inspection Certificate, if it has not expired, shall be suspended by the Chief Inspector until the owner or user complies with the requirements.
 - 3) The owner or user who causes a boiler or pressure vessel to be operated without a valid Inspection Certificate shall be guilty of a Class B misdemeanor and each day shall be deemed a separate offense in accordance with Section 12 of the Act.
- h) Inspectors to Have No Other Interests. It is prohibited for any employee of the Division of Boiler and Pressure Vessel Safety to accept any compensation or remuneration from any source for acting as a consultant, engineer, safety engineer, safety specialist, etc., or under any other title. Employees of this

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

Division shall not be engaged in the sale of any article or device that is related to boilers or pressure vessels and shall devote their full time to inspection work.

- i) **Installing Used or Second-hand Boilers or Pressure Vessels.** A certificate inspection shall be made of all used or second-hand boilers or pressure vessels prior to operation in this State. When a boiler or pressure vessel is moved and reinstalled, the fittings and appurtenances shall be upgraded to comply with the rules for new installations.
- j) **Inspectors to Notify Chief Inspector of Defective Boilers and Pressure Vessels.** If an inspector finds that a boiler or pressure vessel or any of the appurtenances are in an unsafe condition, the inspector shall immediately notify the Chief Inspector and submit a report of the defects.
- k) **Insurance Agencies to Notify the Chief Inspector of New, Cancelled or Suspended Risks.** All insurance agencies shall notify the Chief Inspector within 30 days of all boiler or pressure vessel risks written, cancelled, not renewed or suspended in Illinois.
- l) **Manufacturers Data Reports to be Filed.** Effective January 1, 1974, Manufacturers Data Reports on boilers and, as amended December 31, 1976, for pressure vessels, that are to be installed in the State of Illinois (unless otherwise exempted by this Part) shall be filed with the Chief Inspector through the National Board. Each boiler and pressure vessel for which a report is filed should be assigned a National Board number.
- m) **Boilers and Pressure Vessels without ASME Stamping.** If the boiler or pressure vessel does not bear the ASME stamp, then the drawings, data and material showing all details of construction shall be submitted to the Chief Inspector and the Chief Inspector's approval shall be obtained before installation in this State. The Chief Inspector shall grant approval if the construction, materials and inspection requirements meet the rules, except for ASME stamp.
- n) **Notification of Inspection.** The owner or user shall prepare each boiler or pressure vessel for internal inspection and shall prepare for and apply a hydrostatic test whenever necessary, on the date specified by an inspector, which shall be not less than 7 days after the date of notification.
- o) **Owner to Notify Chief Inspector in Case of Accident.** Any owner or user, which

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

includes any person, firm, partnership, corporation, or governmental entity, that knowingly fails to notify the Chief Inspector within 24 hours, or on the next business day, of an accident, explosion, event, or incident that serves to render a boiler or pressure vessel inoperative because of damage or failure or that involves any bodily injury or death to any person is guilty of a Class B misdemeanor, if a natural person, or a business offense punishable by a fine of not less than \$501 and not more than \$10,000, if a corporation or governmental entity.

- p) Penalties. Any person, firm, partnership or corporation violating any of the provisions of this Part shall be subject to the penalties provided in the Boiler and Pressure Vessel Safety Act.
- q) Registration of Boilers and Pressure Vessels. All owners or users of boilers and pressure vessels subject to the Act now in use or installed ready for use in the State of Illinois shall notify the Chief Inspector in writing giving the location, type, capacity, age and date of installation.
- r) Removal of Safety Appliances
 - 1) No person, except under the direction of an inspector, shall attempt to remove or shall do any work upon safety appliances required by this Part while a boiler or pressure vessel is in operation. Should any of these appliances be repaired during an outage of a boiler or pressure vessel, they must be reinstalled and in proper working order before the object is again placed in service.
 - 2) No person shall in any manner load the safety valve or valves to maintain a working pressure in excess of that stated on the Inspection Certificate.
- s) Stamping of Boilers and Pressure Vessels. Each boiler or pressure vessel subject to the Act shall be identified by a serial number of the State of Illinois. The number will be assigned by the Chief Inspector and applied to the boiler or pressure vessel by the inspector at the time of inspection. Also, the Code required stamping shall be kept free of paint and lagging so that it will be plainly visible and easily read by the inspector.
- t) Inspections and Inspection Reports-
 - 1) Inspection Reports shall be submitted within 10 days from the date of

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

inspection.

- 2) All Inspection Reports shall be completed with all pertinent information as required, including location and actual conditions observed.
 - 3) The Chief or a Deputy Inspector employed by the Division, and Special Inspectors, shall have up to 90 days after the expiration of the Inspection Certificate to conduct his or her inspection. *An Inspection Certificate shall remain valid beyond the expiration date noted on the certificate until the boiler or pressure vessel is reinspected by the authorized inspecting authorities or until the certificate is suspended by the Chief Inspector, provided that the owner or user of the boiler or pressure vessel makes it available for inspection at reasonable times.* [430 ILCS 75/11(b)]
 - 4) Validity of Inspection Certificate. The Chief Inspector may at any time suspend an Inspection Certificate when the boiler or pressure vessel for which it was issued may not continue to be operated without menace to public safety, or when the boiler or pressure vessel is found not to comply with this Part. A Special Inspector shall have authority to request suspension of an Inspection Certificate for boilers or pressure vessels insured by the employing company. Suspension of an Inspection Certificate shall continue in effect until the boiler or pressure vessel has been made to conform to this Part.
- u) Carbon dioxide detectors shall be installed in commercial buildings where any portion of a pressurized CO₂ system is located. The detectors shall be installed on the level where the CO₂ pressure system is located, and sensors shall be installed on every level below the level where the CO₂ pressure system is located. The detectors shall be verified or tested to show they are working at least once per year or more often if recommended by the manufacturer. Signage shall be required as noted in the National Board Inspection Code, Part 1, Supplement 3. (S3.5).
- v) For all boiler systems installed after December 1, 2014, the intake and exhaust points for all boiler ventilation piping shall be located outside of the building served and at least 36 inches above grade

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

SUBPART G: HISTORICAL BOILERS

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

Section 2120.1420 Historical Boiler Inspections

- a) Frequency of Inspection. Historical boilers shall be inspected every two years.
- b) Preparation for Inspection
 - 1) It is the responsibility of the owner to assure the historical boiler is properly prepared for inspection.
 - 2) As much preparation as possible shall be completed prior to the arrival of the inspector.
 - 3) Standards of inspection shall be the requirements of the National Board Inspection Code (NBIC) and this Subpart.
 - 4) Preparation for internal inspection shall be as required by the NBIC, including:
 - A) The boiler must be at ambient temperature and dry.
 - B) Fireside open and grates must be removed.
 - C) Fireside tubesheets and tubes must be thoroughly cleaned of soot and ash.
 - D) Waterside drained and hand holes, plugs and inspection openings must be removed.
 - E) Sediment, scale and mud must be flushed.
 - F) Insulation or jackets must be removed, as appropriate.
 - 5) When there is limited or no access for visual inspection, remote camera or fiber optic devices may be used.
- c) Inspection Sequence

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- 1) Initial Inspection. In addition to initial internal and external visual inspection, a baseline full grid ultrasonic testing (UT) inspection, as required by NBIC, shall be performed. The boiler shall be equipped with a fusible plug.
- 2) Subsequent Inspections
 - A) A certificate inspection two years following the initial inspection shall be performed. The certificate inspection will consist of a hydro test of between 100% and 125% of the calculated maximum allowable working pressure, along with an external visual inspection both at rest and under pressure.
 - i) The owner shall provide the pump, water, water temperature and expertise to safely complete the test, including proper protection from the elements as needed.
 - ii) A powered mechanical pump must have a safety relief device between the pump discharge and the boiler inlet.
 - iii) The State of Illinois will not be responsible for damage occurring as a result of the hydro test.
 - B) A certificate inspection shall be performed two years following the hydro test and shall consist of a detailed internal and external visual inspection with a spot check of approximately 10% UT coverage on all stayed and un-stayed surfaces.
 - C) Subsequent certificate inspections shall be performed every 2 years and shall follow a cycle of first performing a hydro test and then performing a detailed internal and external visual inspection with a spot check of approximately 10% UT coverage on all stayed and unstayed surfaces.
 - D) At no time shall the interval for internal inspection exceed 4 years.
 - E) If 4 consecutive years of inspections (2 certificate inspections) are not conducted, the next inspection shall be an initial inspection (see subsection (c)(1)), with full grid UT inspection performed by a

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

certified American Society for Nondestructive Testing (ASNT) Level II UT Inspector. The owner will be responsible for this second full grid UT inspection.

- d) In-service Inspection Option at the Discretion of the Inspector. In lieu of the hydro test, an Inspector may choose to witness the object in operation. The following examinations and tests shall be performed while the boiler is in operation:
- 1) Two independent means of boiler feed water delivery systems shall be demonstrated to the Inspector. Observance is to be performed at an operating pressure no less than 90% of the safety valve set point of the boiler. If the boiler is equipped with more than one feed water tank, each feed water device must be able to take water out of either feed water tank. Pumped feed water shall be preheated prior to entering the boiler.
 - 2) Demonstration of operable try-cocks that show a level of water that correlates with that shown in the gauge glass.
 - 3) Demonstration of operating gauge glass upper and lower shutoff valves.
 - 4) Demonstration of an operating gauge glass blow down valve.
 - 5) Verification that the gauge glass is visually clear and fully operational.
 - 6) Visual inspection for leaks.
 - 7) Safety Valve Test. Safety valves shall be tested by having the operator raise boiler pressure to the safety valve popping point. Popping point pressure and blow down will be observed to ensure they are within tolerances (see NBIC Part 2, S2.8). A certification acceptable under Section 2120.1210 may also be used for verification of set pressures.
- e) Additional Inspection as May Be Required. The boiler may be subjected to other methods of inspection, at the owner's expense, as deemed necessary by the boiler inspector to determine soundness and to assure the safety of the operators and citizens of the State of Illinois.

OFFICE OF THE STATE FIRE MARSHAL

NOTICE OF PROPOSED AMENDMENTS

- f) Display of Inspection Certificate. The current Inspection Certificate shall be posted in a visible area near the point of operation.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
731.110	Amendment
731.112	Amendment
731.113	Amendment
731.122	Repealed
731.161	Amendment
731.162	Amendment
731.163	Amendment
731.164	Amendment
731.165	Amendment
731.166	Amendment
731.167	Amendment
731.250	New Section
731.251	New Section
731.Appendix A	Repealed
731.Appendix C	Repealed
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The following briefly describes the subjects and issues involved in the docket R16-16 rulemaking of which the amendments to Part 731 are a single segment. Also affected is 35 Ill. Adm. Code 731, which is covered by a separate notice in this issue of the *Illinois Register*. A comprehensive description is contained in the Board's opinion and order of April 21, 2016, proposing amendments in docket R16-16, which opinion and order is available from the address below.

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

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

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

Tables appear in the Board's opinion and order of April 21, 2016 in docket R16-16 that list numerous corrections and amendments that are not based on current federal amendments. The tables contain deviations from the literal text of the federal amendments underlying these amendments, as well as corrections and clarifications that the Board made in the base text involved. Persons interested in the details of those corrections and amendments should refer to the April 21, 2016 opinion and order in docket R16-16.

Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R16-16 and be addressed to:

John T. Therriault, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago IL 60601

Please direct inquiries to the following person and reference docket R16-16:

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

312/814-6924
e-mail: michael.mccambridge@illinois.gov

Request copies of the Board's opinion and order at 312/814-3620, or download a copy from the Board's Website at <http://www.ipcb.state.il.us>.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations that generate, transport, treat, store, or dispose of hazardous waste. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist, and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 14) Regulatory Agenda on which this rulemaking was summarized: December 4, 2015; 39 Ill. Reg. 15622; 15639-41

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER d: UNDERGROUND INJECTION CONTROL AND
UNDERGROUND STORAGE TANK PROGRAMSPART 731
UNDERGROUND STORAGE TANKSSUBPART A: PROGRAM SCOPE ~~AND INTERIM PROHIBITION~~

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

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

Section	
731.120	Performance Standards for New Systems (Repealed)
731.121	Upgrading of Existing Systems (Repealed)
731.122	Notification Requirements (<u>Repealed</u>)

SUBPART C: GENERAL OPERATING REQUIREMENTS

Section	
731.130	Spill and Overfill Control (Repealed)
731.131	Operation and Maintenance of Corrosion Protection (<u>Repealed</u>)
731.132	Compatibility (Repealed)
731.133	Repairs Allowed (Repealed)
731.134	Reporting and Recordkeeping (Repealed)

SUBPART D: RELEASE DETECTION

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section

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

SUBPART E: RELEASE REPORTING, INVESTIGATION AND CONFIRMATION

Section

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

SUBPART F: RELEASE RESPONSE AND CORRECTIVE ACTION

Section

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

SUBPART G: OUT-OF-SERVICE SYSTEMS AND CLOSURE

Section

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

SUBPART H: FINANCIAL RESPONSIBILITY

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section

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

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

Section

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

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

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

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

"Regulated substance" is as defined in Section 731.112.

"Tank" is as defined in Section 731.112.

"Underground storage tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) that is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is ~~10~~^{ten} per centum or more beneath the surface of the ground.

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

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

Section 731.112 Definitions

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

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

"Agency" means the Illinois Environmental Protection Agency.

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

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

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

"Board" means the Illinois Pollution Control Board.

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

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

[BOARD NOTE: For "consumptive use" see Section 731.110\(e\).](#)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

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

"EMA" means the Illinois Emergency Management Agency.

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

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

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

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

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

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

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

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

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

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

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

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

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

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

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

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

"Owner" means:

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

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

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

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Reg. 37194, September 23, 1988.

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

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

"Pipe" or "Piping" means a hollow cylinder or tabular conduit that is constructed of non-earthen materials.

"Pipeline facilities (including gathering lines)" are new and existing pipe rights-of-way and any associated equipment, facilities or buildings.

"Regulated substance" means any "hazardous substance" or "petroleum."

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

"Release" means any spilling, leaking, emitting, discharging, escaping, leaching or disposing from an UST into groundwater, surface water or subsurface soils.

"Release detection" means determining whether a release of a regulated substance has occurred from the UST system into the environment or a leak has occurred into the interstitial space between the UST system and its secondary barrier or secondary containment around it.

"Residential tank" is a tank located on property used primarily for dwelling purposes.

"Septic tank" is a water-tight covered receptacle designed to receive or process, through liquid separation or biological digestion, the sewage discharged from a building sewer. The effluent from such receptacle is distributed for disposal through the soil and settled solids and scum from the tank are pumped out periodically and hauled to a treatment facility.

"Storm water or wastewater collection system" means piping, pumps, conduits and any other equipment necessary to collect and transport the flow of surface

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

water run-off resulting from precipitation, or domestic, commercial or industrial wastewater to and from retention areas or any areas where treatment is designated to occur. The collection of storm water and wastewater does not include treatment except where incidental to conveyance.

"Surface impoundment" is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials (although it may be lined with man-made materials) that is not an injection well.

"Tank" is a stationary device designed to contain an accumulation of regulated substances and constructed of non-earthen materials (e.g., concrete, steel, plastic) that provide structural support.

"Underground area" means an underground room, such as a basement, cellar, shaft or vault, providing enough space for physical inspection of the exterior of the tank situated on or above the surface of the floor.

"Underground release" means any below-ground release.

"Underground storage tank" or "UST" means any one or combination of tanks (including underground pipes connected thereto) ~~that~~^{which} is used to contain an accumulation of regulated substances, and the volume of which (including the volume of the underground pipes connected thereto) is ~~10 percent~~^{ten per centum} or more beneath the surface of the ground. ~~This~~^{Such} term does not include any ~~of~~^{the following}:

Farm or residential tank of 1,100 gallons or less capacity used for storing motor fuel for noncommercial purposes;

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

Septic tank;

Pipeline facility (including gathering lines) ~~regulated under~~:

~~The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C.A. 1671 et seq. (1987 and 1987 Supp.)), or~~

~~The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C.A.~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~2001 et seq. (1987)), or~~

~~The Illinois Gas Pipeline Safety Act (Ill. Rev. Stat. 1989, ch. 111½, pars. 551 et seq.).~~

~~That is regulated under 49 USC 60101 through 60140; or~~

~~That is an intrastate pipeline facility regulated under state laws as provided in 49 USC 60105, and which is determined by the U.S. Department of Transportation to be connected to a pipeline, or to be operated or intended to be capable of operating at pipeline pressure or as an integral part of a pipeline;~~

Surface impoundment, pit, pond or lagoon;:-

Storm-water or wastewater collection system;:-

Flow-through process tank;:-

Liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; ~~or;—Or;~~

Storage tank situated in an underground area (such as a basement, cellar, mineworking, drift, shaft or tunnel) if the storage tank is situated upon or above the surface of the floor.

BOARD NOTE: The term "underground storage tank" does not include any pipes connected to any tank ~~thatwhich~~ is described in the subparagraphs of this definition of "underground storage tank."~~above subparagraphs.~~

"USEPA" means United States Environmental Protection Agency.

"UST system" or "Tank system" means an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

"Wastewater treatment tank" means a tank that is designed to receive and treat an influent wastewater through physical, chemical or biological methods.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 731.113 Incorporation~~Incorporations~~ by Reference

- a) CFR (Code of Federal Regulations). Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20401, (202) 783-3238:

~~10 CFR 50, Appendix A (1991)~~

~~40 CFR 280.3 (1987) (repealed September 23, 1988)~~

40 CFR 302.4 (2015) and ~~302.6 (1991)~~

- b) This Section incorporates no later editions or amendments.

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

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

Section 731.122 Notification Requirements (Repealed)

- a) ~~Any owner who brings an underground storage tank system into use after May 8, 1986, shall within 30 days of bringing such tank into use, submit, in the form prescribed in Appendix A, below, a notice of existence of such tank system to the Fire Marshal.—~~

~~BOARD NOTE: Owners and operators of UST systems that were in the ground on or after May 8, 1986, unless taken out of operation on or before January 1, 1974, were required to notify the Fire Marshal in accordance with RCRA and 40 CFR 280.3 (1987), unless notice was given pursuant to 40 CFR 302.6, incorporated by reference in Section 731.113. Section 4(b)(1) of the Gasoline Act (Ill. Rev. Stat. 1987, ch. 127½, par. 156(b)(1)) required notification by December 31, 1987, for tanks which held regulated substances after January 1, 1974. Owners and operators who have not complied with the notification requirements may use portions I through VI of the notification form contained in Appendix A.~~

- e) ~~Owners required to submit notices under subsection (a), above, shall provide notices to the Fire Marshal for each tank they own. Owners may provide notice~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~for several tanks using one notification form, but owners who own tanks located at more than one place of operation shall file a separate notification form for each separate place of operation.~~

- d) ~~Notices required to be submitted under subsection (a), above, must provide all of the information in Sections I through VI of the form for each tank for which notice must be given. Notices for tanks installed after December 22, 1988, must also provide all of the information in Section VII of the prescribed form for each tank for which notice must be given.~~
- e) ~~All owners and operators of new UST systems shall certify in the notification form compliance with the following requirements:~~
 - 1) ~~Installation of tanks and piping;~~
 - 2) ~~Cathodic protection of steel tanks and piping;~~
 - 3) ~~Financial responsibility; and~~
 - 4) ~~Release detection.~~
- f) ~~All owners and operators of new UST systems shall ensure that the installer certifies in the notification form that the methods used to install the tanks and piping complies with regulatory requirements.~~
- g) ~~Beginning October 24, 1988, any person who sells a tank intended to be used as an underground storage tank shall notify the purchaser of such tank of the owner's notification obligations under subsection (a), above. The form provided in Appendix C may be used to comply with this requirement.~~

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

SUBPART F: RELEASE RESPONSE AND CORRECTIVE ACTION

Section 731.161 Initial Response

Upon confirmation of a release or after a release from the UST system is identified in any other manner, owners and operators ~~must~~shall perform the following initial response actions within 24 hours of a release:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) Report the release to EMA (e.g., by telephone or electronic mail);
- b) Take immediate action to prevent any further release of the regulated substance into the environment; and
- c) Identify and mitigate fire, explosion and vapor hazards.

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

Section 731.162 Initial Abatement Measures and Site Check

- a) Owners and operators mustshall perform the following abatement measures:
 - 1) Remove as much of the regulated substance from the UST system as is necessary to prevent further release to the environment;
 - 2) Visually inspect any aboveground releases or exposed belowground releases and prevent further migration of the released substance into surrounding soils and groundwater;
 - 3) Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the UST excavation zone and entered into substance structures (such as sewers or basements);
 - 4) Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement or corrective action activities. If these remedies include treatment or disposal of soils, the owner and operator mustshall comply with 35 Ill. Adm. Code 722, 724, 725 and 807 through 815.
 - 5) Measure for the presence of a release where contamination is most likely to be present at the UST site, unless the presence and source of the release have been confirmed in accordance with the site check or the closure site assessment. In selecting sample types, sample locations and measurement methods, the owner and operator mustshall consider the nature of the stored substance, the type of backfill, depth to groundwater and other factors as appropriate for identifying the presence and source of the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

release; and

- 6) Investigate to determine the possible presence of free product, and begin free product removal as soon as practicable and in accordance with Section 731.164.
- b) Within 20 days after release confirmation, owners and operators mustshall submit a report to the Agency, summarizing the initial abatement steps taken under subsection (a), ~~above~~, and any resulting information or data.

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

Section 731.163 Initial Site Characterization

- a) Owners and operators mustshall assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in Section 731.160 and Section 731.161. This information must include, but is not necessarily limited to the following:
 - 1) Data on the nature and estimated quantity of release;
 - 2) Data from available sources or site investigations concerning the following factors: surrounding populations, water quality, use and approximate locations of wells potentially affected by the release, subsurface soil conditions, locations of subsurface sewers, climatological conditions and land use;
 - 3) Results of the site check required under Section 731.162(a)(5); and
 - 4) Results of the free product investigations required under Section 731.162(a)(6), to be used by owners and operators to determine whether free product must be recovered under Section 731.164.
- b) Within 45 days after confirmation of the release, owners and operators mustshall submit the information collected in compliance with subsection (a) to the Agency, in a manner that demonstrates its applicability and technical adequacy.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 731.164 Free Product Removal

At sites where investigations under Section 731.162(a)(6) indicate the presence of free product, owners and operators ~~must~~shall remove free product to the maximum extent practicable, while continuing, as necessary, any actions initiated under Section 731.161 through Section 731.163, or preparing for actions required under Section 731.165 through Section 731.166. In meeting the requirements of this Section, owners and operators must:

- a) Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated zones by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site, and that properly treats, discharges or disposes of recovery by products in compliance with applicable local, state and federal regulations;
- b) Use abatement of free product migration as a minimum objective for the design of the free product removal system;
- c) Handle any flammable products in a safe and competent manner to prevent fires or explosions; and
- d) Prepare and submit to the Agency, within 45 days after confirming a release, a free product removal report that provides at least the following information:
 - 1) The name of the persons responsible for implementing the free product removal measures;
 - 2) The estimated quantity, type and thickness of free product observed or measured in wells, boreholes and excavation;
 - 3) The type of free product recovery system used;
 - 4) Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located;
 - 5) The type of treatment applied to, and the effluent quality expected from, any discharge;
 - 6) The steps that have been or are being taken to obtain necessary permits for

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

any discharge; and

- 7) The disposition of the recovered free product.

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

Section 731.165 Investigations for Soil and Groundwater Cleanup

- a) In order to determine the full extent and location of soils contaminated by the release, and the presence and concentrations of dissolved product contamination in the groundwater, owners and operators ~~must~~shall conduct investigations of the release, the release site, and the surrounding area possibly affected by the release if any of the following conditions exist:
 - 1) There is evidence that groundwater wells have been affected by the release (e.g., as found during release confirmation or previous corrective action measures);
 - 2) Free product is found to need recovery in compliance with Section 731.164;
 - 3) There is evidence that contaminated soils may be in contact with groundwater (e.g., as found during conduct of the initial response measures or investigations required under ~~Sections~~Section 731.160 through ~~Section~~ 731.164); and
 - 4) The Agency requests an investigation, based on the potential effects of contaminated soil or groundwater on nearby surface water and groundwater resources.
- b) Owners and operators ~~must~~shall submit the information collected under subsection (a) as soon as practicable or in accordance with a schedule established by the Agency.

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

Section 731.166 Corrective Action Plan

- a) At any point after reviewing the information submitted in compliance with

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~Sections~~Section 731.161 through ~~Section~~731.163, the Agency may require owners and operators to submit additional information or to develop and submit a corrective action plan for responding to contaminated soils and groundwater. If a plan is required, owners and operators ~~must~~shall submit the plan according to a schedule and format established by the Agency. Alternatively, owners and operators may, after fulfilling the requirements of ~~Sections~~Section 731.161 through ~~Section~~731.163, choose to submit a corrective action plan for responding to contaminated soil and groundwater.

- b) The Agency ~~must~~shall approve the corrective action plan only after ensuring that implementation of the plan will adequately protect human health, safety and the environment. In making this determination, the Agency ~~must~~shall consider the following factors as appropriate:
- 1) The physical and chemical characteristics of the regulated substance, including its toxicity, persistence and potential for migration;
 - 2) The hydrogeologic characteristics of the facility and the surrounding area;
 - 3) The proximity quality and current and future uses of nearby surface water and groundwater;
 - 4) The potential effects of residual contamination on nearby surface water and groundwater;
 - 5) An exposure assessment; and
 - 6) Any information assembled in compliance with this Subpart.
- c) Upon approval of the corrective action plan or as directed by the Agency, owners and operators ~~must~~shall implement the plan, including modifications to the plan made by the Agency. They ~~must~~shall monitor, evaluate and report the results of implementing the plan in accordance with a schedule and in a format established by the Agency.
- d) Owners and operators may, in the interest of minimizing environmental contamination and promoting more effective cleanup, begin cleanup of soil and groundwater before the corrective action plan is approved provided that they:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Notify the Agency of their intention to ~~begin~~~~being~~ cleanup;
- 2) Comply with any conditions imposed by the Agency, including halting cleanup or mitigating adverse consequences from cleanup activities; and
- 3) Incorporate these self-initiated cleanup measures in the corrective action plan that is submitted to the Agency.

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

Section 731.167 Public Participation

- a) For each confirmed release that requires a corrective action plan, the Agency ~~must~~~~shall~~ provide notice to the public by means designed to reach those members of the public directly affected by the release and the planned corrective action. This notice must include, but is not limited to, public notice in local newspapers, block advertisements, public service announcements, publication in the Illinois Register, letters to individual household or personal contacts by field staff.
- b) The Agency ~~must~~~~shall~~ ensure that site release information and decisions concerning the corrective action plan are made available to the public for inspection upon request.
- c) Before approving a corrective action plan, the Agency ~~must~~~~shall~~ hold a public meeting to consider comments on the proposed corrective action plan if there is sufficient public interest, or for any other reasons.
- d) The Agency ~~must~~~~shall~~ give public notice that complies with subsection (a) if implementation of an approved corrective action plan does not achieve the established cleanup levels in the plan and termination of that plan is under consideration by the Agency.

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

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

Section 731.250 Definitions

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

For purposes of this Subpart K, the following definitions apply:

"Airport hydrant fuel distribution system" or "airport hydrant system" means a UST system that fuels aircraft and operates under high pressure with large diameter piping that typically terminates into one or more hydrants (fill stands). The "airport hydrant system" begins where fuel enters one or more tanks from an external source such as a pipeline, barge, rail car, or other motor fuel carrier.

"Field-constructed tank" means a tank constructed in the field. For example, a tank constructed of concrete that is poured in the field, or a steel or fiberglass tank primarily fabricated in the field is considered field-constructed.

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

Section 731.251 General Requirements

- a) Implementation of Requirements. Owners and operators must comply with the release response requirements of this Part for UST systems with field-constructed tanks and airport hydrant systems at installation.

BOARD NOTE: Corresponding 40 CFR 280.251(a) includes compliance deadlines for UST upgrade; general operating; operator training; release detection, release reporting, response, and investigation; closure; financial responsibility; and notification requirements. Of these, Board regulations include only the release response requirements. Fire Marshal requirements apply to all of the other UST requirements.

- b) This subsection (b) corresponds with 40 CFR 280.251(b), which requires compliance with UST notification requirements, which are outside the scope of Board regulations. This statement maintains structural consistency with the corresponding federal regulations.
- c) Owners and operators must comply with the requirements of Subparts A and F of this Part.
- d) This subsection (d) corresponds with 40 CFR 280.251(d), which requires compliance with UST performance standards, which are outside the scope of Board regulations. This statement maintains structural consistency with the corresponding federal regulations.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 731.APPENDIX A Notification Form (Repealed)

~~The Board incorporates by reference 40 CFR 280, Appendix I (1991). This Section incorporates no future editions or amendments. Persons required to notify shall use forms provided by the Fire Marshal if available. Otherwise, they may prepare forms based on 40 CFR 280, Appendix I.~~

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 731.APPENDIX C Statement for Shipping Tickets and Invoices (Repealed)

~~Note. A Federal law (The Resource Conservation and Recovery Act (RCRA), as amended (Pub. L. 98-616)) requires owners of certain underground storage tanks to notify designated State or local agencies by May 8, 1986, of the existence of their tanks. Notifications for tanks brought into use after May 8, 1986, must be made within 30 days. Consult USEPA's regulations, issued on November 8, 1985 (40 CFR 280) to determine if you are affected by this law.~~

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Certified Local Health Department Code
- 2) Code Citation: 77 Ill. Adm. Code 600
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
600.100	Amendment
600.110	Amendment
600.120	New Section
600.200	Amendment
600.210	Amendment
600.400	Amendment
600.410	Amendment
- 4) Statutory Authority: Implementing and authorized by Division 5-25 of the Counties Code [55 ILCS 5]; the Public Health District Act [70 ILCS 905]; the Illinois Municipal Code [65 ILCS 5]; and Section 55 of the Civil Administrative Code of Illinois [20 ILCS 2310/55]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking seeks to update terms and definitions, remove references to an obsolete database, and update certification requirements for certified local health departments.

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

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

NOTICE OF PROPOSED AMENDMENTS

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

Elizabeth Paton
Assistant General Counsel
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th floor
Springfield IL 62761

271/782-2043
dph.rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2016

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER h: LOCAL HEALTH DEPARTMENTS

PART 600
CERTIFIED LOCAL HEALTH DEPARTMENT CODE

SUBPART A: GENERAL

Section	
600.100	Statement of Purpose
600.110	Definitions
600.120	Referenced Materials

SUBPART B: CERTIFICATION APPLICATION REQUIREMENTS

Section	
600.200	Provisional Certification
600.210	Certification

SUBPART C: PERSONNEL REQUIREMENTS

Section	
600.300	Executive Officer
600.310	Public Health Administrator
600.320	Medical Health Officer
600.330	Denial of Personnel Application

SUBPART D: PRACTICE STANDARDS

Section	
600.400	Public Health Practice Standards
600.410	Requirements for IPLAN or an Equivalent Planning Process

SUBPART E: DUE PROCESS

Section	
600.500	Denial, Suspension or Revocation of Certification
600.510	Procedures for Hearings

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

AUTHORITY: Implementing and authorized by Division 5-25 of the Counties Code [55 ILCS 5]; the Public Health District Act [70 ILCS 905]; the Illinois Municipal Code [65 ILCS 5]; and Section 55 of the Civil Administrative Code of Illinois [20 ILCS 2310/55].

SOURCE: Filed April 17, 1968; emergency amendment at 5 Ill. Reg. 11091, effective October 1, 1981, for a maximum of 150 days; rules repealed, new rules adopted at 6 Ill. Reg. 2716, effective March 1, 1982; codified at 8 Ill. Reg. 18914; amended at 14 Ill. Reg. 840, effective January 1, 1990; new Part adopted by emergency rule at 17 Ill. Reg. 12918, effective July 21, 1993, for a maximum of 150 days; emergency repealer at 17 Ill. Reg. 13115, effective July 21, 1993, for a maximum of 150 days; emergency expired on December 18, 1993; Part repealed, new Part adopted at 18 Ill. Reg. 4276, effective March 1, 1994; amended at 22 Ill. Reg. 14474, effective July 24, 1998; amended at 28 Ill. Reg. 8762, effective June 3, 2004; amended at 40 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 600.100 Statement of Purpose

- a) This Part has been developed by the Illinois Department of Public Health, in collaboration with the Illinois Association of Public Health Administrators, the Illinois Association of Boards of Health, the Illinois Public Health Association, and the University of Illinois School of Public Health. This Part sets forth requirements for local health departments to be certified by the Department and applies to all local health departments in the State that are conducting or intend to conduct and complete such requirements.
- b) The Department is committed to the mission of public health – to fulfill society's interest in assuring conditions in which people can be healthy. Because of this commitment, the Department has the responsibility to assure that quality public health services are delivered to Illinois citizens. Where possible, it is in the best interest of Illinois citizens to have public health services delivered at the local level by a local health department. A certifiedCertified local health department is a local governmental agency that carries out the core functions of public health, assessment, policy development, and assurance, within its jurisdiction. Any local health department currently recognized by the Department will be eligible to seek certification. Performance of the core public health functions is the unique feature that distinguishes a certifiedCertified local health department from any other public health provider in a local area. The practice standards, included in

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

this Part, are activities that demonstrate a local health department is fulfilling the core functions of public health.

- c) Certification is an eligibility requirement for Local Health Protection Grants awarded by the Department. The Department will make other Department grants available to ~~certified~~Certified local health departments, and the Department will give preference to ~~certified~~Certified local health departments for certain grants.

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

Section 600.110 Definitions

~~For the purposes of this Part, the words and phrases defined herein shall have the following meanings:~~

~~"Accreditation" means the measurement of health department performance against a set of nationally recognized, practice-focused and evidence-based standards that leads to the issuance of recognition of achievement by the Public Health Accreditation Board (PHAB), the nonprofit entity created to implement and oversee national public health department accreditation. Accreditation is not a planning process equivalent to IPLAN.~~

~~"Certification" and "Certified" means certification granted to a local health department that meets the requirements set forth in Section 600.210 and Subparts C and D of this Part and is so designated by the Department.~~

~~"Community participation" means involvement by representatives of various community interests and groups. (Agency Note: Examples of such interests or groups are ethnic and racial groups, the medical community, mental health and social service organizations, the cooperative extension service, schools, law enforcement organizations, voluntary organizations, the clergy, the business community, economic development agencies, unions, disabled persons and senior citizens.)~~

~~"Contributing factor" means a scientifically established factor that directly affects the level of a risk factor.~~

~~"Department" means the Illinois Department of Public Health.~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

"Director" means the Director of the Illinois Department of Public Health or his or her designee.

"Essential Public Health Services" means the 10 services that describe the responsibilities of public health systems. A formulation of the processes used in public health to prevent epidemics and injuries, protect against environmental hazards, promote healthy behaviors, respond to disasters, and ensure quality and accessibility of health services, the essential public health services are:

monitor health status to identify community health problems;
diagnose and investigate health problems and health hazards in the community;

inform, educate, and empower people about health issues;

mobilize community partnerships to identify and solve health problems;

develop policies and plans that support individual and community health efforts;

enforce laws and regulations that protect health and ensure safety;

link people to needed personal health services and assure the provision of health care when otherwise unavailable;

assure a competent public and personal health care workforce;

evaluate effectiveness, accessibility and quality of personal and population-based health services; and

research for new insights and innovative solutions to health problems.

"Equivalent to IPLAN" means an assessment and planning process approved by the Department that which meets the requirements set forth in Section 600.410.

"Healthy People ~~2000~~" means a program of nationwide health-promotion and disease-prevention goals set by the United States Department of Health and Human Services. Healthy People provides science-based, national goals and objectives with 10-year targets designed to guide national health promotion and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~disease prevention efforts to improve the health of all people in the United States. National Health Promotion and Disease Prevention Objectives, U.S. Department of Health and Human Services, Public Health Service, DHHS publication number (PHS) 91-50212. Healthy People 2000 contains a national strategy for significantly improving the health of the nation during this decade and contains measurable targets for striving toward health promotion and prevention of injuries and diseases.~~

"Impact objective" means a goal for the level to which a ~~risk factor~~health problem should be reduced. An impact objective is intermediate in length of time and measurable.

"Indirect contributing factor" means a community-specific factor that directly affects the level of the direct contributing factors. These factors can vary greatly from community to community.

"IPLAN" means the Illinois Project for Local Assessment of Needs, a process developed by the Department to meet the requirements set forth in Section 600.410. IPLAN is a series of planning activities conducted within the local health department jurisdiction resulting in the development of an organizational capacity assessment, a community health needs assessment, and a community health plan.

~~"IQuery" means a web-based data query system administered by the Department for the collection and dissemination of Illinois public health data.~~

~~"IPLAN Data System" means a data base developed by the Department that contains the required data sets to measure community health indicators for assessment purposes.~~

"Legally authorized representative" means the person empowered to act on behalf of the local health department and board of health in such matters as executing contracts, signing applications, and undertaking other major administrative tasks.

"Local health department" means a local governmental agency that administers and assures health-related programs and services within its jurisdiction.

"Local public health jurisdiction" means the geographic area over which a local board of health has legal and regulatory authority.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

"Mandate" or "Mandated program" means those programs and activities that are statutorily required of local health departments by a legislative body, such as a city council, county board, or the General Assembly.

"Outcome objective" means a goal for the level to which a health problem should be reduced. An outcome objective is long term and measurable.

"Proven intervention strategy" means intervention strategy demonstrated to be effective or used as a national model.

"Provisional ~~certification~~Certification" and "Provisionally ~~certified~~Certified" means certification granted to a local health department that meets the requirements for ~~provisional certification~~Provisional Certification set forth in Section 600.200 and is so designated by the Department.

"Public health system" means the collection of public, private, and voluntary entities, as well as individuals and informal associations, that contribute to the delivery of essential public health services.

"Risk factor" means a scientifically established factor (determinant) that relates directly to the level of a health problem. A health problem may have any number of risk factors identified for it.

"Sentinel event" means any unanticipated event resulting in death or serious physical or psychological injury that could have been prevented or managed by the health care system.

"SHIP" means the State Health Improvement Plan that recommends priorities and strategies to improve the health status of Illinois citizens and to improve the Illinois public health system.

"Substantial compliance" means meeting the requirements set forth in this Part, except for variations from the strict and literal performance of ~~those~~such requirements ~~that~~which result in insignificant omissions and defects, given the particular circumstances and the incidence and history of ~~the~~such omissions and defects. Omissions and defects that have an adverse impact on public health and safety shall not be considered insignificant and shall be considered substantial noncompliance.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

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

Section 600.120 Referenced Materials

The following materials are referenced in this Part:

- a) Civil Administrative Code of Illinois [20 ILCS 5/5-565]
- b) Counties Code [55 ILCS 5/5-25012]
- c) Illinois Municipal Code [65 ILCS 5/11-16-1 and 11-17]
- d) Public Health District Act [70 ILCS 905]
- e) Local Health Department Development Grant Rules (77 Ill. Adm. Code 610)

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

SUBPART B: CERTIFICATION APPLICATION REQUIREMENTS

Section 600.200 Provisional Certification

- a) A local health department that serves one or more counties and that is not a ~~certified~~Certified local health department may make application for provisional certification~~Provisional Certification~~. ~~The~~Such application shall be submitted to the Department by letter, memorandum, or similar document signed by an authorized representative and shall include a written commitment to the Department to complete IPLAN or an equivalent to IPLAN within two years after provisional certification~~Provisional Certification~~ is granted.
- b) Upon submission of a complete application, the Department shall have 60 days to review the application. Provisional certification~~Certification~~ shall be granted by the Department to any local health department that meets the requirements of subsection (a) ~~of this Section~~. Provisional certification~~Certification~~ shall expire upon certification~~Certification~~ of the local health department or two years after the date provisional certification~~Provisional Certification~~ was granted, whichever is shorter. Provisional certification~~Certification~~ may be renewed as provided in subsection (c) ~~of this Section~~.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- c) A local health department that has been granted provisional certification~~Provisional Certification~~ may apply for renewal of provisional certification~~Provisional Certification~~. ~~The~~Such application shall be made at least 30 days prior to expiration of the provisional certification~~Provisional Certification~~ by submitting to the Department a letter, memorandum, or similar document signed by an authorized representative. The application shall describe activities that the local health department performed during the current term of provisional certification~~Provisional Certification~~ and future activities that will be undertaken during the renewal term that would be expected to result in the completion of IPLAN or an equivalent to IPLAN.
- 1) Renewal applications that are complete and received by the Department no later than 30 days prior to the expiration of provisional certification~~Provisional Certification~~ shall be considered by the Department.
 - 2) The first renewal of provisional certification~~Provisional Certification~~ shall be made if the Department determines, on the basis of the application, that the applicant can be expected to complete IPLAN or an equivalent to IPLAN by conclusion of the renewal term.
 - 3) The second renewal of provisional certification~~Provisional Certification~~ shall be made if the Department determines, on the basis of a written explanation submitted by the local health department, in addition to the application for renewal specified in this subsection (c), that the applicant can be expected to complete IPLAN or an equivalent to IPLAN by conclusion of the second renewal term. The explanation shall include documentation of the incomplete elements of IPLAN or an equivalent to IPLAN with their expected completion dates and the reasons why the local health department did not complete IPLAN or an equivalent to IPLAN within the first renewal term.
 - 4) A renewal of provisional certification~~Provisional Certification~~ granted by the Department shall not exceed 12 months.
 - 5) No more than two renewals of provisional certification~~Provisional Certification~~ shall be granted to a local health department.
- d) A provisionally certified~~Certified~~ local health department is eligible to apply for a

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Local Health Department Development Grant, pursuant to ~~the Department's Local Health Department Development Grant Rules~~ (77 Ill. Adm. Code 610).

- e) The Department may conduct an on-site review of the local health department and ~~any such~~ documents necessary to determine substantial compliance with this Section.

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

Section 600.210 Certification

- a) A ~~provisionally certified~~~~Provisionally Certified~~ local health department may apply for ~~certification~~~~Certification~~.
- 1) ~~The Such~~ application shall be submitted to the Department on forms or in a format provided or prescribed by the Department and shall include a community health needs assessment and a community health plan in accordance with Subpart D ~~of this Part~~. The application shall be signed by an authorized representative.
 - 2) Upon receipt of a complete application, the Department shall have 60 days to review the application to determine if the applicant meets the personnel requirements set forth in Subpart C ~~of this Part~~ and the practice standards set forth in Subpart D ~~of this Part~~.
 - A) If the Department determines that the applicant is in substantial compliance with Subparts C and D ~~of this Part~~, ~~certification~~~~Certification~~ shall be granted by the Department.
 - B) If the Department determines that the applicant is not in substantial compliance with Subparts C and D ~~of this Part~~, ~~certification~~~~Certification~~ shall be denied and the local health department shall be notified in writing of the denial of ~~certification~~~~Certification~~. ~~The Such~~ notification shall specify the reasons for denial of ~~certification~~~~Certification~~ and shall describe the right of the applicant to request a hearing to appeal the denial of ~~certification~~~~Certification~~, pursuant to Section 600.510.
- b) Certification granted to local health departments that apply pursuant to this

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section shall expire five years following the date of ~~certification~~Certification.

- 1) ~~All certifications set to expire in 2004 will be extended to the same date in 2005. These extensions will be granted automatically without the need for a waiver request. A petition to maintain the 2004 recertification schedule, however, may be submitted to the Department. The petition shall include the name of the local health department, a request to maintain the original recertification renewal date, and the signature of the public health administrator.~~
 - 2) ~~For the period between 2005 and 2007, the Department will implement a staggered certification renewal schedule in which approximately one third of local health departments will be reviewed annually. This review schedule will be developed by the Department in consultation with the local health departments. Thereafter, the certification reviews will occur every five years on this staggered schedule.~~
- c) A ~~certified~~Certified local health department may apply for renewal of ~~certification~~Certification.
- 1) ~~The~~~~Such an~~ application shall be made at least 60 days prior to the expiration of the ~~certification~~Certification period. An application shall be submitted to the Department on forms or in a format provided or prescribed by the Department and shall include a community health needs assessment and a community health plan in accordance with Subpart D ~~of this Part~~. The application shall be signed by an authorized representative.
 - 2) Upon ~~receipt~~completion of a complete application, the Department shall have 60 days to review the application to determine if the applicant is in substantial compliance with the personnel requirements set forth in Subpart C ~~of this Part~~ and the practice standards set forth in Subpart D ~~of this Part~~.
 - A) If the Department determines that the applicant is in substantial compliance with Subparts C and D ~~of this Part~~, ~~certification~~Certification shall be renewed by the Department for a five-year period.
 - B) If the Department determines that the applicant is not in substantial

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

compliance with Subparts C and D ~~of this Part~~, renewal of ~~certification~~Certification shall be denied and the local health department shall be notified in writing of the denial of ~~certification~~Certification. ~~The~~Such notification shall specify the reasons for denial of ~~certification~~Certification and shall describe the right of the applicant to request a hearing to appeal the denial of ~~certification~~Certification renewal, pursuant to Section 600.510.

- d) A ~~certified~~Certified local health department that ~~at any time during the period for which the local health department has been granted Certification~~ does not meet all applicable requirements for ~~certifications~~such Certification due to conditions or circumstances beyond the reasonable control of the local health department may make a written request to the Department for a waiver ~~to postpone meeting~~of the requirements set forth in Subparts C and D ~~of this Part~~. ~~The certified local health department may make the waiver request at any time during the period for which the local health department has been granted certification. A waiver will not be required for certification extensions issued under subsection (b) of this Section.~~
- 1) Conditions or circumstances beyond the reasonable control of the local health department shall include, but not be limited to:
- A) Participating in assessment activities with hospitals undertaking community health needs assessments as required by the Internal Revenue Service for 501(c)(3) hospitals;
 - B) Participating in assessment and planning activities required for a local health department seeking voluntary accreditation through PHAB;
 - CA) Unanticipated or unavoidable lack of qualified personnel necessary to fulfill applicable requirements; or
 - DB) Disease outbreaks, natural disasters, and other unusual circumstances ~~that~~which may threaten the health and safety of residents and ~~that~~which require re-assignment of personnel to protect the health and safety of residents within the local health department's jurisdiction.
- 2) The Department shall grant a waiver if it determines that the local health

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

department meets the conditions or circumstances specified in ~~subsections~~subsection (d)(1)(A) and (B) ~~of this Section~~. The Department shall notify the local health department of its decision within 10 working days after the receipt of the request.

- A) A waiver shall be granted for a six-month period or until the conditions or circumstances referred to in subsections (d)(1)(A) and (B) ~~of this Section~~ are remedied, whichever is shorter.
- B) The Department may extend a waiver for ~~three~~two additional six-month periods. All requests for extension of waiver shall be received by the Department at least 15 working days prior to the expiration of the waiver period.
 - i) The first ~~or second~~ extension of the waiver shall be made if the Department determines, on the basis of a written explanation from the local health department, that reasonable progress has been made and the local health department can be expected to be in substantial compliance with applicable requirements of ~~certification~~Certification on or before the conclusion of the ~~first~~ extended waiver period.
 - ii) The ~~third~~second extension of waiver shall be made if the Department determines, on the basis of a written explanation from the local health department, that reasonable progress has been made and the local health department can be expected to be in substantial compliance with applicable requirements of ~~certification~~Certification on or before the conclusion of the ~~third~~second extended waiver period. The explanation shall include documentation of the applicable ~~certification~~Certification requirements that are not being met, with the expected dates for completion and the reasons why the local health department was unable to achieve substantial compliance within the ~~first~~ extension period.
- 3) The Department shall review the local health department for substantial compliance with ~~certification~~Certification requirements upon the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

expiration of the waiver period or upon request of the local health department. The Department's review shall include only those certification requirements that are the basis for the waiver.

- A) If the Department, based upon its review, determines that the local health department meets the requirements set forth in Subparts C and D ~~of this Part~~, the local health department shall be considered in substantial compliance with the requirements of ~~certification~~Certification, and no further action shall be taken by the Department.
 - B) If the Department, based upon its review, determines that the local health department does not meet the requirements set forth in Subparts C and D ~~of this Part~~ and the waiver has expired, the Department shall notify the local health department of its option to request an extension of waiver under ~~subsection (d)(2)(B)~~this Section.
 - C) If the Department, based upon its review, determines that the local health department does not meet the requirements set forth in Subparts C and D ~~of this Part~~ and the local health department's request was submitted prior to the expiration of the waiver period, the waiver shall continue until the end of the six-month period.
- e) The Department may conduct an on-site review of the local health department and ~~any such~~ documents necessary to determine substantial compliance with this Section.

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

SUBPART D: PRACTICE STANDARDS

Section 600.400 Public Health Practice Standards

- a) Assess the health needs of the community by establishing a systematic needs assessment process that periodically provides information on the health status and health needs of the community.
 - 1) A community health needs assessment that systematically describes the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

prevailing health status and health needs of the population within the local health department's jurisdiction shall be conducted at least once every five years.

- A) The assessment shall be conducted through completion of IPLAN or an equivalent to IPLAN that meets the requirements set forth in Section 600.410.
 - B) The assessment shall, at a minimum, include an analysis of data in groupings designated by the Department, which are: demographic and socioeconomic characteristics; general health and access to care; maternal and child health; chronic disease; infectious disease; environmental/occupational/injury control; and sentinel events contained in the IPLAN Data System provided by the Department for assessment purposes.
 - C) The assessment shall include community participation in the health needs assessment process in order to facilitate the identification of community health problems and the setting of priorities from among those health problems.
 - D) Community health needs shall be identified during the community health needs assessment process based on the analysis of data describing the health of the population and on the judgment of the community participants concerning the seriousness of the health problems and needs. Prioritization shall result in the establishment of at least three priority health needs.
- 2) A community health needs assessment shall contain:
- A) A statement of purpose of the community health needs assessment that includes a description of how the assessment will be used to improve health in the community.
 - B) A description of the community participation process, a list of community groups involved in the process, and method for establishing priorities.
 - C) A description of the health status and health problems most

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

meaningful for the community in the data groupings designated by the Department, which are: demographic and socioeconomic characteristics; general health and access to care; maternal and child health; chronic disease; infectious disease; environmental/occupational/injury control; and sentinel events. ~~in the IPLAN Data System.~~

- D) A description of the process and outcomes of setting priorities.
- E) A statement that the SHIP was reviewed, including a description of the alignment between the priority health needs of the applicable local public health jurisdiction, as identified by the local health department, and the priorities to improve the public health system, as set forth by the SHIP.
- b) Investigate the occurrence of adverse health effects and health hazards in the community by conducting timely investigations that identify the magnitude of health problems, duration, trends, location and populations at risk.
- c) Advocate for public health, build constituencies and identify resources in the community by generating supportive and collaborative relationships with public and private agencies and constituent groups for the effective planning, implementation and management of public health activities. The local health department shall:
- 1) develop and strengthen communication with units of government, health-related organizations, health providers, citizens, and news media;
 - 21) ~~The local health department shall~~ meet at least annually with representatives of health-related organizations within its jurisdiction to define inter-organizational roles and responsibilities; and.
 - 32) ~~The local health department shall~~ disseminate health reports that have been developed by the local health department to the board of health, county board or other legislative bodies within its jurisdiction, the media, and the public.
- d) Develop plans and policies to address priority health needs by establishing goals and objectives to be achieved through a systematic course of action that focuses

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

on local community needs and equitable distribution of resources, and involves the participation of constituents and other related governmental agencies. Develop a community health plan that addresses at least three priority health needs, identified pursuant to Section 600.400, during each certification period;

- 1) The local health department shall include in its community health plan an analysis to establish risk factors and contributing factors for each priority health need, to determine the adequacy of existing resources, and to identify population groups at risk of poor health status within the local health department's jurisdiction.
- 2) The community health plan shall present measurable objectives and strategies for intervention for each priority health need.
- 3) The local health department shall utilize community participation to assist in the development of the community health plan.
- 4) In jurisdictions where a board of health exists pursuant to Section 5-25012 of the Counties Code, ~~(Ill. Rev. Stat. 1991, ch. 34, par. 5-25012)~~ [55 ILCS 5/5-25012]; Division 16 or 17 of the Illinois Municipal Code, ~~(Ill. Rev. Stat. 1991, ch. 24, par. 11-16-1 and par. 11-17-1 through 11-17-12)~~ [65 ILCS 5/11-16-1 and 5/11-17]; or the Public Health District Act ~~(Ill. Rev. Stat. 1991, ch. 111½, par. 0.01 et seq.)~~ [70 ILCS 905], the local health department shall present the community health plan to the board of health for its review. A community health plan shall be adopted by the board of health.
- 5) The local health department shall submit the community health plan to the Department. The plan shall contain:
 - A) A statement of purpose of the community health plan that includes how the plan will be used to improve the health of the community;
 - B) A description of the process used to develop the community health plan;
 - C) A description of each priority, including the importance of the priority health need, summarized data and information on which the priority is based, the relationship of the priority to

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~Healthy~~ ~~Health~~ People ~~national health objectives, 2000 National Health Objectives and subsequent revisions~~ and factors influencing the level of the problem (e.g., risk factors, contributing and indirect contributing factors);

- D) At least one measurable outcome objective covering a ~~three or more year~~five-year time frame related to each priority health need;
 - E) At least one measurable impact objective related to each outcome objective; and
 - F) At least one proven intervention strategy to address each impact objective. The description should include a discussion of: community resources that will contribute to implementation; estimated funding needed for implementation; and anticipated sources of funding.
- e) Manage resources and develop organizational structure through the acquisition, allocation and control of human, physical and fiscal resources;~~;~~ and maximizing the operational functions of the local public health systems through coordination of community agencies' efforts and avoidance of duplication of services.
- 1) The local health department shall, at least once every five years, perform an organizational capacity self-assessment that meets the requirements set forth in Section 600.410. The local health department shall provide the Department with a statement signed by an authorized representative indicating that the organizational capacity self-assessment was completed by the local health department and reviewed by the board of health.
 - 2) The local health department shall maintain a current organizational chart ~~that~~which includes all functional elements of the organization and their relationship to each other.
 - 3) The local health department shall maintain current written job descriptions, minimum qualifications for each position, and written plans or policies regarding staff recruitment, selection, development; and retention.
 - 4) The local health department shall notify the Department in writing within

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

10 business days after the effective date of the termination, resignation or leave of absence of the public health administrator or other personnel required under Subpart C.

- f) Implement programs and other arrangements assuring or providing direct services for priority health needs identified in the community health plan by taking actions thatwhich translate plans and policies into services.
- g) Evaluate programs and provide quality assurance in accordance with applicable professional and regulatory standards to ensure that programs are consistent with plans and policies, and provide feedback on inadequacies and changes needed to redirect programs and resources.
 - 1) The local health department shall conduct periodic reviews of programs, services, and personnel to demonstrate compliance with applicable professional and regulatory standards.
 - 2) The local health department shall conduct monitoring of programs to assess achievement of mandated programs and progress towards meeting community health objectives as stated in the community health plan.
- h) Inform and educate the public on public health issues of concern in the community, promoting an awareness about public health services availability, and health education initiatives thatwhich contribute to individual and collective changes in health knowledge, attitudes and practices towards a healthier community.
- i) Documentation of each activity conducted pursuant to Subpart D ~~of this Part~~ shall be available for review by the Department upon request.

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

Section 600.410 Requirements for IPLAN or an Equivalent Planning Process

- a) IPLAN or a planning process equivalent to IPLAN shall meet the following requirements:
 - 1) The process shall involve community participation in the identification of community health problems, priority-setting, and completion of the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

community health needs assessment and community health plan.

- 2) The list of communityCommunity health indicators published on the IQuery web site~~contained in the IPLAN Data System provided by the Department for assessment purposes or a similar, equally comprehensive data system developed by the local health department~~ shall be utilized to structure the minimal content of the assessment. A local health department may use in its assessment IQuery data and ~~such~~ additional data available that describes,~~describing~~ the health of its population, including natality, mortality, morbidity and risk factors for illness in its jurisdiction.
 - 3) The process shall result in the setting of priority health needs.
 - 4) The process shall include a review of the SHIP by the local health department and a description of the alignment between the priority health needs for the applicable local public health jurisdiction, as identified by the local health department, and the priorities to improve the public health system set forth by the SHIP.
 - ~~5~~4) The process shall include an analysis of priority problems that shall lead to the establishment of objectives and strategies for intervention.
 - ~~6~~5) The process shall include board of health adoption of the community health plan.
 - ~~7~~6) The process for developing an assessment of organizational capacity shall address:
 - A) the internal capabilities of the local health department to conduct effective public health functions, including an assessment of operational authority, community relations, information systems, and program management; or
 - B) an organizational strategic plan developed within the previous five years that assesses strengths, weaknesses, opportunities and threats in the local health jurisdiction.
- b) Upon written request of a local health department, the Department shall approve a planning process equivalent to IPLAN if the Department determines that the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

proposed equivalent planning process complies with the requirements of subsection (a) ~~of this Section~~. If the local health department is not satisfied with the Department's response to its request ~~made pursuant to this subsection~~, it may petition the Director to reconsider.

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Secretary of State Standard Procurement
- 2) Code Citation: 44 Ill. Adm. Code 2000
- 3) Section Number: 2000.2020 Proposed Action: Amendment
- 4) Statutory Authority: The Illinois Procurement Code [30 ILCS 500]
- 5) Complete Description of the Subjects and Issues Involved: The Secretary of State desires to increase its small purchases threshold from \$25,000 to \$40,000.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The proposed amendments do not require expenditures by units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days to:

Amy Williams
Legal Advisor
298 Howlett Building
Springfield IL 62756

217/785-3094
Awilliams3@ilsos.net

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Unknown
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the most recent regulatory agendas because the Department did not anticipate this rulemaking at the time the agendas were filed.

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

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING, PROCUREMENT
AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER XXV: SECRETARY OF STATE

PART 2000
SECRETARY OF STATE STANDARD PROCUREMENT

SUBPART A: GENERAL

Section	Title
2000.01	Title
2000.05	Policy
2000.08	Illinois Procurement Code
2000.10	Application
2000.15	Definition of Terms Used in This Part
2000.25	Property Rights

SUBPART B: PROCUREMENT RULES

Section	Rules
2000.525	Rules

SUBPART C: PROCUREMENT AUTHORITY

Section	Conduct and Oversight of Procurements
2000.1005	Conduct and Oversight of Procurements

SUBPART D: PUBLICIZING PROCUREMENT ACTIONS

Section	Illinois Procurement Bulletin
2000.1510	Illinois Procurement Bulletin
2000.1560	Supplemental Notice
2000.1570	Error in Notice
2000.1580	Direct Solicitation

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 2000.2005 General Provisions
- 2000.2010 Competitive Sealed Bidding
- 2000.2012 Multi-Step Sealed Bidding
- 2000.2015 Competitive Sealed Proposals
- 2000.2020 Small Purchases
- 2000.2025 Sole Economically Feasible Source Procurement
- 2000.2030 Emergency Procurements
- 2000.2035 Competitive Selection Procedures for Professional and Artistic Services
- 2000.2036 Other Methods of Source Selection
- 2000.2037 Tie Bids and Proposals
- 2000.2038 Mistakes
- 2000.2040 Cancellation of Solicitations; Rejection of Bids or Proposals

SUBPART F: SUPPLIERS, PREQUALIFICATION AND RESPONSIBILITY

Section

- 2000.2043 Suppliers
- 2000.2044 Vendor List/Required Use
- 2000.2045 Prequalification
- 2000.2046 Responsibility

SUBPART G: BID, PROPOSAL AND PERFORMANCE SECURITY

Section

- 2000.2047 Security Requirements

SUBPART H: SPECIFICATIONS AND SAMPLES

Section

- 2000.2050 Specifications and Samples

SUBPART I: CONTRACT TYPE

Section

- 2000.2055 Types of Contracts

SUBPART J: DURATION OF CONTRACTS

Section

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

2000.2060 Duration of Contracts – General

SUBPART K: CONTRACT MATTERS

Section

2000.2560 Prevailing Wage
2000.2570 Equal Employment Opportunity; Affirmative Action
2000.2580 Subcontractors

SUBPART L: CONTRACT PRICING

Section

2000.2800 All Costs Included

SUBPART M: CONSTRUCTION AND
CONSTRUCTION RELATED PROFESSIONAL SERVICES

Section

2000.3005 Construction and Construction Related Professional Services

SUBPART N: REAL PROPERTY LEASES AND CAPITAL IMPROVEMENT LEASES

Section

2000.4000 Applicability
2000.4005 Requests for Space/Department Responsibilities
2000.4010 General Acquisition Procedures
2000.4015 Acquisition of Leases by RFI
2000.4020 Leases Acquired by Other Methods
2000.4025 Renewal or Extension of Lease in Effect Prior to July 1, 1998
2000.4030 Renewal of Leases Entered into After July 1, 1998
2000.4035 Purchase Options
2000.4040 Lease Administration
2000.4045 Emergency Lease Procurement

SUBPART O: PREFERENCES

Section

2000.4505 Procurement Preferences
2000.4510 Resident Bidder Preference

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

- 2000.4530 Correctional Industries
- 2000.4535 Sheltered Workshops for the Disabled
- 2000.4540 Gas Mileage
- 2000.4545 Small Business
- 2000.4570 Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities

SUBPART P: ETHICS

- Section
- 2000.5013 Conflicts of Interest
- 2000.5015 Negotiations for Future Employment
- 2000.5020 Exemptions
- 2000.5030 Revolving Door
- 2000.5035 Disclosure of Financial Interests and Potential Conflicts of Interest
- 2000.5037 Vendor Registration, Certification and Prohibition on Political Contributions
- 2000.5039 Procurement Communication Reporting Requirement

SUBPART Q: CONCESSIONS

- Section
- 2000.5310 Concessions

SUBPART R: COMPLAINTS, PROTESTS AND REMEDIES

- Section
- 2000.5510 Complaints Against Vendors or Subcontractors
- 2000.5520 Suspension
- 2000.5530 Resolution of Contract Controversies
- 2000.5540 Violation of Statute or Rule
- 2000.5550 Protests
- 2000.5555 Hearings and Decisions

SUBPART S: SUPPLY MANAGEMENT AND DISPOSITIONS

- Section
- 2000.6010 Supply Management and Dispositions

SUBPART T: GOVERNMENTAL JOINT PURCHASING

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

Section

- 2000.6500 General
2000.6510 No Agency Relationship

SUBPART U: MISCELLANEOUS PROVISIONS OF GENERAL APPLICABILITY

Section

- 2000.7000 Severability
2000.7010 Government Furnished Property
2000.7015 Inspections
2000.7020 Records and Audits
2000.7025 Written Determinations
2000.7030 No Waiver of Sovereign Immunity

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

SOURCE: Emergency rule adopted at 22 Ill. Reg. 12208, effective July 1, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 20306, effective November 9, 1998; emergency amendment at 23 Ill. Reg. 5911, effective April 30, 1999, for a maximum of 150 days; emergency expired September 26, 1999; amended at 23 Ill. Reg. 13953, effective November 8, 1999; amended at 35 Ill. Reg. 4629, effective March 3, 2011; recodified Title header at 39 Ill. Reg. 5903; amended at 39 Ill. Reg. 11100, effective July 24, 2015; amended at 40 Ill. Reg. _____, effective _____.

SUBPART E: SOURCE SELECTION AND CONTRACT FORMATION

Section 2000.2020 Small Purchases

- a) Application
- 1) Procurements of ~~\$40,000~~\$25,000 or less for supplies or services, other than professional and artistic, and \$30,000 or less for construction may be made using the method of source selection determined by the Procurement Officer to be most appropriate to the circumstances.
 - 2) Procurements of less than \$20,000 for professional and artistic services and that have a non-renewable term of one year or less may be made using the method of source selection determined by the Procurement Officer to

SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENT

be most appropriate to the circumstances.

- b) In determining whether a contract is under the limit, the value of the contract for the full term and all optional renewals, determined in good faith, shall be utilized. The stated value of the supplies or services, plus any optional supplies and services, shall be utilized. Where the term is calculated month-to-month or in a similar fashion, the amount shall be calculated for a twelve month period.
- c) If only a unit price or hourly rate is known, the contract shall be considered small and shall have a not to exceed limit applicable to the type of procurement (see subsection (a)-~~above~~).
- d) If, after signing the contract, the actual cost of completing the contract is determined to exceed the small purchase amount, and the Procurement Officer determines that a supplemental procurement is not economically feasible or practicable because of the immediacy of the agency's needs or other circumstances, the Procurement Officer must follow the procedures for sole source or emergency procurement, whichever is applicable, to complete the contract.
- e) Procurement requirements shall not be artificially divided to avoid using the other source selection methods set forth in Section 20-5 of the Illinois Procurement Code.
- f) If there is a repetitive need for small procurements of the same type, the Procurement Officer shall consider issuing a competitive sealed bid or proposal for procurement of those needs.

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: The Illinois Oil and Gas Act
- 2) Code Citation: 62 Ill. Adm. Code 240
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
240.10	Amendment
240.125	New Section
240.134	New Section
240.135	New Section
240.160	Amendment
240.220	Amendment
240.320	Amendment
240.370	Amendment
240.410	Amendment
240.610	Amendment
240.815	New Section
240.820	Amendment
240.1040	Amendment
240.1130	Amendment
240.1170	Amendment
240.1180	Amendment
240.1181	Repealed
240.1205	Amendment
240.1460	Amendment
240.1710	Amendment
240.1905	Amendment
- 4) Statutory Authority: Implementing and authorized by the Illinois Oil and Gas Act [225 ILCS 725]
- 5) Effective Date of Rules: April 22, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including all material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

9) Notice of Proposal published in the *Illinois Register*: 40 Ill. Reg. 2095; January 29, 2016

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version:

In the Table of Contents, "240.1615 "Lease Validation Petitions" has been renumbered to "240.134 Lease Validation Petitions".

Section 240.10, in the definition of "Department", the period has been stricken and ", with main offices located at One Natural Resources Way, Springfield, IL 62702." has been added after "Act"; in the definition of "Material Misrepresentation", after "Act" the comma has been changed to "or" and "or Department requirements" has been deleted.

New Section 240.134 has been added and moved from 240.1615

Section 240.220(d), "Information to show the applicant has 100% of the rights to drill and to operate a well on the lands in question." has been stricken; after the word "owns", "100% of" has been added.

Section 240.320(d), after "owns", "100% of" has been added.

Section 240.815, "the effective date of this rule" has been changed to "July 1, 2016".

Section 240.1205, the Subpart heading has been deleted and placed at the beginning of Section 240.1200.

Section 240.1615 has been deleted.

Section 240.1905, "service" has been added after "convert a", "or drill a" has been stricken; and "service well" has been deleted.

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

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Rulemaking: This Part has been amended to implement recent amendments to the Illinois Oil and Gas Act [225 ILCS 725/1] to ensure that the Part is consistent with current Department policies, to increase protections to the People and environment of Illinois, to account for changes in industry practices and activities, and to streamline oil and gas permitting procedures to increase efficiency.
- 16) Information and questions regarding these adopted rules shall be directed to:

Dan Nelson, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 62: MINING

CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

PART 240

THE ILLINOIS OIL AND GAS ACT

SUBPART A: GENERAL PROVISIONS

Section	
240.10	Definitions
240.20	Prevention of Waste (Repealed)
240.30	Jurisdiction (Repealed)
240.40	Enforcement of Act (Repealed)
240.50	Delegation of Authority (Repealed)
240.60	Right of Inspection (Repealed)
240.70	Right of Access (Repealed)
240.80	Sworn Statements (Repealed)
240.90	Additional Reports (Repealed)
240.100	When Rules Become Effective (Repealed)
240.110	Notice of Rules (Repealed)
240.120	Forms (Repealed)
240.125	Notice
240.130	Hearings – Notices (Repealed)
240.134	Lease Validation Petitions
240.135	Falsification or Misstatement of Information
240.131	Unitization Hearings
240.132	Integration Hearings
240.133	Hearings to Establish Pool-Wide Drilling Units
240.140	Violations Not Requiring Formal Action
240.150	Notice of Violation
240.155	Civil Complaint
240.160	Director's Decision
240.170	Cessation Order (Repealed)
240.180	Enforcement Hearings and Enforcement Cessation Orders
240.185	Cessation of Oil Production Operations
240.186	Cessation of Conditions Creating an Imminent Danger to Public Health and Safety and the Environment
240.190	Temporary Relief Hearings
240.195	Subpoenas

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

SUBPART B: PERMIT APPLICATION PROCEDURES FOR PRODUCTION WELLS

Section	
240.200	Applicability
240.210	Application for Permit to Drill, Deepen or Convert to a Production Well
240.220	Contents of Application
240.230	Authority of Person Signing Application
240.240	Additional Requirements for Directional Drilling
240.245	Additional Requirements for Horizontal Drilling
240.250	Issuance of Permit to Drill or Operate
240.251	Revocation of Permit to Drill
240.255	Conversion of a Production Well to a Water Well
240.260	Change of Well Location
240.270	Application for Approval of Enhanced Recovery Injection and Disposal Operations (Repealed)
240.280	Duration of Underground Injection Well Orders (Repealed)

SUBPART C: PERMIT APPLICATION PROCEDURES FOR CLASS II UIC WELLS

Section	
240.300	Applicability
240.305	Transfer of Management (Recodified)
240.310	Application for Permit to Drill, Deepen, or Convert or Amend to a Class II UIC Well
240.311	Application for Freshwater Aquifer Exemption
240.312	Freshwater Aquifer Exemptions
240.320	Contents of Application
240.330	Authority of Person Signing Application
240.340	Proposed Well Construction and Operating Parameters
240.350	Groundwater and Potable Water Supply Information
240.360	Area of Review
240.370	Public Notice
240.380	Issuance of Permit
240.385	Conversion of a Class II Well to a Water Well
240.390	Permit Amendments
240.395	Update of Class II UIC Well Permits Issued Prior to July 1, 1987

SUBPART D: SPACING OF WELLS

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Section	
240.400	Definitions
240.410	Drilling Units
240.420	Well Location Exceptions within Drilling Unit
240.430	Drilling Unit Exceptions
240.440	More Than One Well on a Drilling Unit
240.450	Directional Drilling
240.455	Horizontal Drilling
240.460	Modified Drilling Unit
240.465	Special Drilling Unit
240.470	Establishment of Pool-Wide Drilling Units Based Upon Reservoir Characteristics

SUBPART E: WELL DRILLING,
COMPLETION AND WORKOVER REQUIREMENTS

Section	
240.500	Definitions
240.510	Department Permit Posted
240.520	Drilling Fluid Handling and Storage
240.525	Saltwater or Oil Based Drilling Fluid Handling and Storage
240.530	Completion Fluid and Completion Fluid Waste Handling and Storage
240.540	Drilling and Completion Pit Restoration
240.550	Disposal of General Oilfield Wastes and Other Wastes

SUBPART F: WELL CONSTRUCTION, OPERATING AND REPORTING
REQUIREMENTS FOR PRODUCTION WELLS

Section	
240.600	Applicability
240.605	Drilled Out Plugged Hole (DOPH) Notification
240.610	Construction Requirements for Production Wells
240.620	Remedial Cementing of Leaking Wells
240.630	Operating Requirements
240.640	Reporting Requirements
240.650	Confidentiality of Well Data
240.655	Mechanical Integrity Testing for Class II Injection Wells (Repealed)
240.660	Monitoring and Reporting Requirements for Enhanced Recovery Injection and Disposal Wells (Repealed)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 240.670 Avoidable Waste of Gas (Repealed)
240.680 Escape of Unburned Gas Prohibited (Repealed)

SUBPART G: WELL CONSTRUCTION, OPERATING
AND REPORTING REQUIREMENTS FOR CLASS II UIC WELLS

Section

- 240.700 Applicability and Definitions
240.710 Surface and Production Casing Requirements for Newly Drilled Class II UIC Wells
240.720 Surface and Production Casing Requirements for Conversion to Class II UIC Wells
240.730 Surface and Production Casing Requirements for Existing Class II UIC Wells
240.740 Other Construction Requirements for Class II UIC Wells
240.750 Operating Requirements for Class II UIC Wells
240.760 Establishment of Internal Mechanical Integrity for Class II UIC Wells
240.770 Establishment of External Mechanical Integrity for Class II UIC Wells
240.780 Reporting Requirements for Class II UIC Wells
240.790 Confidentiality of Well Data
240.795 Commercial Saltwater Disposal Well
240.796 Operating and Reporting Requirements, Hydraulic Fracturing Operations, Seismicity

SUBPART H: LEASE OPERATING REQUIREMENTS

Section

- 240.800 Definitions
240.805 Lease and Well Identification
240.810 Tanks, Tank Batteries and Containment Dikes
[240.815 Permanent Well Site Equipment Setback](#)
240.820 Flowlines
240.830 Power Lines
240.840 Equipment Storage
240.850 Concrete Storage Structures
240.860 Pits
240.861 Existing Pit Exemption For Continued Production Use
240.862 Existing Pit Exemption For Alternative Use
240.870 Leaking Unpermitted Drill Hole
240.875 Leaking Previously Plugged Well

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

240.880	Initial Spill Notification
240.890	Crude Oil Spill Remediation Requirements
240.891	Crude Oil Spill Waste Disposal and Remediation
240.895	Produced Water Spill Remediation Requirements

SUBPART I: LIQUID OILFIELD WASTE HANDLING AND DISPOSAL

Section	
240.900	Definitions
240.905	Application for Permit to Operate a Liquid Oilfield Waste Transportation System
240.906	Application for a Liquid Oilfield Waste Transportation Vehicle Permit
240.910	Inspection of Vehicles (Tanks)
240.920	Issuance of Liquid Oilfield Waste Transportation System and Vehicle Permits
240.925	Liquid Oilfield Waste Recordkeeping Requirements
240.926	Liquid Oilfield Waste Transportation System and Vehicle Operating Requirements
240.930	Produced Water
240.940	Crude Oil Bottom Sediments
240.945	Lease Road Oiling
240.950	Crude Oil Spill Waste Disposal (Repealed)
240.960	Oil Field Brine Hauling Permit Conditions (Repealed)
240.970	Inspection of Vehicles (Repealed)
240.980	Transfer of Permits (Repealed)
240.985	Revocation of Oil Field Brine Hauling Permit (Repealed)
240.990	Records and Reporting Requirements (Repealed)
240.995	Bonds – Blanket Surety Bond (Repealed)

SUBPART J: VACUUM

Section	
240.1000	Definitions
240.1005	Applicability
240.1010	Application for Vacuum Permit
240.1020	Contents of Application
240.1030	Authority of Person Signing Application
240.1040	Notice and Hearing
240.1050	Issuance of Permit
240.1060	Permit Amendments

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

SUBPART K: PLUGGING OF WELLS

Section

240.1105	Plugging of Non-Productive Wells (Repealed)
240.1110	Definitions
240.1115	Plugging Responsibility
240.1120	Plugging of Uncased Wells
240.1130	Plugging and Temporary Abandonment of Inactive Production Wells
240.1131	Extension of Future Use Status for Production Wells (Repealed)
240.1132	Plugging and Temporary Abandonment of Inactive Class II UIC Wells
240.1140	General Plugging Procedures and Requirements
240.1150	Specific Plugging Procedures
240.1151	Procedures for Plugging Coal Seams
240.1160	Plugging Fluid Handling and Storage
240.1170	Plugging Fluid Waste Disposal and Well Site Restoration
240.1180	Lease Restoration
240.1181	Lease Restoration Requirements (Repealed)
240.1190	Filing Plugging Report

SUBPART L: REQUIREMENTS FOR [OTHER TYPES OF TEST WELLS](#)

Section

240.1200	Applicability
240.1205	Application for Permit to Drill a Test Well or Drill Hole
240.1210	Contents of Application for Permit to Drill or Convert to an Observation, Gas Storage Well or Service Well (Repealed)
240.1220	Contents of Application for Coal Test Hole, Mineral Test Hole, Structure Test Hole, or Coal or Mineral Groundwater Monitoring Well
240.1230	Authority of Person Signing Application
240.1240	Issuance of Permit
240.1250	When Wells Shall Be Plugged and Department Notification
240.1260	Plugging and Restoration Requirements
240.1270	Confidentiality
240.1280	Converting to Water Well

SUBPART M: PROTECTION OF WORKABLE COAL BEDS

Section

240.1300	Introduction
----------	--------------

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

240.1305	Permit Requirements in Mine Areas
240.1310	Workable Coal Beds Defined
240.1320	Mining Board may Determine Presence of Coal Seams
240.1330	Well Locations Prohibited
240.1340	Notice to Mining Board
240.1350	Casing and Protective Work
240.1360	Operational Requirements Over Active Mine
240.1370	Inspection of Vehicles (Recodified)
240.1380	Transfer of Permits (Recodified)
240.1385	Revocation of Oil Field Brine Hauling Permit (Recodified)
240.1390	Records and Reporting Requirements (Recodified)
240.1395	Bonds – Blanket Surety Bond (Recodified)

SUBPART N: ISSUANCE OR TRANSFER OF PERMIT TO OPERATE

Section

240.1400	Definitions
240.1405	Transfer of Management (Repealed)
240.1410	Applicability
240.1420	Notification
240.1425	Authority of Person Signing Transfer Notification
240.1430	Responsibilities of Current Permittee
240.1440	Responsibilities of New Permittee or Proposed New Permittee
240.1450	Authority of Persons Signing Notification
240.1460	Conditions for and Effect of Issuance or Transfer of Permit to Operate
240.1465	Condition for and Effect of Transfer of PRF Wells
240.1470	Revocation of Permit to Operate
240.1480	Involuntary Transfer
240.1485	Administrative Record Correction
240.1490	Transfer Hearings

SUBPART O: BONDS

Section

240.1500	When Required, Amount and When Released
240.1510	Definitions
240.1520	Bond Requirements
240.1530	Forfeiture of Bonds

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

SUBPART P: WELL PLUGGING AND RESTORATION PROGRAM

Section

- 240.1600 Definitions
- 240.1610 Plugging Leaking or Abandoned Wells
- 240.1620 Plugging Orphaned Wells
- 240.1625 Plugging Abandoned Wells Through Landowner Grant
- 240.1630 Emergency Well Plugging, Emergency Repair Work, Emergency Projects
- 240.1635 Emergency Well Plugging and Emergency Project Reimbursement
- 240.1640 Repayment of Funds
- 240.1650 Authorization for a Permittee to Operate Its Wells Placed into the Plugging and Restoration Fund Program for Abandonment
- 240.1660 Authorization for a Permittee to Operate Its Wells Placed into the Plugging and Restoration Fund Program for Non-Payment of Annual Well Fees

SUBPART Q: ANNUAL WELL FEES

Section

- 240.1700 Fee Liability
- 240.1705 Amount of Assessment
- 240.1710 Annual Permittee Reporting
- 240.1720 When Annual Well Fees are Due
- 240.1730 Opportunity to Contest Billing
- 240.1740 Delinquent Permittees

SUBPART R: REQUIREMENTS IN UNDERGROUND GAS STORAGE FIELDS
AND FOR GAS STORAGE AND OBSERVATION WELLS

Section

- 240.1800 Applicability
- 240.1805 Definitions
- 240.1810 Submission of Underground Gas Storage Field Map
- 240.1820 Permit Requests in a Underground Gas Storage Field
- 240.1830 Application for Permit to Drill or Convert Wells
- 240.1835 Content of Application for Permit to Drill or Convert to an Observation or Gas Storage Well
- 240.1840 Authority of Person Signing Application
- 240.1850 Issuance of Permit
- 240.1852 Gas Storage and Observation Well, Construction, Operating and Reporting

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

	Requirements
240.1855	Well Drilling Completion and Workover Requirements
240.1860	Storage Field Operating Requirements
240.1865	Liquid Oilfield Waste Disposal
240.1870	Plugging of Gas Storage and Observation Wells

SUBPART S: REQUIREMENTS FOR SERVICE WELLS

Section	
240.1900	Applicability
240.1905	Application for Permit to Drill or Convert to Other Types of Wells or Drill Holes
240.1910	Contents of Application for Permit to Drill or Convert to a Service Well
240.1920	Authority of Person Signing Application
240.1930	Issuance of Permit
240.1940	When Wells Shall Be Plugged and Department Notification
240.1950	Plugging and Restoration Requirements
240.1960	Converting to Water Well

AUTHORITY: Implementing and authorized by the Illinois Oil and Gas Act [225 ILCS 725].

SOURCE: Adopted November 7, 1951; emergency amendment at 6 Ill. Reg. 903, effective January 15, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5542, effective April 19, 1982; codified at 8 Ill. Reg. 2475; amended at 11 Ill. Reg. 2818, effective January 27, 1987; amended at 14 Ill. Reg. 2317, effective January 25, 1990; recodified at 14 Ill. Reg. 3053; amended at 14 Ill. Reg. 13620, effective August 8, 1990; amended at 14 Ill. Reg. 20427, effective January 1, 1991; amended at 15 Ill. Reg. 2706, effective January 31, 1991; recodified at 15 Ill. Reg. 8566; recodified at 15 Ill. Reg. 11641; emergency amendment at 15 Ill. Reg. 14679, effective September 30, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 15493, effective October 10, 1991; amended at 16 Ill. Reg. 2576, effective February 3, 1992; amended at 16 Ill. Reg. 15513, effective September 29, 1992; expedited correction at 16 Ill. Reg. 18859, effective September 29, 1992; emergency amendment at 17 Ill. Reg. 1195, effective January 12, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2217, effective February 8, 1993; amended at 17 Ill. Reg. 14097, effective August 24, 1993; amended at 17 Ill. Reg. 19923, effective November 8, 1993; amended at 18 Ill. Reg. 8061, effective May 13, 1994; emergency amendment at 18 Ill. Reg. 10380, effective June 21, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16361, effective November 18, 1994; amended at 19 Ill. Reg. 10981, effective July 14, 1995; amended at 21 Ill. Reg. 7164, effective June 3, 1997; emergency amendment at 22 Ill. Reg. 988, effective December 22, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 8422, effective April 28, 1998; amended at 22 Ill. Reg. 8845, effective April 28, 1998; amended

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

at 22 Ill. Reg. 22314, effective December 14, 1998; amended at 25 Ill. Reg. 9045, effective July 9, 2001; amended at 35 Ill. Reg. 13281, effective July 26, 2011; amended at 38 Ill. Reg. 18717, effective August 29, 2014; amended at 38 Ill. Reg. 22052, effective November 14, 2014; amended at 40 Ill. Reg. 7051, effective April 22, 2016.

SUBPART A: GENERAL PROVISIONS

Section 240.10 Definitions

"Act" – means the Illinois Oil and Gas Act [225 ILCS 725].

"Annular or Casing Injection/Disposal Well" – means a well into which fluids are injected between the surface casing and the well bore, the surface casing and the production casing, and/or the production casing and the tubing, or a well into which fluids are injected which does not have production casing, tubing and packer.

"Cement" – means all petroleum industry cements meeting the requirements set forth in "Specifications for Oil Well Cements and Cement Additives", API Standard 10A, January 1974, published by the American Petroleum Institute, 1220 L Street, Northwest, Washington ~~DC, D.C.~~ 20005 (this incorporation does not include any later publications or editions), except as provided in Subpart K.

"Class II Fluids" means:

Produced water and/or other fluids brought to the surface in connection with drilling, completion, workover and plugging of oil and natural gas wells; enhanced recovery operations; or natural gas storage operations;

Produced water and/or other fluids from above, that prior to re-injection have been:

used on site for purposes integrally associated to oil and natural gas well drilling, completion, workover and plugging, oil and gas production, enhanced recovery operations or natural gas storage;

chemically treated or altered to the extent necessary to make them usable for purposes integrally related to oil and natural gas well drilling, completion, workover and plugging, oil and gas

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

production, enhanced recovery operations, or natural gas storage operations;

commingled with fluid wastes resulting from fluid treatments outlined above, provided the commingled fluid wastes do not constitute a hazardous waste under the Resource Conservation and Recovery Act (42 USC 6901 et seq. (RCRA));

Fresh water from groundwater or surface water sources that is used for purposes integrally related or associated with oil and natural gas well drilling, completion, workover and plugging, oil and gas production, enhanced recovery operations or natural gas storage;

Waste fluids from gas plants (including filter backwash, precipitated sludge, iron sponge, hydrogen sulfide and scrubber liquid) that are an integral part of oil and gas production operations; and waste fluids from gas dehydration plants (including glycol-based compounds and filter backwash) that are an integral part of natural gas storage operations, unless the gas plant or gas dehydration plant wastes are classified as hazardous under RCRA.

"Class II UIC Well" – means an injection, disposal or commercial disposal well into which fluids are injected:

That are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production, and may be commingled with wastewaters from gas plants that are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection;

For enhanced recovery of oil or natural gas; and

For storage of hydrocarbons that are liquid at standard temperature and pressure.

"Commercial Disposal Well" – means a permitted Class II well for which the permittee receives deliveries of Class II fluids by tank truck and charges a fee for the specific purpose of disposal of Class II fluids.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

"Commercial Production" – means oil and/or gas has been produced and sold from a well.

"Convert" – means to change an oil, gas, Class II UIC, water supply, observation or gas storage well to another of those types of wells, requiring the issuance of a new permit.

"Department" – means *the Department of Natural Resources, ~~Office of Mines and Minerals of the State of Illinois.~~* (Section 1 of the Act), with main offices located at One Natural Resources Way, Springfield IL 62702.

"Directional Drilling" – means the controlled directional drilling when the bottom of the well bore is directed away from the vertical position.

"Director" – means the Director of the Department of Natural Resources or his or her designee.

"Disposal Well" – means a Class II UIC well into which fluids brought to the surface in connection with oil or natural gas production are injected into a non-productive oil or gas zone for purposes other than enhanced oil recovery.

"District Office" – means the Department's office for the district in which the well is located.

~~"Division" – means the Division of Oil and Gas within the Department of Natural Resources, Office of Mines and Minerals.~~

"Enhanced Oil Recovery" – means *any secondary or tertiary recovery method used in an effort to recover hydrocarbons from a pool by injection of fluids, gases or other substances to maintain, restore or augment natural reservoir energy, or by introducing gases, chemicals, other substances or heat or by in-situ combustion, or by any combination thereof.* (Section 1 of the Act)

"Enhanced Oil Recovery Injection Well" – means a Class II UIC well used for enhanced oil recovery.

"Flowline" – means all injection, produced water, oil or gas ~~flowlines~~flow lines located within the boundaries of a lease or unit, or gathering lines between leases to a centralized storage area, or to the point where the lines connect with a

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

primary transportation pipeline.

"Fresh water" – means surface and subsurface water in its natural state useful for drinking water for human consumption, domestic livestock, irrigation, industrial, municipal and recreational purposes, and that will support aquatic life and contains less than 10,000 ppm total dissolved solids.

"General Oilfield Waste" – means oily rags, chemical containers including any unused chemicals, oil filters and gaskets, used motor oil, lubricating oils, hydraulic fluids, diesel fuels, paint and solvent wastes and other similar wastes generated during drilling, completion, production and plugging activities and that are not exempt from the provisions of Subtitle C of RCRA.

"Injection Well" – means an enhanced oil recovery injection well or disposal well.

"Liquid Oilfield Waste" – means *oilfield brines, produced waters, Class II fluids, tank and pit crude oil bottom sediments, and drilling and completion fluids, to the extent those wastes are now or hereafter exempt from the provisions of Subtitle C of the Federal Resource Conservation Recovery Act of 1976.* (Section 8c of the Act)

"Liquid Oilfield Waste Hauler" – means a person holding a permit to operate a liquid oilfield waste transportation system.

"Material Misrepresentation" – means knowingly submitting any untrue, misstated, misleading or deceptive information, or a document containing that information, or with knowledge of the concealment, suppression or omission of any information, in or from an application, permit, required record, or any other document required by the Act or this Part, that causes the Department to act differently than it would have if it had known the undisclosed or true information.

"Office" – means the Office of Oil and Gas Resource Management within the Department of Natural Resources.

"Orphan Well" – means *a well for which:*

no fee assessment under Section 19.7 of the Act has been paid or no other bond coverage has been provided for 2 consecutive years;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

no oil or gas has been produced from the well or from the lease or unit on which the well is located for 2 consecutive years; and

no permittee or owner can be identified or located by the Department. Orphaned wells include wells that may have been drilled for purposes other than those for which a permit is required under the Act if the well is a conduit for oil or saltwater intrusions into freshwater zones or onto the surface which may be caused by oil and gas operations. (Section 1 of the Act)

"Owner" – means *the person who has the right to drill into and produce from any pool, and to appropriate the production either for the person or for the person and another, or others, or solely for others, excluding the mineral owner's royalty if the right to drill and produce has been granted under an oil and gas lease. An owner may also be a person granted the right to drill and operate an injection (Class II UIC) well independent of the right to drill for and produce oil or gas. When the right to drill, produce, and appropriate production is held by more than one person, then all persons holding these rights may designate the owner by a written operating agreement or similar written agreement. In the absence of such an agreement, and subject to the provisions of Sections 22.2 and 23.1 through 23.16 of the Act, the owner shall be the person designated in writing by a majority in interest of the persons holding these rights. (Section 1 of the Act)*

"Permit" – means *the Department's written authorization allowing:*

a well or test hole to be drilled, deepened, converted and/or operated by an owner (Section 1 of the Act); or

a tank battery or concrete storage structure to be constructed and operated; or

operation of a liquid oilfield waste transportation system or engage in lease road oiling.

"Permittee" – means *the owner holding or required to hold the permit, and who is also responsible for paying assessments in accordance with Section 19.7 of the Act and, where applicable, executing and filing the bond associated with the well as principal and who is responsible for compliance with all statutory and regulatory requirements pertaining to the well. When the right and responsibility*

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

for operating a well is vested in a receiver or trustee appointed by a court of competent jurisdiction, the permit shall be issued to the receiver or trustee.

(Section 1 of the Act) Permittee also means the owner or person required to hold the permit for a tank battery, pit, or concrete storage structure or a permit to engage in liquid oilfield waste hauling, lease road oiling, or test well and test hole drilling.

"Person" – means *any natural person, corporation, association, partnership, governmental agency or other legal entity, receiver, trustee, guardian, executor, administrator, fiduciary or representative of any kind.* (Section 1 of the Act)

"PRF" – means the Department's Plugging and Restoration Fund, established under Section 6 of the Act.

"Pool" – means *a natural underground reservoir containing, in whole or in part, a natural accumulation of oil or gas, or both. Each productive zone or stratum of a general structure, which is completely separated from any other zone or stratum in the structure, is deemed a separate "pool".* (Section 1 of the Act)

"Primary Oil Recovery" – means the initial drilling of a well in the effort to recover hydrocarbons for a pool that is not currently, nor was previously, subject to enhanced oil recovery.

"Post-Primary Oil Recovery" – means the drilling of a well in an effort to recover hydrocarbons from a pool that was previously subject to primary oil recovery or to enhanced oil recovery.

"Produced Water" – means water regardless of chloride and total dissolved solids (TDS) content that is produced in conjunction with oil and/or natural gas production and natural gas storage operations.

"Production Casing" – means the string of casing placed in a well and used for the purpose of isolating the production or injection formation.

"Repressure" – means to increase the reservoir pressure by the introduction of gas, air or water or other fluid into the reservoir.

"Reservoir" – for the purpose of this Part, is interchangeable with the term "pool".

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

"Rotary Drilling" – means the hydraulic process of drilling a well for oil or gas as that method is commonly used in the industry.

"Shooting" – means the exploding of nitroglycerin or other high explosives in a well for the purpose of increasing the production of oil or gas.

"Surface Waters" – means any river, stream, lake, pond or intermittent stream.

"Tank" – means a vessel into which oil or water is gathered, produced or stored.

"Tank Battery" – means one or more open or closed top tanks, of any capacity, that are located on a lease, unit or adjacent property, for the purpose of collecting, separating and/or storing crude oil and/or other liquid oilfield wastes that are generated as a result of oil and gas production operations.

"Undeveloped Limits of a Mine" – means that portion of a mine where the entries have not been driven to the boundaries of the mine property.

"Vacuum" – means pressure that is reduced below the pressure of the atmosphere.

"Water Drainage Way" – means any drainage ditch, roadside ditch, grassy waterway or any other natural or manmade surface or underground water drainage system.

"Well" – means any drill hole required to be permitted under Section 6(2) of the Act, including coal or mineral groundwater monitoring wells, structure test holes, coal test holes, and mineral test holes, and any other well required to be permitted under Sections 6 and 12 of the Act, including oil and gas production wells, water supply wells, Class II UIC injection wells, gas storage and gas storage monitoring wells, orphan wells, unpermitted leaking drill holes and plugged wells.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.125 Notice

- a) Whenever the Department is required by the Act or this Part to serve notice upon a permittee, the Department shall give written notice to that person, personally or by certified mail with return receipt requested, sent to the address submitted by permittee as set forth in Section 240.1710. Permittees shall sign certified mail

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

returned receipts for all mail received from the Department. (Section 9.1(b) of the Act)

b) Notice by Publication

- 1) If notice sent by certified mail is returned unsigned or undelivered, and upon due inquiry, the permittee cannot be found for personal delivery, the Department shall provide written notice of a hearing or other proceeding by a single publication of the notice in a newspaper published in the county where the well or wells at issue are located. (Section 9.1(c) of the Act)
- 2) If there is no newspaper published in that county, then the publication shall be in a newspaper published in an adjoining county in this State having a circulation in the county where the well or wells are located. (Section 9.1(c) of the Act)
- 3) The Department shall, within 10 days after the publication of the newspaper notice, send a copy of the notice, by certified mail with return receipt requested, to the address submitted by the permittee as set forth in Section 240.1710. (Section 9.1(c) of the Act)
- 4) The certificate of an authorized representative of the Department that newspaper notice was published and that a copy of the newspaper notice has been sent to the permittee pursuant to subsection (b)(3) is evidence that the Department has properly provided notice to the permittee for the hearing or other proceeding. (Section 9.1(c) of the Act)
- 5) Any notice required to be provided to a permittee under the Act or this Part shall include the identification of the well or wells at issue, the date, time, place and nature of the hearing or other proceeding, and the name and contact information of the Department where additional information can be obtained. (Section 9.1(d) of the Act)

(Source: Added at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.134 Lease Validation Petitions

- a) The following definitions are applicable to this Subpart:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

"Current Permittee" means the permittee of record for wells located within the prior oil and gas leases.

"New Oil and Gas Leases" means recorded operative oil and gas lease instruments or assignments of those oil and gas leases or recorded after the prior oil and gas leases, submitted by the proposed permittee in support of an application for a permit to operate, drill, deepen, transfer, amend or convert to a well subject to this Part and describing all or a portion of the lands described in the prior oil and gas leases.

"Prior Oil and Gas Leases" means recorded oil and gas lease instruments or assignments of those oil and gas leases in place when the Department granted the current permittee a permit to operate, drill, deepen, transfer, amend or convert to a well subject to this Part on the lands covered by the prior oil and gas leases.

"Proposed Permittee" means the person seeking to obtain a new permit to operate, drill, deepen, transfer, amend or convert to a well subject to this Part that is located on lands covered by prior oil and gas leases upon which a current permittee was previously granted a permit by the Department.

b) Petition

A proposed permittee seeking a permit to operate, drill, deepen, transfer, amend or convert to a well subject to this Part that is located on lands subject to a prior oil and gas lease or leases under which the current permittee was previously granted a permit by the Department may submit a petition requesting the Department to determine whether the new oil and gas leases submitted by the proposed permittee in support of the permit application are operative on the basis that the prior oil and gas leases covering the same lands have terminated due to nondevelopment or nonproduction.

c) Contents of the petition shall include:

- 1) the name and address of the proposed permittee;
- 2) the proposed permittee's reason for requesting a determination from the Department;
- 3) a copy of prior oil and gas leases at issue;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 4) a copy of new oil and gas leases at issue; and
 - 5) a copy of an affidavit of nondevelopment or nonproduction signed by the mineral owners or other knowledgeable individuals familiar with the history of development and production of oil or gas as to the lands (Section 6.2 of the Act) covered by the prior oil and gas leases, and properly recorded in the county where the lands subject to the new oil and gas leases are located.
- d) Execution and Filing
- 1) The petition to validate the new oil and gas leases in accordance with this Section shall be sent to the Department offices located at One Natural Resources Way, Springfield IL 62702.
 - 2) Every petition shall be signed by the proposed permittee or his or her representative and the proposed permittee's address shall be stated on the petition. The signature of the proposed permittee or his or her representative constitutes a certificate by him or her that he or she has read the petition and that, to the best of his or her knowledge, information and belief, there are good grounds to support the petition. The petition shall be accompanied by a nonrefundable application fee in the amount of \$1,000 (Section 6.2 of the Act).
 - 3) If the Department finds the petition deficient relative to the requirements of subsection (b) or (c), the petition shall not be accepted and the Department shall return the petition to the proposed permittee with a statement of the deficiencies. The Department shall return any unaccepted petition within 30 days after its receipt. The proposed permittee shall have 60 days to remedy the deficiencies and resubmit the petition to the Department. If the proposed permittee does not respond to the Department within 60 days, the petition shall be dismissed.
- e) Review of Petition; Rebuttable Presumption
- 1) Within 14 days after receipt of the petition, the Department shall review the petition and determine if it creates a rebuttable presumption that the prior oil and gas leases have terminated due to nondevelopment or

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

nonproduction and are of no further force and effect and that the new oil and gas leases are operative and effective.

- 2) To create a rebuttable presumption, affidavits of nondevelopment or nonproduction from knowledgeable individuals familiar with the history of development and production of oil or gas from those lands, together with other evidence provided to or available from the Department, shall reasonably indicate that there has been no development or production of oil and gas on the lands described in the prior oil and gas leases for at least 24 consecutive months subsequent to the expiration of the primary term or any extension of the primary term as set forth in the leases. (Section 6.2 of the Act)
 - 3) Upon a determination of a rebuttable presumption that the prior oil and gas leases are terminated, the Department shall notify the proposed permittee of the finding and send notice to the current permittee as set forth in subsection (g).
 - 4) If the Department previously denied a petition based on prior oil and gas leases that are later subject to a court order or judgment declaring that the prior oil and gas leases are terminated, the proposed permittee shall submit the judgment to the Department. Upon receipt and review of the court order or judgment, the Department will issue a final order declaring the prior oil and gas leases terminated as set forth in subsection (q).
- g) Service of Determination on Current Permittee
Upon the Department's determination of a rebuttable presumption that the prior oil and gas leases have terminated due to nonproduction or nondevelopment and are of no further force and effect and that the new oil and gas leases are operative and effective, the Department shall serve the current permittee notice of the determination according to the notice requirements set forth in Section 240.125. The current permittee shall have 30 days from the receipt of notice to request a hearing to rebut the presumption that the prior oil and gas leases have terminated. (Section 6.2 of the Act)
- h) Default for Failure to Request Hearing
Failure by the current permittee to request a hearing within 30 days after receipt of the notice of the Department's determination, as set forth in subsection (g), will result in default and issuance of a final order by the Department finding that the

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

prior oil and gas leases have terminated and that the new oil and gas leases are operative and effective as set forth in subsection (q).

- i) Scheduling and Notice of Hearing
Following a timely request for hearing by the current permittee, the Department will schedule a hearing at which the current permittee can rebut the presumption that the prior oil and gas leases have terminated. Notice of the hearing shall be served on the current permittee and the proposed permittee by the Department according to Section 240.125 at least 14 days prior to the hearing.
- j) Pre-Hearing Conferences
Upon his or her own motion or the motion of a party, the Hearing Officer shall direct the parties or their counsel to meet for a conference in order to:
- 1) Simplify the factual and legal issues presented by the hearing request;
 - 2) Receive stipulations and admissions of fact and of the contents and authenticity of documents;
 - 3) Exchange lists of witnesses the parties intend to have testify and copies of all documents the parties intend to introduce into evidence at the hearing; and
 - 4) Discuss and resolve other matters that may tend to expedite the disposition of the hearing request and to assure a just conclusion.
- k) Hearing
- 1) Conduct of Hearing
Every hearing shall be conducted by a Hearing Officer designated by the Director. The Hearing Officer shall take all necessary action to avoid delay, to maintain order, and to develop a clear and complete record, and shall have all powers necessary and appropriate to conduct a fair hearing and to render a decision on the petition, including the power to:
 - A) Administer oaths and affirmations;
 - B) Receive relevant evidence;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- C) Regulate the course of the hearing and the conduct of the parties and their counsel;
- D) Consider and rule upon procedural requests;
- E) Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitive or cumulative testimony, and set reasonable limits on the amount of time each witness may testify;
- F) Require the production of documents or subpoena the appearance of witnesses, either on the Hearing Officer's own motion or for good cause shown on motion of any party of record.

2) Hearing Location

All hearings under this Subpart shall be conducted in the Department's offices located in Springfield, Illinois. However, the Department may conduct a hearing under this Subpart at a site located closer than Springfield, Illinois to the production and injection/disposal well identified in the Notice of Hearing if facilities are available and satisfactory to the Department.

3) Appearances

Every interested person wishing to participate at the hearing shall enter an appearance in writing. The Hearing Officer shall determine if the interested person will be allowed to enter as a party of record. The Hearing Officer shall base that determination on the same standards used to determine parties in Circuit Court.

4) Right to Counsel

A) All participants in the hearing shall have the right to be represented by counsel.

B) An attorney appearing in a representative capacity in any proceeding under this Subpart shall file a written notice of appearance identifying his or her name, address and telephone number and identifying the party represented.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 5) The Hearing Officer shall allow all parties to present statements, testimony, evidence and argument as may be relevant to the proceeding.
 - 6) At least one representative of the Department shall appear at any hearing held under this Section and shall be given the opportunity to question parties or otherwise elicit information necessary to reach a decision on the petition.
 - 7) When applicable, the following shall be addressed prior to receiving evidence:
 - A) The proposed permittee may offer preliminary exhibits, including documents necessary to present the issues to be heard, notices, proof of publication and orders previously entered in the case.
 - B) Ruling may be made on any pending motions.
 - C) Any other preliminary matters appropriate for disposition prior to presentation of evidence may be addressed.
- l) Evidence
- 1) Admissibility
A party shall be entitled to present his or her case by oral or documentary evidence, to submit rebuttal evidence, and to conduct cross-examination as may be required for a full and true disclosure of the facts. Any oral or documentary evidence received by the presiding Hearing Officer shall exclude evidence that is irrelevant, immaterial or unduly repetitious. The rules of evidence and privilege applied in civil cases in the courts of the State of Illinois shall be followed; however, evidence not admissible under those rules of evidence may be admitted, except when it would have been precluded by reasonable, prudent men in the conduct of their affairs. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, a Hearing Officer shall allow evidence to be received in written form.
 - 2) Official Notice
Official notice may be taken of any material fact not appearing in evidence in the record if the circuit courts of this State could take judicial notice of

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

that fact. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge.

3) Order of Proof

The proposed permittee shall open the proof. Other parties of record shall be heard immediately following the proposed permittee. The Hearing Officer or Department representatives may examine any witnesses. In all cases, the Hearing Officer shall designate the order of proof and may limit the scope of examination or cross-examination.

4) Briefs

The Hearing Officer may require or allow parties to submit written briefs to the Hearing Officer within 10 days after the close of the hearing or within such other time as the Hearing Officer shall determine is consistent with the Department's responsibility for an expeditious decision.

m) Testimony

Any person testifying shall be required to do so under oath. However, relevant unsworn statements, comments and observations by any interested person may be heard and considered by the Department and included in the record.

n) Postponement or Continuance of Hearing

A hearing may be postponed or continued for due cause by the Hearing Officer upon his or her own motion or upon the motion of a party to the hearing. A motion filed by a party to the hearing shall set forth facts attesting that the request for continuance is not for the purpose of delay. Except in the case of an emergency, motions requesting postponement or continuance shall be made in writing and shall be received by all parties to the hearing.

o) Default After Hearing Requested

If a party, after proper service of notice, fails to appear at the pre-hearing conference or at a hearing, and if no continuance is granted, the Department may proceed to make its decision in the absence of that party. If the failure to appear at the pre-hearing conference or hearing is due to an emergency situation beyond the party's control, and the Department is notified of the situation on or before the scheduled pre-hearing conference or hearing date, the pre-hearing conference or hearing will be continued or postponed pursuant to subsection (n). Emergency

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

situations include sudden unavailability of counsel, sudden illness of a party or his or her representative, or similar situations beyond the party's control.

- p) Hearing Officer Recommended Findings
After the conclusion of the hearing, the Hearing Officer shall render recommended findings of fact, recommended conclusions of law, and recommendations as to the disposition of the case. If the Hearing Officer finds that the affidavits and other evidence provided at the hearing or available to the Department reasonably indicate that there has been no development or production of oil and gas on the lands described in the prior oil and gas leases for at least 24 consecutive months subsequent to the expiration of the primary term or any extension of the primary term as set forth in the prior oil and gas leases, the Hearing Officer shall recommend whether the rebuttable presumption was not overcome and that the prior oil and gas leases have terminated and are of no further force and effect or that the new oil and gas leases are operative and effective.
- q) Order – Final Administrative Decision
- 1) The Director shall review the administrative record in conjunction with the Hearing Officer's recommended findings of fact, recommended conclusions of law, and recommendations as to the disposition of the case.
 - 2) If, after this review, the Director finds that the rebuttable presumption was overcome by the current permittee, the Department shall enter a Final Administrative Order that the prior oil and gas leases are still in force and effect and the new oil and gas leases are not operative and effective.
 - 3) If, after this review, the Director finds that the rebuttable presumption was not overcome by the current permittee, the Department shall enter a Final Administrative Order that the prior oil and gas leases have terminated and are of no further force and effect and that the new oil and gas leases are operative and effective. The Final Administrative Order shall:
 - A) State that the prior oil and gas leases have terminated and are of no further force and effect and that the new oil and gas leases are operative and effective.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- B) Order the current permittee to properly plug all nonplugged and nontransferred wells within the lease boundaries of the prior leases. (Section 6.2 of the Act)
- C) Order that if the current permittee fails to properly plug all nonplugged and nontransferred wells within 30 days after the issuance of the Order, the remaining nonplugged and nontransferred wells shall be deemed abandoned and included in the Department's Oil and Gas Well Site Plugging and Restoration Program (see Subpart K). (Section 6.2 of the Act)
- D) The proposed permittee shall have no obligation to acquire the permits of the current permittee as to the lands that are the subject of the petition.
- 2) In no case shall the Department issue the Order later than 90 days after receipt of a valid petition. (Section 6.2 of the Act)
- 3) The Director's Order is a final administrative decision of the Department and is subject to judicial review under the Administrative Review Law [735 ILCS 5/Art. III].
- 4) Department determinations under this Section shall not have res judicata or collateral estoppel effect in any judicial proceedings. (Section 6.2 of the Act)

(Source: Added at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.135 Falsification or Misstatement of Information

No person shall falsify or make a material misrepresentation on or relative to any application, permit, required record, or other document required to be submitted to the Department by the Act or this Part. (Section 8d of the Act)

(Source: Added at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.160 Director's Decision

- a) Upon receipt of a notice of violation, the Director shall conduct an investigation

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

and may affirm, vacate or modify the notice of violation. In determining whether to take action in addition to remedial action necessary to abate a violation, the Director shall consider:

- 1) *the person's or permittee's history of previous violations, including violations at other locations and under other permits.*
 - A) A violation shall not be counted if the notice or order is the subject of pending administrative review by the Department under Section 240.180 or if the time to request a review has not expired, and thereafter it shall be counted for only two years after the date of the Department's final administrative decision or a final judicial decision affirming the Department's decision.
 - B) No violation for which the notice or order has been vacated shall be counted;
 - 2) *the seriousness of the violation, including any irreparable harm to the environment or damage to property;*
 - 3) *the degree of culpability of the person or permittee; and*
 - 4) *the existence of any additional conditions or factors in aggravation or mitigation of the violation, including information provided by the person or permittee.*
- b) *Modification of the notice of violation may include:*
- 1) *any different or additional remedial actions required to abate the violation, as set forth in Section 240.150(b)(2), and the time within which the violation must be abated;*
 - 2) *the assessment of civil penalties not to exceed \$5,000 for each and every falsification or material misrepresentation and \$1,000 a day for each and every act of violation not subject to the separate \$5,000 penalty for falsification and material misrepresentation (Section 8a of the Act);*
 - 3) *probationary or permanent modification or conditions on the permit, which may include special monitoring or reporting requirements; and*

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 4) *revocation of the permit.* (Section 8a of the Act)
- c) The Director shall determine whether or not to assess civil penalties based on the factors set forth in subsection (a). If a penalty is assessed by the Department, the penalty shall be computed as follows, but shall not exceed \$5,000 for each and every falsification or material misrepresentation and \$1,000 per day for each and every act of violation not subject to the \$5,000 penalty for falsification and material misrepresentation (Section 8a of the Act):
- 1) Administrative violations, including, but not limited to, the failure to file the reporting, permitting and bond transfer forms required by the Department, shall be assessed on a permittee-specific basis. The Department may assess a penalty for an administrative violation as follows:
 - A) No previous violation of the same rule: \$50.
 - B) One previous violation of the same rule: \$100.
 - C) Two previous violations of the same rule: \$150.
 - D) Three previous violations of the same rule: \$200.
 - E) Four or more previous violations of the same rule: \$500.
 - 2) Operating violations, including, but not limited to, operating a well required to be permitted under the Act without first obtaining a proper permit from the Department, operating a well required to be permitted under the Act without first obtaining the Department's transfer of operating authority, operating a well in violation of Department spacing requirements, pressure on the annulus, failure to maintain the well and flow line in a leak-free condition, failure to configure the wellhead for the inspection of the annulus, failure to comply with specified permit conditions, failure to report a spill, failure to maintain containment dikes, failure to maintain required performance bond in force for the wells under permit, failure to pay annual well fees or failure to notify the Department before setting surface casing, setting tubing and packer, or plugging a well, shall be assessed on a permittee-specific basis. The Department

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

may assess a penalty for an operating violation by considering elements of ~~subsection~~ subsection (c)(2)(A), (B) and (C) as follows:

- A) History of Violations:
- i) No previous violation of the same rule: \$100.
 - ii) One previous violation of the same rule: \$250.
 - iii) Two previous violations of the same rule: \$500.
 - iv) Three previous violations of the same rule: \$750.
 - v) Four previous violations of the same rule: \$1,000.
 - vi) Five or more previous violations of the same rule: \$2,500.
- B) Seriousness:
- i) If the violation had a low degree of probability to cause environmental damage to soil and/or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife: add \$100; or, if the violation had a high degree of probability to cause environmental damage to soil and/or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife: add \$250; or, if the violation caused environmental damage to soil and/or land surface, vegetation or crops, surface water, groundwater, livestock or wildlife: add \$1,000.
 - ii) If the violation created a hazard to the safety of any person, such as the emission of hydrogen sulfide gas: add \$2,000.
- C) Permittee's Actions:
- i) If the permittee was previously notified of the violation using a routine inspection report (Form OG-22) in accordance with Section 240.140 or correspondence from the Department and failed to comply: add \$500.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- ii) If the violation occurred as a result of the permittee's lack of reasonable care: add \$250; or, if the violation occurred as a result of the permittee's deliberate conduct, including lack of reasonable maintenance of equipment: add \$500.
- 3) Specified violations, including operating an annular or casing injection/disposal well; operating wells by a permittee for whom wells have been placed into, or funds have been expended from, the PRF; failure to provide emergency response or remediate a crude oil or produced water spill; or the improper disposal or discharge of produced fluids shall result in a penalty. The Department may assess a penalty for specified violations by considering elements of subsections (c)(3)(A), (B) and (C) as follows:
 - A) History of Violations:
One or more previous violations of the same rule in accordance with subsection (a)(1)(A): \$500 per violation.
 - B) Seriousness:
 - i) If the violation caused environmental damage to surface water, ground water or wildlife: add \$1,000.
 - ii) If the violation created a hazard to the safety of any person, such as the emission of hydrogen sulfide gas: add \$2,000.
 - C) Permittee's Action:
If the violation occurred as a result of the permittee's lack of reasonable care: add \$500; or, if the violation occurred as a result of the permittee's deliberate conduct: add \$1000.
- 4) Falsification and material misrepresentation violations, including but not limited to falsifying or misstating information on a permit application, spill report, annual verification report, annual Class II UIC well status report, or any other application, permit or required record, or other document required to be submitted to the Department by the Act or any rules or procedures adopted under the Act. The Department may assess a penalty for a falsification or material misrepresentation violation by considering the following elements:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- A) If the violation occurred as a result of a gross negligent misrepresentation of material fact in which the misrepresentation would impair the Department's ability to assess and evaluate the person's compliance with the Act and this Part: add \$1,000.
- B) If the violation occurred as a result of a purposeful falsification or material misrepresentation to the Department: add \$2,500.
- C) If the violation occurred as the result of a purposeful falsification or material misrepresentation to the Department and created a situation that resulted in a threat of or actual damage to the public's health, safety or welfare, or the threat of or actual damage to the environment: add \$5,000.
- d) *Any person who willfully or knowingly authorized, ordered, or carried out any violation cited in the Director's decision shall be subject, after notice, to the same actions, including civil penalties, which may be imposed on the person or permittee under this Section. (Section 8a of the Act)*
- e) The Director shall serve the person or permittee with his or her decision at the conclusion of the investigation. The Director's decision shall provide that the person or permittee has the right to request a hearing in accordance with Section 240.180. The Director's decision affirming, vacating or modifying the notice of violation shall be served in accordance with Section 8a of the Act.
- f) A Director's decision not appealed in accordance with Section 240.180 within 30 days after service shall become a final administrative decision of the Department, pursuant to Section 10 of the Act. The filing of a request for hearing under Section 240.180 shall not operate as a stay of the Director's decision.
- g) The permittee may, within 30 days from the date of service of the Director's decision, submit to the Department, in writing, any mitigating factors that permittee believes to be relevant to the violation cited in the Director's decision.
- h) Upon further investigation, the Director may enter into a settlement agreement, issue an amended Director's decision, or issue a replacement Director's decision.
- 1) A settlement agreement shall be issued to:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- A) extend the amount of time provided to complete remedial actions necessary to abate the violations set forth in the Director's decision; or
 - B) reduce the civil penalty assessed in the Director's decision; or
 - C) allow new permits or the transfer of existing permits to be issued during the term of the settlement agreement.
- 2) An amended Director's decision shall be issued to:
- A) extend the amount of time provided to complete remedial action necessary to abate the violation set forth in the Director's decision; or
 - B) reduce the civil penalty assessed in the Director's decision.
- 3) A replacement Director's decision shall be issued to correct an administrative error contained in the Director's decision or the Notice of Violation.
- 4) The permittee shall have no right to hearing associated with the issuance of an amended or replacement Director's decision.
- i) If the Director's decision includes the assessment of a civil penalty, and the person or permittee named in the Director's decision does not request a hearing in accordance with Section 240.180 to contest the amount of the penalty, the amount assessed shall be paid to the Department in full within 30 days after service of the Director's decision.
 - j) *All civil penalties assessed and paid to the Department shall be deposited in the Underground Resources Conservation Enforcement Fund. (Section 8a of the Act)*

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

SUBPART B: PERMIT APPLICATION PROCEDURES FOR PRODUCTION WELLS

Section 240.220 Contents of Application

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

The application for a permit to drill, deepen or convert to a production well shall include:

- a) The name of the well.
- b) The well location surveyed by an Illinois licensed land surveyor or Illinois registered professional engineer, the GPS (Global Positioning System) latitude and longitude location, and ground elevation of the well. A survey or GPS location is not required for a converted or deepened well, for a drilled out plugged hole if the original well location was surveyed, or for a well permitted under Section 240.210(d). The GPS location shall be recorded as degrees and decimal degrees recorded to 6 decimal places in the North American Datum 1983 projection and shall be accurate to within 3 feet. The reported GPS location is required to be an actual GPS field measurement and not a calculated or conversion measurement.
- c) A map showing:
 - 1) the boundaries of the leasehold or enhanced oil recovery unit;
 - 2) the exact location of the well proposed to be drilled, deepened or converted, and an outline of the proposed drilling unit;
 - 3) the location of all producing wells previously drilled on the drilling unit; and
 - 4) the location of all offset wells on adjacent drilling units.
- d) Certification, under penalty of perjury, that the applicant owns 100% of the right to drill for and operate a well on the lands and formations required for the proposed well, as set forth in Subpart D, pursuant to valid and existing documents or memoranda of public record. ~~Information to show the applicant has 100% of the rights to drill and to operate a well on the lands in question. The applicant shall submit copies of the recorded operative lease instruments or assignment.~~
- e) A statement as to whether the proposed well location is within the limits of any incorporated city, town, or village. If the consent of municipal authorities for the drilling of a well is required, a certified copy of the official consent must be submitted.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- f) The name and address of the drilling contractor and the type of drilling tools or equipment to be used.
- g) If the well is located over an active mine, over a temporarily abandoned mine or within the undeveloped limits of a mine, or if the coal rights are owned by someone other than the lessor under the oil and gas lease, the applicant shall submit documentation establishing compliance with Section 240.1305.
- h) If the application is for a newly drilled well located over an underground gas storage field as defined in Section 240.1805(c) or the gas storage rights are owned by someone other than the lessor under the oil and gas lease, the applicant shall submit documentation establishing compliance with Section 240.1820.
- i) The proposed depth of the well and the name of the lowest geologic formation to be tested.
- j) A statement whether the applicant has ever had a well bond forfeited by the Department, and if so when and for what well.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

SUBPART C: PERMIT APPLICATION PROCEDURES FOR CLASS II UIC WELLS

Section 240.320 Contents of Application

The application for a permit to drill, deepen or convert shall include:

- a) The name of the well.
- b) The well location surveyed by an Illinois licensed land surveyor or Illinois registered professional engineer, the GPS (Global Positioning System) latitude and longitude location and ground elevation of the well. A survey or GPS location is not required for a converted or deepened well, for a drilled out plugged hole if the original well location was surveyed, or for a well permitted under Section 240.310(f). The GPS location shall be recorded as degrees and decimal degrees recorded to 6 decimal places in the North American Datum 1983 projection and shall be accurate to within 3 feet. The reported GPS location is required to be an actual GPS field measurement and not a calculated or

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

conversion measurement.

- c) A map showing:
- 1) the boundaries of the leasehold or enhanced oil recovery unit, if applicable;
 - 2) the names of all permittees of producing leaseholds within $\frac{1}{4}$ mile of the proposed Class II UIC Well;
 - 3) the location of the well proposed to be drilled, deepened or converted;
 - 4) the location of all wells penetrating the proposed injection interval within the $\frac{1}{4}$ mile area of review as defined in Section 240.360.
- d) If the well is not located within the boundaries of a leasehold or enhanced oil recovery unit, the applicant shall certify under penalty of perjury that the applicant owns 100% of the right to drill for and operate a well on the lands and formations required for the proposed well, as set forth in Subpart D, pursuant to valid and existing documents or memoranda of public record.~~submit copies of the recorded operative lease instruments or assignment showing the applicant has 100% of the rights to drill and to operate the well.~~
- e) A statement as to whether the proposed well location is within the limits of any incorporated city, town, or village. If the consent of municipal authorities for the drilling of a well is required, a certified copy of the official consent must be submitted.
- f) The name and address of the drilling contractor and the type of drilling tools or equipment to be used.
- g) If the well is located over an active mine, over a temporarily abandoned mine or within the undeveloped limits of a mine, or if the coal rights are owned by someone other than the lessor under the oil and gas lease, the applicant shall submit documentation establishing compliance with Section 240.1305.
- h) If the application is for a newly drilled well located over an underground gas storage field as defined in Section 240.1805(c) or the gas storage rights are owned by someone other than the lessor under the oil and gas lease, the applicant shall

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

submit documentation establishing compliance with Section 240.1820.

- i) The proposed well construction and operating parameters in accordance with Section 240.340.
- j) Evidence of notification required under Section 240.370.
- k) Information regarding groundwater and potable water supplies in accordance with Section 240.350.
- l) Cementing, casing and plugging records for all wells penetrating the injection interval within the ¼ mile area of review in accordance with Section 240.360.
- m) A statement whether the applicant has ever had a well bond forfeited to the Department and, if so, when and for what well.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.370 Public Notice

- a) **Contents of Notice and Publication**

Public notice shall be given no earlier than 30 days prior to the filing of the application. A notice that an application for a permit to drill, deepen or convert to a Class II UIC well has been or will be filed with the Department shall be published by the applicant in a newspaper of general circulation and published in the county in which the proposed injection well is to be located. The applicant shall submit the original of the Certificate of Publication to the Department prior to approval of the application.

 - 1) The notice shall include:
 - A) the name and address of the applicant;
 - B) the date the application will be filed;
 - C) the legal description of the location of the proposed injection well;
 - D) the geologic name and depth of the injection intervals;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- E) the proposed maximum injection pressure and maximum injection rate;
 - F) the address and telephone number for the [Office of Oil and Gas Resource Management](#) ~~Division~~ of the Department; and
 - G) a statement that the public has 15 days from the date the application is filed, as stated in the public notice, to comment on the application and that comments must be made in writing to the Department.
- 2) If the notice does not contain all of the information listed in subsection (a)(1) or, if the application is not received on or before the date designated in subsection (a)(1)(B), the applicant shall be required to ~~republish~~
~~publish~~ the notice.
- b) **Notice Within the Area of Review**
A copy of the published notice, or a letter containing the same information as in the notice, shall be mailed by certified mail, return receipt requested to the owner of the surface of the land on which the proposed injection well is to be located, and to each permittee of a producing leasehold, and the owner or manager of all mines, including the mined-out area and undeveloped limits of all mines, located within ¼ mile of the proposed Class II UIC well. Evidence of mailing shall be submitted to the Department prior to approval of the application. The returned certified mail receipt card, or a copy of the card, shall serve as evidence of mailing.
- c) **Objections**
If a written objection to the application is filed within 15 days after the filing of the application, the Department shall consider the objection in determining whether the permit should be issued. If the objection raises a factual or legal question regarding the sufficiency of the application in meeting the requirements for a permit, the permit objection shall be set for a public hearing. A hearing shall be set only after all other requirements for issuance of the permit have been fulfilled.
- d) **Public Hearing**
- 1) Any public hearing held pursuant to subsection (c) shall be an informal

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

hearing conducted by the Department solely for the purpose of resolving the factual or legal question raised by the objection.

- 2) Notice of the hearing shall be sent by the Department to the applicant and to the objector by mailing the notice by United States mail, postage prepaid, addressed to their last known home addresses.
- 3) A certified court reporter shall record the hearing at the Department's expense.
- 4) A Hearing Officer designated by the Director shall conduct the hearing. The Hearing Officer shall allow all parties to the hearing to present evidence in any form, including by oral testimony or documentary evidence, unless the Hearing Officer determines the evidence is irrelevant, immaterial, unduly repetitious, or of such a nature that reasonably prudent members of the public or people knowledgeable in the oil and gas field would not rely upon it in the conduct of their affairs.
- 5) The Hearing Officer shall have the power to continue the hearing or to leave the record open for a certain period of time in order to obtain or receive further relevant evidence.
- 6) Within 10 days after the closing of the record or the receipt of the transcript of the hearing, whichever comes later, the Department shall render a decision on the objection.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

SUBPART D: SPACING OF WELLS

Section 240.410 Drilling Units

- a) Oil Wells
 - 1) The Department shall not issue a permit for the drilling or deepening of a well for the production of oil within the State of Illinois unless the proposed well location and spacing conform to the following drilling units:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- A1) 10 acres of surface area lying within the quarter-quarter-quarter section of land (as established by the official United States Public Land Survey) for wells drilled or deepened for the production of oil from a reservoir other than limestone/dolomite, the top of which lies less than 4,000 feet beneath the surface; the location of the well shall not be less than 330 feet from the nearest external boundary lines of the drilling unit, nor less than 660 feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued, but not yet drilled, for a well to the same individual reservoir; or
- B2) 20 acres of surface area lying within the east-west or north-south one-half of a quarter-quarter section of land (as established by the official United States Public Land Survey) for wells drilled or deepened for the production of oil from a limestone/dolomite reservoir, the top of which lies less than ~~5,000~~4,000 feet beneath the surface of the top of the Trenton Formation, whichever depth is greater; the location of the well shall not be less than 330 feet from the nearest external boundary lines of the drilling unit, nor less than 660 feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued, but not yet drilled, for a well to the same individual reservoir; or
- C3) 40 acres of surface area lying within a quarter-quarter section of land (as established by the official United States Public Land Survey) for wells drilled or deepened for the production of oil from a reservoir, the top of which lies at or below ~~5,000~~4,000 feet beneath the surface or the top of the Trenton Formation, whichever depth is greater; the location of the well shall be not less than 330 feet from the nearest external boundary lines of the drilling unit, nor less than ~~660~~900 feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued, but not yet drilled, for a well to the same individual reservoir.
- 2) A permittee shall not be obligated to drill any further wells pursuant to provisions in a lease existing prior to the effective date of this Section. Any obligation shall be determined, to the extent relevant and applicable,

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

by regulations in effect as of the date of the lease.

b) Gas Wells

The Department shall not issue a permit for the drilling or deepening of a well for the production of gas within the State of Illinois unless the proposed well location and spacing conform to the following drilling units:

- 1) 10 acres of surface area lying within the quarter-quarter-quarter section of land (as established by the official United States Public Land Survey) for wells drilled or deepened for the production of gas from a reservoir other than limestone/dolomite, the top of which lies less than 2,000 feet beneath the surface; the location of the well shall not be less than 330 feet from the nearest external boundary lines of the drilling unit, nor less than 660 feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued, but not yet drilled, for a well to the same individual reservoir; or
- 2) 20 acres of surface area lying within the east-west or north-south one-half of a quarter-quarter section of land (as established by the official United States Public Land Survey) for wells drilled or deepened for the production of gas from a limestone/dolomite reservoir, the top of which lies less than 2,000 feet beneath the surface; the location of the well shall not be less than 330 feet from the nearest external boundary lines of the drilling unit, nor less than 660 feet from the nearest location of a producing well, a well being drilled, or a well for which a permit has previously been issued, but not yet drilled, for a well to the same individual reservoir; or
- 3) 40 acres of surface area lying within a quarter-quarter section of land (as established by the official United States Public Land Survey) for wells drilled or deepened for the production of gas from a reservoir, the top of which lies between 2,000 feet below the surface and 5,000 feet or the top of the Trenton Formation, whichever depth is greater; the location of the well shall not be less than 330 feet from the nearest external boundary lines of the drilling unit nor less than ~~660~~ feet from the nearest location of a producing well or well being drilled or for which a permit has previously been issued but not yet drilled for a well to the same individual reservoir.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 4) Establishment of Drilling Units for Deep Gas
- A) In the case of wells drilled or deepened for the production of gas from a reservoir lying below 5,000 feet or the top of the Trenton formation, whichever depth is greater, no permit shall be issued for an exploratory well unless the proposed spacing and well location provide for a minimum of 160 acres of surface area lying within a quarter section of land (as established by the official United States Public Land Survey) with the well location not less than 660 feet from the nearest external boundary line of the drilling unit.
- B) After completion of the exploratory well or wells, but prior to commencement of production activities, application shall be made to the Department for the adoption of rules establishing spacing and well location requirements for the reservoir or reservoirs completed. The application shall identify the lands underlying the reservoir or reservoirs for which spacing and well location rules are requested, and shall include any geological, engineering or economic data, studies or reports upon which the requested spacing and well location rules are based.
- C) Within 20 days after receipt of the application, the Department shall submit proposed spacing and well location rules for the reservoir or reservoirs in accordance with Section 5-40 of the Illinois Administrative Procedure Act, which shall include notice of a public hearing to be commenced no later than 20 days after publication of the notice of proposed rulemaking in the Illinois Register. In addition to the notice requirements of the Illinois Administrative Procedure Act, the applicant shall give notice of public hearing, at least 10 days prior to the date of the hearing, to all permittees of record and leaseholders whose wells or leases are within $\frac{1}{4}$ mile of the area described in the proposed rules by first class mail, postage pre-paid, and by publication in a newspaper of general circulation in each county in which any portion of the area described in proposed rules is located.
- D) The public hearing shall be conducted in accordance with the provisions of Section 240.370(d)(4) and (d)(5). The Department shall fully consider the record from the public hearing and any

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

other public comment received during the first notice period and, prior to commencement of the second notice period, shall make such changes to the proposed rules as may be necessary to prevent waste, protect correlative rights and prevent the unnecessary drilling of wells.

- c) **Coalbed Gas Wells**
The Department shall not issue a permit for the drilling or deepening of a well for the production of coalbed gas from unmined seams of coal unless the proposed well location and spacing conform to drilling unit requirements of 10 acres of surface area lying within a quarter-quarter-quarter section of land (as established by the official United States Public Land Survey); the location of the well shall be not less than 330 feet from the nearest external boundary lines of the drilling unit.
- d) **Coal Mine Gas Wells**
A well drilled into a mine void or a pillar within the mined out area for the production of gas from an abandoned coal mine is exempt from the spacing requirements of this Subpart.
- e) **Other Wells**
Class II UIC wells, coal, mineral and structure test holes, observation wells, water supply wells used in relation to oil or gas production, and gas storage wells are exempt from the requirements of this Section.
- f) All new well locations shall not be less than 200 feet from the nearest occupied dwelling existing at the time the permit application is filed with the Department, unless the permittee obtains a written agreement with the surface owner upon which the dwelling is located specifically allowing for a closer well location.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

**SUBPART F: WELL CONSTRUCTION, OPERATING, AND REPORTING
REQUIREMENTS FOR PRODUCTION WELLS**

Section 240.610 Construction Requirements for Production Wells

- a) **Surface Casing Requirements for Wells Drilled After May 13, 1994**
 - 1) Steel surface casing or fiberglass casing meeting API standards

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

(Fiberglass Casing and Tubing; 15AR, May 1987, published by the American Petroleum Institute, 1220 L Street NW, Washington DC 20005-4070; no later editions or amendments included) shall be set to a depth of at least 100 feet, or 50 feet below the base of the fresh water, whichever is deeper, unless an alternative surface casing procedure is used as outlined in subsection (b).

- 2) Surface casing or alternative surface casing shall be set in the presence of a representative of the Department and the permittee shall give at least 24 hours notice to the appropriate District Office prior to setting the surface casing. The District Office may approve the setting of surface casing without a Department representative being present. If the District Office approves the setting of surface casing without a Department representative being present, the permittee is required to submit cement and casing records verifying the setting of surface casing. If cement and casing records are required, the permittee shall provide the records to the District Office within 24 hours after completion of the work.
 - 3) Surface casing shall be cemented in place by circulating cement behind the surface casing from the setting depth of the casing to the surface.
 - 4) The cement shall be allowed to set in place until it has developed sufficient strength to allow drilling to resume, but no less than 4 hours.
- b) Alternative Surface Casing Procedures
- 1) Prior to the commencement of drilling, the permittee shall notify the District Office for the county where the well will be located of the permittee's intent to use an alternative surface casing procedure.
 - 2) Notice shall be given on a form prescribed by the Department and received in the District Office at least 24 hours prior to the commencement of drilling.
 - 3) The following alternative surface casing procedures may be used unless the well is located over a coal mined out area or a gas storage field:
 - A) If the unconsolidated material is less than 25 feet thick, no surface casing is required but a cement basket shall be set 50 feet below

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

the base of the fresh water and the production casing shall be either cemented to surface from total depth or cemented from the cement basket to surface.

- B) If the unconsolidated material is greater than 25 feet thick, surface casing is required to be set and cemented, in accordance with subsection (a), to the top of the bedrock, and the production casing shall be either cemented to surface from total depth or cemented from the cement basket (placed 50 feet below the base of the fresh water) to surface.
 - C) For wells in which the total depth is less than 500 feet below the base of the fresh water, no surface casing or cement basket is required, but the production casing shall be cemented from total depth to surface.
- 4) For wells located over a coal mined out area ~~or a gas storage field~~:
- A) ~~at least 100 feet of~~ surface casing and cement shall be set to a minimum of 40 feet or to the top of the bedrock, whichever is deeper, before drilling to the depth of the mined out area ~~or;~~ into the mined out area ~~or to the depth of the gas storage zone;~~ and
 - B) a cement basket shall be set 50 feet below the base of the fresh water and the production casing shall be cemented from the basket to the surface or, if required under Section 240.1360, a mine string shall be set in accordance with Section 240.1360(b).
- 5) For wells located over a gas storage field:
- A) at least 100 feet of surface casing and cement shall be set before drilling to the depth of gas storage zone; and
 - B) a cement basket shall be set 50 feet below the base of the fresh water and the production casing shall be cemented from the basket to the surface or, if required under Section 240.1360, a mine string shall be set in accordance with Section 240.1360(b).
- c) Production Casing Requirements for Wells Drilled After May 13, 1994

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Production casing shall be set and cemented in place by circulating cement behind the production casing from the setting depth of the casing to a minimum of 250 feet above the shallowest producing interval. The casing shall be set no higher than 50 feet above the top of the uppermost producing interval in an open hole completion.

- d) Production Casing Requirements for Wells Drilled Prior to May 13, 1994
- 1) For all existing wells without production casing:
 - A) If surface casing was previously set, production casing shall be set and cemented a minimum of 250 feet in accordance with subsection (c).
 - B) If surface casing was not previously set, production casing shall be set and cemented to surface.
 - 2) Wells drilled prior to May 13, 1994 that contain drive pipe without cement behind the drive pipe will require no further cementing work.
- e) Tubing and Packer in Flowing Wells
All wells flowing as a result of an enhanced oil recovery project shall be produced through tubing and packer. The packer shall be set within 200 feet of the top of the producing interval and within the cemented portion of the production casing. The permittee shall contact the District Office in which the well is located at least 24 hours prior to the initial setting or any resetting of the packer to enable an inspector to be present when the packer is set.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

SUBPART H: LEASE OPERATING REQUIREMENTS

Section 240.815 Permanent Well Site Equipment Setback

No permanent well site equipment installed on a new well permitted after July 1, 2016, including flares, shall be located less than 200 feet from the nearest occupied dwelling existing at the time the initial permit application for that well is filed with the Department, unless the permittee obtains a written agreement with the surface owner of the land upon which the dwelling is located, specifically allowing for a closer well site equipment location.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

(Source: Added at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.820 Flowlines

- a) All flowlines used in the production of oil and/or natural gas, constructed after November 8, 1993, shall be buried at least 36 inches below the ground surface. The flowline may be exempt from these burial requirements upon Department approval if:
 - 1) the flowline is made of steel; and
 - 2) Either:
 - A) the topographical features, land uses or ground conditions prevent the efficient burial of flowlines; or
 - B) the terms of the oil and gas lease prohibit the burial of flowlines.
- b) All flowlines that cross and are not buried under natural drainage features such as creeks, streams, rivers or intermitted streams or ravines shall be constructed in such fashion as to bridge the drainage feature to protect the flowlines from damage due to lack of adequate support, resulting in potential discharge.
- c) The Department shall have the authority to take enforcement action (pursuant to Sections 240.140 through 240.170 of this Part) to require active flowlines existing on the effective date of this rule to be replaced, buried or constructed in accordance with subsection (b) of this Section or to require visible inactive or abandoned flowlines to be removed and the open ends sealed if the Department finds, based on field observation, that the flowlines constitute a hazard to public safety or can reasonably be expected to cause damage to the environment through leaks and spills.
- d) No flowline conveying produced water shall have an outlet valve for the discharge of produced water between the place or well of origin and the authorized storage or disposal point.
- e) All flowlines shall be maintained in a leak-free condition.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- fe) Any spill from a flowline leak shall be cleaned up in accordance with Sections 240.890 and 240.895.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

SUBPART J: VACUUM

Section 240.1040 Notice and Hearing

- a) On or before the date of filing a Vacuum Permit application with the Department, the applicant shall notify, by certified mail, return receipt requested, all permittees whose wells or leases are within a ¼ mile radius of the well. The applicant shall post a general notice, by publication in a newspaper of general circulation in the county where the well is located.
- b) The notice shall contain:
- 1) ~~name~~Name and depths of the formations on which vacuum will be applied;
 - 2) the exact location of the well or wells to be affected by the use of ~~the~~such vacuum;
 - 3) the address and telephone number of the Office of Oil and Gas Resource Management~~Division~~ of the Department; and
 - 4) a statement that the public has 15 days, from the date postmarked on the notice, to comment on the application and that comments must be made in writing to the Department.
- c) **Objections**
If a written objection to the application is filed within 15 days after the date postmarked on the notice, the Department shall consider the objection in determining whether the permit should be issued. If the objection raises a factual or legal question regarding the sufficiency of the application in meeting the requirements for a permit or presents data indicating correlative rights may not be protected, the permit objection shall be set for a public hearing. A hearing shall be set only after all other requirements for issuance of the permit have been fulfilled.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- d) Public Hearing
- 1) Any public hearing held pursuant to subsection (c) shall be conducted by the Department solely for the purpose of resolving the factual, legal or correlative rights questions raised by the objection;
 - 2) Notice of the hearing shall be sent by the Department to the applicant and to the objector by mailing the notice by United States mail, postage prepaid, addressed to their last known home address;
 - 3) A certified court reporter shall record the hearing at the Department's expense;
 - 4) A Hearing Officer designated by the Director shall conduct the hearing. The Hearing Officer shall allow all parties to the hearing to present evidence in any form, including by oral testimony or documentary evidence, unless the Hearing Officer determined the evidence is irrelevant, immaterial, unduly repetitious, or of such nature that reasonably prudent members of the public or people knowledgeable in the oil and gas field would not rely upon it in the conduct of their affairs;
 - 5) The Hearing Officer shall have the power to continue the hearing or to leave the record open for a certain period of time in order to obtain or receive further relevant evidence;
 - 6) After receipt of the transcript of the hearing, the Department shall render a decision on the objection.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

SUBPART K: PLUGGING OF WELLS

Section 240.1130 Plugging and Temporary Abandonment of Inactive Production Wells

- a) Any idle production well on an active lease or unit that has not had commercial production during the last 24 consecutive months shall be deemed abandoned, in accordance with Section 240.1600(c), and plugged in accordance with Section 240.1140 unless the well has been approved for Temporary Abandonment status

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

in accordance with subsection (c).

- b) Any idle production well on an inactive lease or unit, if the lease or unit has not had commercial production during the last 24 consecutive months, shall be deemed abandoned and not eligible for Temporary Abandonment status, pending a hearing held in accordance with Section 240.1610.
- c) The permittee shall apply for Temporary Abandonment status by making written application on forms provided by the Department. The Department may place the well on Temporary Abandonment status and issue a Temporary Abandonment permit, if the well meets the following conditions (which shall be continuing requirements):
 - 1) The well:
 - A) shall have proper bond in effect in accordance with the Act, if applicable; and
 - B) cannot be the subject of any final administrative decision for abandonment.
 - 2) The well shall have an intact leak free wellhead, or be capped with a valve, and configured to monitor casing or annular pressure.
 - 3) If the well is a permitted gas well and the well has a sustained gas pressure at the surface, the requirements of subsections (c)(5) and (6) do not apply.
 - 4) The wellhead shall be above ground level.
 - 5) The fluid level is no higher than 100 feet below the base of the fresh water as evidenced by an annual fluid level test conducted by the permittee, after notice to and under the supervision of the Department, using acoustical or wire line measuring methods. If the Department authorizes the permittee to conduct an annual fluid level test without the presence of a well inspector, the permittee shall report the annual fluid level test on a form prescribed by the Department. The fluid level test shall be conducted annually unless the permittee elects to satisfy the requirements of subsection (c)(6)(A) or (B).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 6) If the fluid level, as tested, is higher than 100 feet below the base of the fresh water, the permittee, in the presence of a Department representative, shall:
- A) set a cast iron plug within 200 feet above the perforated or open hole interval in the cemented portion of the production casing, but no less than 100 feet below the base of the fresh water, remove any fluid to a level at least 100 feet below the base of the freshwater zone, and monitor the fluid level annually in accordance with subsection (c)(5); or
 - B) set a cast iron plug within 200 feet above the perforated or open hole interval in the cemented portion of the production casing, but no less than 100 feet below the base of the fresh water, and pressure test the casing by maintaining a pressure of 300 PSIG (which may vary no more than 5%) for a period of 30 minutes.
- d) If a Temporary Abandonment request is denied, the permittee shall, within 90 days, plug the well or correct the deficiency that caused the denial and secure an approved Temporary Abandonment permit.
- e) Temporary Abandonment status for production wells shall not be terminated until the well has been inspected by ~~an Office~~ ~~Division~~ well inspector and a Temporary Abandonment termination request is approved by the Department. Temporary Abandonment termination requests shall be on a form prescribed by the Department.
- f) Temporary Abandonment status will be granted every 2 years provided the wells remain in compliance with subsection (c) and the lease or unit on which the wells are located remains active.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.1170 Plugging Fluid Waste Disposal and Well Site Restoration

Within ~~six~~(6) months after a well is plugged:

- a) The free liquid fraction of the plugging fluid waste, consisting of produced water and crude oil, shall be removed from the pit and disposed of in a Class II Injection

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

well (or in above ground tanks or containers pending disposal) prior to restoration. The remaining plugging fluid wastes shall be disposed of by on-site burial.

- b) All plugging pits shall be filled and leveled in a manner that allows the site to be returned to original use with no subsidence or leakage of fluids, and where applicable, with sufficient compaction to support farm machinery.
- c) All drilling and production equipment, rock or concrete bases, machinery, and equipment debris shall be removed from the site.
- d) Casing shall be cut off at least ~~four~~(4) feet below the surface of the ground, and a steel plate welded on the casing or a mushroomed cap of cement approximately one ~~(1)~~foot in thickness shall be placed over the casing so that the top of the cap is at least ~~three~~(3) feet below ground level.
- e) Any drilling rat holes shall be filled with cement to no lower than ~~four~~(4) feet and no higher than ~~three~~(3) feet below ground level.
- f) The well site and all excavations, holes and pits shall be filled and the surface leveled.
- g) Upon written request of the permittee, the Department may approve extensions of time, not to exceed a date 12 months after the plugging of the well, to complete the work required by subsections (a) through (f). All extension requests must be received by the Department no less than 10 calendar days prior to the expiration of the initial 6 month period or any extensions of that time period. When determining whether to grant an extension, and in determining the length of any extensions, the Department will consider factors including, but not limited to:
 - 1) the permittee's diligence in completing the work since the well was plugged;
 - 2) weather conditions;
 - 3) amount and type of work completed;
 - 4) amount and type of work still remaining to be completed;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 5) number of wells and facilities involved in the work;
- 6) written consent to extension from surface owner;
- 7) availability of equipment and/or services; and
- 8) conditions beyond the permittee's control.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.1180 Lease Restoration

- a) Within ~~six (6)~~ months after the last well on a lease has been plugged, all excavations and pits shall be filled and leveled and all pits and concrete storage structures shall be restored in accordance with Subpart H to original grade. Subject to an existing right of way, tank batteries and other production equipment, rock and concrete pads, general oilfield waste and equipment oil field debris, flowlines, injection and flow lines at or above the surface, and electric power lines and poles extending on or above the surface, shall be removed. Containment dikes shall be removed if constructed with other than soil and leveled ~~to original grade~~.
- b) Upon written request of the permittee, the Department may approve extensions of time, not to exceed a date 12 months after the plugging of the well, to complete the work required to bring the lease into compliance with this Section. All extension requests must be received by the Department no less than 10 calendar days prior to the expiration of the initial 6 month period of any extensions. When determining whether to grant an extension and in determining the length of an extension, the Department will consider factors including, but not limited to:
 - 1) the permittee's diligence in completing the work since the well was plugged;
 - 2) weather conditions;
 - 3) amount and type of work completed;
 - 4) amount and type of work still remaining to be completed;

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 5) number of wells and facilities involved in the work;
- 6) written consent to extension from surface owner;
- 7) availability of equipment and/or services; and
- 8) conditions beyond the permittee's control.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

Section 240.1181 Lease Restoration Requirements (Repealed)

~~Within six (6) months after the last well on a lease has been plugged, all excavations shall be filled and leveled and all pits and concrete storage structures shall be restored in accordance with Subpart H of this Part. Subject to an existing right of way, tank batteries and other production equipment, rock and concrete pads, general oilfield waste and equipment debris, flowlines at or above the surface, and electric power lines and poles extending on or above the surface, shall be removed. Containment dikes shall be removed if constructed with other than soil and leveled.~~

(Source: Repealed at 40 Ill. Reg. 7051, effective April 22, 2016)

SUBPART L: REQUIREMENTS FOR OTHER TYPES OF TEST WELLS**Section 240.1205 Application for Permit to Drill a Test Well or Drill Hole**

- a) No person shall drill a test well or hole covered by this Subpart without a permit from the Department.
- b) An application for a permit to drill a coal test hole, mineral test hole, structure test hole, or coal or mineral groundwater monitoring well shall:
 - 1) Be made on forms prescribed by the Department.
 - 2) Be executed under penalties of perjury, and accompanied by the ~~nonrefundable~~ non-refundable fee of ~~\$300~~ \$100 per section, or part of a section thereof, as delineated by the United States Public Land Survey, ~~not to exceed \$5000 for any permittee in any calendar year.~~

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 3) Contain a statement indicating whether the well or drill hole is located over an underground gas storage field as defined in Section 240.1805(c) ~~of this Part~~ or the gas storage rights are owned by someone other than the lessor under the oil and gas lease; the applicant shall submit documentation establishing compliance with Section 240.1820 ~~of this Part~~.
- 4) Be accompanied by the bond required under Subpart O.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

SUBPART N: ISSUANCE OR TRANSFER OF PERMIT TO OPERATE

Section 240.1460 Conditions for and Effect of Issuance or Transfer of Permit to Operate

- a) No permit shall be issued to or transferred to a new permittee or proposed new permittee when:
 - 1) *the applicant has falsified or otherwise misstated any information on or relative to the permit application;*
 - 2) *the applicant has failed to abate a violation of the Act specified in a final administrative decision of the Department;*
 - 3) *an officer, director, agent, power of attorney, or partner in the applicant, or person with an interest in the applicant exceeding 5%, was an officer, director, partner, or person with an interest exceeding 5% in another entity that failed to abate a violation of the Act specified in a final administrative decision of the Department;*
 - 4) *the applicant was or is an officer, director, agent, power of attorney, partner, or person with an interest exceeding 5% in another entity that has failed to abate a violation of the Act specified in a final administrative decision of the Department (Section 8a of the Act);*
 - 5) funds have been expended and remain outstanding from the Plugging and Restoration Fund to plug wells, under Subpart P ~~of this Part~~, for which the applicant was a previous permittee, or the applicant was or is an officer, director, agent, power of attorney, partner, or person with an interest exceeding 5% in a permittee for which funds were expended; or an officer,

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

director, agent, power of attorney, or partner in the applicant, or person with an interest in the applicant exceeding 5%, was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee for which funds were expended; or

- 6) the new permittee is delinquent in the payment of Annual Well Fees; or the applicant was or is an officer, director, agent, power of attorney, partner, or person with an interest exceeding 5%, in another permittee who is delinquent in payment of Annual Well Fees; or an officer, director, agent, power of attorney, or partner in the applicant, or person with an interest in the applicant exceeding 5%, was or is an officer, director, agent, power of attorney, partner or person with an interest exceeding 5% in a permittee who is delinquent in payment of Annual Well Fees.
- b) The entity or person to whom the permit is transferred or issued shall be called the permittee and shall be responsible for all regulatory requirements relative to the well.
- c) When the requirements of this Subpart have been satisfied, and subject to subsections (d) and (e), the Department shall render permit transfer decisions based upon the manner in which the new permittee or proposed new permittee came into possession of the wells sought to be transferred. Specifically:
 - 1) The new permittee or proposed new permittee requesting the transfer is the mineral owner. If the new permittee or proposed new permittee owns the mineral rights to the tract of land on which production or injection wells subject to a prior lease are located and came into possession of the right to operate the wells by virtue of a voluntary release or involuntary termination of lease rights by court order, this new permittee shall become responsible for all regulatory requirements relative to:
 - A) only those production wells identified in the transfer request;
 - B) all wells in existence within the prior lease if the new permittee or proposed new permittee seeks to operate any of the injection wells located within this leasehold, convert any production well to an injection well or drill a new injection well; and
 - C) all pits, concrete storage structures, tank batteries and other surface

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

production facilities in existence within the lease boundaries.

- 2) The new permittee or proposed new permittee requesting the transfer is a new base lessee. If the new permittee or proposed new permittee came into possession of the right to operate wells by virtue of a new base lease, the new permittee or proposed new permittee shall provide documentation indicating the termination of the original lease and shall become responsible for all regulatory requirements relative to only the wells identified within the new base lease document, except that:
- A) if the new base lease conveys the right to produce from all formations, and the new base lessee or its assignee permits or operates any injection well located within the tract of land being leased, converts any production well to an injection well or drills a new injection well within this area, the new base lessee or its assignee shall become responsible for all regulatory requirements relative to all wells that penetrate the injection well formation, concrete storage structures, pits and tank batteries in existence, all as may be located within ¼ mile of the injection well and within the lease boundaries. If the operation of the injection well directly causes any other wells, flowlines or other well site equipment located within the lease boundary to leak any fluids into fresh water or to the surface, the new base lessee or its assignee shall be responsible for all regulatory requirements relative to those wells, flowlines or other well site equipment. Nothing in this subsection (c)(2)(A) precludes this new base lessee or its assignee from voluntarily taking responsibility for all regulatory requirements relative to any additional wells, concrete storage structures, pits and tank batteries located greater than ¼ mile away from the injection well and within the lease boundaries~~within that tract of land~~; or
- B) if the new base lease conveys the right to produce from specified formations ~~only or is for wells currently in PRF~~, and ~~the new base lease specifies or~~ the new base lessee or its assignee permits or operates any injection well located within the formations specified in the new base lease, converts any production well to an injection well or drills a new injection well to the specified formations, ~~the~~~~this~~ new base lessee or its assignee shall become responsible for

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

all regulatory requirements relative to all wells that penetrate the injection well formation, concrete storage structures, pits and tank batteries in existence relative to the specified formations, all as may be located within ¼ mile of the injection well and within the lease boundaries. If the operation of the injection well directly causes any other wells, flowlines or other well site equipment located within the lease boundary and the specified formations to leak any fluids into fresh water or to the surface, the new base lessee or its assignee shall be responsible for all regulatory requirements relative to those wells, flowlines or other well site equipment. Nothing in this subsection (c)(2)(B) precludes this new base lessee or its assignee from voluntarily taking responsibility for all regulatory requirements relative to any additional wells, concrete storage structures, pits and tank batteries located greater than ¼ mile away from the injection well and within the lease boundaries drilled to and completed in the same formation as the injection well, and all concrete storage structures, pits and tank batteries in existence relative to that formation.

- 3) A new permittee or proposed permittee requesting the transfer is an assignee if the new permittee or proposed new permittee came into possession of the right to operate wells by virtue of a lease assignment or appointment, by a court of competent jurisdiction, as trustee or receiver, in accordance with Section 240.1410(a)(4). This new permittee or proposed new permittee shall become responsible for all regulatory requirements relative to all wells, concrete storage structures, pits and tank batteries in existence within the lease hold being assigned.
- d) If any well, or any lease or other unit associated with the well, is in violation of the Act or this Part at the time of the transfer to the new permittee or proposed new permittee, the new permittee or proposed new permittee shall be notified of the violations and the amount of time allotted by the Department for abatement.
- e) The current permittee (Seller) is not liable for any violation of the Act caused by the actions of the new permittee (Buyer) during the permit transfer process, after notice is given to the Department by the current permittee of the pending transfer. However, if the transfer is denied by the Department, the current permittee assumes all responsibility for the violations of the Act caused by the new permittee. Nothing in this subsection (e) shall affect the contractual rights and

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

obligations of the Seller and Buyer.

- f) The transfer of a permit pursuant to this Subpart shall not affect the rights of the Department or any obligation or duty of the current permittee arising under the Act and this Part. Any cause of action accruing or any action or proceeding had or commenced, whether administrative, civil or criminal, may be instituted or continued without regard to the transfer of the permit in accordance with this Subpart.
- g) A current permittee, new permittee or proposed new permittee may request a hearing in accordance with Section 240.1490 to challenge the Department's permit transfer decision.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

SUBPART Q: ANNUAL WELL FEES

Section 240.1710 Annual Permittee Reporting

- a) Permittees are required to submit, on a form prescribed by the Department, an annual verification of address and status. [The address submitted under this Section will be used by the Department to provide notice of any hearings or other proceedings under the Act or this Part.](#)
- b) The form shall contain the permittee's:
 - 1) current address;
 - 2) verification of well ownership;
 - 3) type of business entity and supporting documentation;
 - 4) FEIN, or Social Security Number if an individual; and
 - 5) names and addresses of principals, officers or owners.
- c) Forms shall accompany the Annual Well Fee payment and shall be submitted by September 1 of each year.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- d) Authority of Person Signing Forms
- 1) If the permittee is a sole proprietor, the form shall be signed by the individual. If the permittee is a partnership, the form shall be signed by a general partner. If the permittee is a corporation, the form shall be signed by an officer of the corporation.
 - 2) In lieu of the signature of the permittee, the form may be signed by a person having a power of attorney to sign for the permittee, provided a certified copy of the power of attorney is on file with the Department or accompanies the form.
- e) If a permittee did not submit an annual verification of address and status form during the most recent annual fee payment period, a reporting form is required at the time of all well permit and transfer requests.
- f) Permittees shall submit to the Department any address changes within 30 days after the effective date of the change in address, on a form prescribed by the Department. Permittee shall ensure that any mail sent to the previous address is forwarded to the new address between the effective date of the change of address and the Department's notification of the change.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

SUBPART S: REQUIREMENTS FOR SERVICE WELLS

Section 240.1905 Application for Permit to Drill or Convert to Other Types of Wells or Drill Holes

- a) No person shall drill or convert a service well ~~or drill a test hole~~ covered by this Subpart without a permit from the Department.
- b) Application for a permit to drill or convert a service well shall be made on forms prescribed by the Department. The application shall be executed under penalties of perjury, and accompanied by the nonrefundable ~~non-refundable~~ fee of \$300 and the bond required under Subpart O.

(Source: Amended at 40 Ill. Reg. 7051, effective April 22, 2016)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Nursing Education Scholarships
- 2) Code Citation: 77 Ill. Adm. Code 597
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
597.10	Amendment
597.20	Amendment
597.100	Amendment
597.105	New Section
597.110	Amendment
597.115	New Section
597.200	Amendment
597.220	Amendment
597.230	Amendment
597.235	New Section
597.240	New Section
597.300	Amendment
597.310	Amendment
597.320	Amendment
597.330	Amendment
597.335	New Section
- 4) Statutory Authority: Nursing Education Scholarship Law [110 ILCS 975]
- 5) Effective Date of Rules: April 21, 2016
- 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 Proposed published in the *Illinois Register*: 40 Ill. Reg. 1450; January 22, 2016
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Difference between Proposal and Final Version: None. No public comments were received nor were any changes made at the request of JCAR.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were 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: This rulemaking standardizes various aspects of the Nursing Education Scholarship program by updating terms and definitions, changing tuition and stipend determination for recipients, clarifying provisions regarding scholarship renewals, updating requirements for deferment and waiver of nursing education and employment obligation, and incorporating reporting and recovery provisions.
- 16) Information and questions regarding these adopted rules shall be directed to:

Elizabeth Paton
Assistant General Counsel
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th floor
Springfield IL 62761

217/782-2043
e-mail: dph.rules@illinois.gov

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER g: GRANTS TO DENTAL AND MEDICAL STUDENTS

PART 597
NURSING EDUCATION SCHOLARSHIPS

SUBPART A: GENERAL PROVISIONS

Section	
597.10	Definitions
597.20	Referenced Materials
597.30	Administrative Hearings

SUBPART B: ELIGIBILITY AND APPLICATION

Section	
597.100	Eligibility
597.105	Notification
597.110	Application
597.115	Scholarship Renewal

SUBPART C: AWARD OF SCHOLARSHIPS

Section	
597.200	Scholarship Description
597.210	Determination of Financial Need
597.220	Selection Criteria for Award of Scholarships
597.230	Student Enrollment and Institutions' Obligations
597.235	Deferment of Continuous Attendance Requirement
597.240	Waiver of Continuous Attendance Requirement

SUBPART D: TERMS OF PERFORMANCE

Section	
597.300	Grant Agreement Contract
597.310	Repayment of Scholarship
597.320	Fulfillment Satisfaction of Nurse Employment or Nurse Educator Employment Scholarship Obligation

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 597.330 Deferment of Nurse Employment or Nurse Educator Employment Scholarship
Obligation
- 597.335 Waiver of Nurse Employment or Nurse Educator Employment Obligation

AUTHORITY: Implementing and authorized by the Nursing Education Scholarship Law [110 ILCS 975].

SOURCE: Adopted at 17 Ill. Reg. 13763, effective August 10, 1993; amended at 18 Ill. Reg. 17720, effective November 30, 1994; amended at 21 Ill. Reg. 4828, effective March 29, 1997; amended at 23 Ill. Reg. 8824, effective August 1, 1999; amended at 26 Ill. Reg. 16965, effective November 8, 2002; amended at 32 Ill. Reg. 19813, effective December 5, 2008; amended at 35 Ill. Reg. 4609, effective March 2, 2011; amended at 40 Ill. Reg. 7113, effective April 21, 2016.

SUBPART A: GENERAL PROVISIONS

Section 597.10 Definitions

"Academic year" means the period of time from September 1 of one year through August 31 of the next year or as otherwise defined by the academic institution. (Section 3(6) of the Law)

"Accepted for admission" means a student has completed the requirements for entry into an associate degree in nursing program, associate degree in applied sciences in nursing program, hospital-based diploma in nursing program, baccalaureate degree in nursing program, graduate degree in nursing program, or certificate in practical nursing program at an approved institution, as documented by the institution. (Section 3(10) of the Law)

~~*"Administrative Law Judge" means the person appointed to preside at administrative hearings under Subpart A of this Part.*~~

"Advanced practice nurse" or "APN" means a person who has met the qualifications for a certified nurse midwife (CNM), certified nurse practitioner (CNP); certified registered nurse anesthetist (CRNA); or clinical nurse specialist (CNS) and has been licensed by the Department of Financial and Professional Regulation. (Section 50-10 of the Nurse Practice Act)

"Approved institution" means a public community college, private junior college, hospital-based diploma in nursing program, ~~or~~ public or private college or

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

university, or online institution, that is physically located in this State that has approval by the Department of Financial and Professional Regulation for an associate degree in nursing program, associate degree in applied sciences in nursing program, hospital-based diploma in nursing program, baccalaureate degree in nursing program, graduate degree in nursing program, or certificate in practical nursing program. (Section 3(3) of the Law)

"Associate degree in nursing program" or "hospital-based diploma in nursing program" means a program offered by an approved institution and leading to an associate degree in nursing, associate degree in applied sciences in nursing, or hospital-based diploma in nursing. (Section 3(7) of the Law)

"Baccalaureate degree in nursing program" means a program offered by an approved institution and leading to a bachelor of science degree in nursing. (Section 3(4) of the Law)

"Business day" means any day, including Monday through Friday. It does not include a federal or State government declared holiday, Saturday or Sunday

"Calendar day" means all days in a month or prescribed time frame. It includes weekends and federal or State government declared holidays.

"Center for Nursing Advisory Board" ~~shall have the meaning ascribed in the means the board that advises the Department on issues affecting the nursing profession in Illinois (see Section 6.5(b) of the Law and the Nurse Practice Act).~~

"Class rank" is the measure of how a student's performance compares to other students in his or her class.

"Continuous attendance" means enrollment in an approved institution's nursing program (as a full-time or part-time student), for an entire academic year and for the total duration of time it takes the student to complete the nursing degree or certificate up to the maximum number of years the recipient is eligible to receive the scholarship. Continuous attendance need not be maintained for the summer term. Continuous attendance shall be deemed to have been broken if the student goes more than one semester, quarter or trimester without successfully completing a nursing-related course.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Deferment" means the temporary delay or postponement of a recipient's continuous attendance requirement, nursing employment or nurse educator employment obligation.

"Department" means the Illinois Department of Public Health. (Section 3(2) of the Law)

"Direct patient care" means care of a patient provided by an advanced practice nurse, a registered nurse, or a licensed practical nurse. Direct patient care may involve any aspect of the health care of a patient, including treatment, counseling, in-service for self care, education, and administration of medication.

"Director" means the Director of the Illinois Department of Public Health. (Section 3(9) of the Law)

"Educational loan" means any loan guaranteed by the State Scholarship Commission under the Higher Education Student Assistance Law, any education loan made by an institution of higher education from the proceeds of a loan to the institution by the Illinois Finance Authority under the Higher Education Loan Act, or any other loan from public funds made for the purpose of financing an individual's attendance at an institution of higher education. (Section 1(a) of the Educational Loan Default Act)

"Enrollment" means the establishment and maintenance of an individual's status as a nursing student in an approved institution, regardless of the terms used at the institution to describe such status. (Section 3(5) of the Law)

"Fees" means those mandatory charges, in addition to tuition, that all students enrolled in a nursing program must pay, including required course or lab fees. (Section 3(11) of the Law)

"Free Application for Federal Student Aid" or "FAFSA" means an application that is prepared annually by current and prospective nursing students to determine eligibility for financial aid. Information on FAFSA can be obtained at www.fafsa.ed.gov.

"Full-time nursing employment" means providing direct patient care of at least 24 hours per week for those persons working weekend shifts, or 35 hours or more per week for those working weekday shifts.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Full-time nursing student" means a student who is enrolled in a nursing program for at least 12 credit hours per term or as otherwise determined as full-time by the academic institution. (Section 3(12) of the Law)

"Grade point average" or "GPA" means a measure of a student's academic achievement, calculated by dividing the total number of grade points received by the total number of grade points attempted.

"Graduate degree in nursing program" means a program offered by an approved institution and leading to a master of science degree in nursing or a doctorate of philosophy in nursing, ~~or doctorate of nursing~~, doctorate of nursing practice, or doctorate of nursing science ~~degree in nursing~~. (Section 3(8) of the Law)

"Grant Agreement" means the written instrument defining a legal relationship entered into between the Department and a grantee.

"Illinois resident" means a person who has been a resident of Illinois for at least one year prior to applying for a scholarship and is a citizen or lawful permanent resident alien of the United States. (Section 5(1) of the Law)

"Law" means the Nursing Education Scholarship Law ~~[110 ILCS 975]~~. (Section 3(13) of the Law)

"Lawful permanent resident alien" means a person who is not a citizen of the United States but who resides in the United States under legally recognized requirements and has lawfully recorded permanent residence as an immigrant.

"Licensed practical nurse" means a person who is currently licensed as a licensed practical nurse by the Department of Financial and Professional Regulation under the Nurse Practice Act . (Section 3(18) of the Law)

"Living expenses" means room and board, miscellaneous fees, books, transportation and commuting costs. This amount is adjusted annually based upon the uniform living allowance reported in the weighted Monetary Award Program (MAP) from the Illinois Student Assistance Commission. (Section 7 of the Law)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Mean-Weighted Average Tuition and Fees" means the tuition and mandatory fees used for the Illinois ~~public universities~~Public Universities and ~~community colleges~~Illinois Community Colleges by the Illinois Student Assistance Commission for purposes of Monetary Award Program (MAP) grants, multiplied by the number of full-time equivalent undergraduate students enrolled at each such institution, added together, and divided by the sum of the full-time equivalent enrollments for the previous year at each institution. This figure is calculated once per year and is used regardless of whether individual institutions adjust their tuition and mandatory fees for that same year. The Mean-Weighted Average Tuition and Fees is calculated separately for Illinois ~~public universities~~Public Universities and ~~community colleges~~Illinois Community Colleges (as cited in the COLLEGE ILLINOIS! Master Agreement and Disclosure Statement).

"Medical facility" means a facility where a scholarship recipient fulfills his or her nursing employment obligation and includes, but is not limited to, a physician's office, hospital or local health department.

"Monetary Award Program" or "MAP" means a grant awarded by the Illinois Student Assistance Commission (ISAC) that provides payment toward tuition and mandatory fees for Illinois residents to attend an Illinois college. Eligibility is based on financial need. The maximum award depends on legislative action and available funding each year.

"Null and void" means that a scholarship application submitted to the Department has no legal force and is invalid.

"Nurse educator" means a person who is currently licensed as a registered nurse by the Department of Financial and Professional Regulation under the Nurse Practice Act, who has a graduate degree in nursing, and who is employed by an approved academic institution to educate registered nursing students, licensed practical nursing students, and registered nurses pursuing graduate degrees. (Section 3(23) of the Law)

"Nurse educator employment" means employment by an approved academic institution in Illinois to educate nursing students.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Nurse educator employment obligation" means employment in this State as a nurse educator for at least two years for each year of scholarship assistance received under Section 6.5 of the Law. (Section 3(24) of the Law)

"Nursing employment obligation" means employment in this State as a registered professional nurse, licensed practical nurse, or advanced practice nurse in direct patient care for at least one year for each year of scholarship assistance received through the Nursing Education Scholarship Program. (Section 3(14) of the Law)

"Official transcript" means transcripts that have been received directly from the institution or have been issued to the applicant or recipient in a sealed envelope, which shall remain sealed until its arrival at the Department. The transcript shall include the institution's official seal, the date transcript was issued and the registrar's signature.

"Part-time nursing employment" means providing direct patient care for between 17.5 hours and 34 hours per week.

"Part-time student" means a person who is enrolled for at least one-third of the number of hours required per term by a school for its full-time students. (Section 3(15) of the Law)

"Practical Nursing Program" means a program offered by an approved institution and leading to a certificate in practical nursing. (Section 3(16) of the Law)

"Prerequisite course" means a course requirement (determined by the approved institution) that a student must meet to demonstrate readiness for enrollment in nursing education.

"Quarter" means a term within an academic year that marks the beginning and end of classes. Quarters are ~~approximately~~ eight to ten ~~10~~-weeks in duration and there are four quarters in an academic year.

"Registered professional nurse" means a person who is currently licensed as a registered professional nurse by the Department of Financial and Professional Regulation under the Nurse Practice Act . (Section 3(17) of the Law)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Renewal" or "Scholarship renewal" means a continuation of a past scholarship in reference to the same degree or certificate sought. Renewal does not apply to a prior scholarship recipient who wishes to pursue a higher nursing degree after receiving assistance on a previous nursing degree or certificate.

"School term" means an academic term, such as a semester, quarter, or trimester, or number of clock hours, as defined by an approved institution. (Section 3(19) of the Law)

"Semester" means a term within an academic year that marks the beginning and end of classes. Semesters are ~~approximately~~ 15 to 16 weeks in duration and there are two semesters in an academic year.

~~"Summer term" means a term within an academic year that marks the beginning and end of classes. The term is approximately four to nine weeks in duration and is typically offered during June, July and August of an academic year.~~

"State agency" means any officer, board, commission or agency created by the Constitution, whether in the executive, legislative or judicial branch, but other than the circuit court; any officer, department, board, commission, agency, institution, authority, university, body politic or corporate of the State; any administrative unit or corporate outgrowth of the State government that is created by or pursuant to statute, other than units of local government and their officers, school districts and boards of election commissioners; or any administrative unit or corporate outgrowth of the above or as may be created by executive order of the Governor. (Section 1(b) of the Educational Loan Default Act)

"Student Aid Report" or "SAR" is a summary of the student's FAFSA responses.

"Student in good standing" means a student enrolled in a nursing program is maintaining a cumulative grade point average equivalent to at least an academic grade of "C". (Section 3(20) of the Law)

"Submission of application" means that a complete nursing education scholarship application has been received by the Department by the established deadline set forth in Section 597.110(b). Submission does not mean that the application is postmarked by the established submission deadline but arrives at the Department on a later date.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Summer term" means a term within an academic year that marks the beginning and end of classes. The term is approximately four to nine weeks in duration and is typically offered during June, July and August of an academic year.

"Toll" or "Tolling" means to postpone or suspend the running of a specific time period.

"Total and permanent disability" means a physical or mental impairment, disease, or loss of a permanent nature that prevents nursing employment with or without reasonable accommodation. Proof of disability shall be a declaration from the social security administration, Illinois Workers' Compensation Commission, Department of Defense, or an insurer authorized to transact business in Illinois who is providing disability insurance coverage to a contractor. (Section 3(21) of the Law)

"Trimester" means a term within an academic year that marks the beginning and end of classes. Trimesters are ~~approximately~~ 12 to 15 weeks in duration and there are three trimesters in an academic year.

"Tuition" means the established charges of an institution of higher learning for instruction at that institution. (Section 3(22) of the Law)

"United States citizen" means an individual born in the United States, Puerto Rico, Guam, Northern Mariana Islands, U.S. Virgin Islands, American Samoa or Swain's Island; foreign-born children, under age 18, residing in the U.S. with their birth or adoptive parents, at least one of whom is a U.S. citizen by birth or naturalization; and individuals granted citizenship status by the U.S. Department of Homeland Security, Customs and Immigration Service.

"Waiver" means to permanently relieve a recipient's continuous attendance requirement, nursing employment or nurse educator employment obligation.

(Source: Amended at 40 Ill. Reg. 7113, effective April 21, 2016)

Section 597.20 Referenced Materials

The following materials are referenced in this Part:

- a) Illinois statutes:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Nursing Education Scholarship Law [110 ILCS 975]
 - 2) Nurse Practice Act [225 ILCS 65]
 - 3) Board of Higher Education Act [110 ILCS 205]
 - 4) Department of Public Health Powers and Duties Law [20 ILCS 2310/2310-200]
 - 5) [State Comptroller Act \[15 ILCS 405\]](#)
 - 6) [Educational Loan Default Act \[5 ILCS 385\]](#)
 - 7) [Higher Education Loan Act \[110 ILCS 945\]](#)
- b) Illinois Administrative Rules:
- 1) Nursing and Advanced Practice Nursing Act – Advanced Practice Nurse (68 Ill. Adm. Code 1305)
 - 2) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

(Source: Amended at 40 Ill. Reg. 7113, effective April 21, 2016)

SUBPART B: ELIGIBILITY AND APPLICATION

Section 597.100 Eligibility

- [a\)](#) To qualify for consideration, an applicant shall meet the eligibility criteria outlined in Section 5 or 6.5 of the Law showing that the applicant:
- 1) [For Nursing Scholarships](#)
 - [Aa\)](#) *Has been a resident of this State for at least one year prior to application, and is a citizen or a lawful permanent resident alien of the United States ([Section 5\(1\)](#)~~Sections 5(1) and 6.5(a)(1)~~ of the Law); and*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- Bb) *Is enrolled in or accepted for admission to an Illinois school in an associate degree in nursing program, hospital-based diploma in nursing program, baccalaureate degree in nursing program, graduate degree in nursing program or certificate in practical nursing program at an approved institution (Section 5(2) of the Law); and*
- Ce) *Agrees to meet the nursing employment obligation (Section 5(3) of the Law); or the nurse educator employment obligation (as applicable) (Sections 5(3) and 6.5(a)(3) of the Law).*
- 2) For Nurse Educator Scholarships
- A) *Has been a resident of this State for at least one year prior to application and is a citizen or lawful permanent resident alien of the United States (Section 6.5(a)(1) of the Law); and*
- B) *Is enrolled in or accepted for admission to a graduate degree in nursing program at an approved institution (Section 6.5(a)(2) of the Law); and*
- C) *Agrees to meet the nurse educator employment obligation (Section 6.5(a)(3) of the Law).*
- b) An individual is ineligible to receive a scholarship if he or she:
- 1) Cannot meet the eligibility requirements in subsection (a);
 - 2) Pursues nursing education at a school that is not an approved institution in Illinois;
 - 3) Defaulted on an educational loan;
 - 4) Previously received a scholarship under this Part and was granted a waiver of the continuous attendance requirement (see Section 597.240) or a waiver of the nurse employment or nurse educator employment obligation (see Section 597.335); or

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 5) Receives monies from other scholarship or loan funds requiring service commitments that would prevent the applicant from meeting the nurse employment or nurse educator employment requirements of this Part.

(Source: Amended at 40 Ill. Reg. 7113, effective April 21, 2016)

Section 597.105 Notification

- a) Notification of the opportunity to apply for the scholarship is available at the Department's website (<http://www.dph.illinois.gov/topics-services/life-stages-populations/rural-underserved-populations/nursing-education-scholarship-program>).
- b) Notification to prospective students and the public shall be considered to have been provided by publication of this notice.

(Source: Added at 40 Ill. Reg. 7113, effective April 21, 2016)

Section 597.110 Application

- a) The Department will prepare and make available an application on the Department's website (see Section 597.105(a)) or upon written request. Application forms are prescribed by the Department and are available at financial aid offices, departments of nursing at approved schools, the Department's web site, or directly from the Department upon request.
- b) The Department will accept applications March 1 through April 30 of each year. Applications received after the submission deadline of April 30 will not be considered.
- c) In addition to the application, applicants shall submit the following documents to the Department:
- 1) A copy of the applicant's enrollment or acceptance for admission to an approved institution's nursing program in Illinois;
 - 2) A copy of the applicant's Illinois driver's license or State-issued identification card documenting that the applicant has been an Illinois resident at least one year prior to applying for a scholarship;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 3) A copy of the applicant's notarized birth certificate, copy of the applicant's documents demonstrating that he or she is a naturalized citizen, or documentation that the applicant is a lawful permanent resident of the U.S.;
 - 4) A copy of the applicant's SAR;
 - 5) A copy of the applicant's official transcripts;
 - 6) A copy of the applicant's Illinois nursing license (if applicable); and
 - 7) A statement that the applicant has or has not defaulted on an educational loan.
- d) When received, the Department will determine if the application is complete. A review will determine whether all applicable requirements have been addressed and whether all required materials and documentation have been submitted.
- 1) If the application is complete, the applicant will be considered for a scholarship (see Section 597.220).
 - 2) If the application is incomplete, the Department will notify the applicant in writing. The applicant will have until May 31 to submit requested information or materials. If the applicant does not, within the time prescribed by the Department, provide all requested materials and information, the application will be null and void.
- b) ~~Incomplete applications and applications received after the published deadline will not be considered in the selection process. During the application cycle, all applicants will be notified in writing regarding the status of their applications. Corrections to the application must be made during this time period.~~
- ee) *Each person applying for ~~such~~ a scholarship shall be provided with a copy of Section 6 or 6.5(e) of the Law at the time of application. (Sections 6 and 6.5(e) of the Law)*

(Source: Amended at 40 Ill. Reg. 7113, effective April 21, 2016)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section 597.115 Scholarship Renewal

- a) Scholarship recipients shall notify the Department of intent to renew a scholarship no more than 60 calendar days or less than 30 calendar days before the expiration of the grant agreement.
- b) Recipients who request to renew their scholarship shall provide official transcripts from their approved nursing education institution. The transcripts will be used to document that the recipient has maintained continuous attendance and is a student in good standing.
- c) Recipients who do not maintain the requirements of subsection (b) shall be in breach of the Grant Agreement and shall not be eligible for scholarship renewal. Recipients who breach their Grant Agreement shall repay the Department all scholarship funds received.
- d) Scholarship renewals shall conform with Section 597.200(a) (as applicable).

(Source: Added at 40 Ill. Reg. 7113, effective April 21, 2016)

SUBPART C: AWARD OF SCHOLARSHIPS

Section 597.200 Scholarship Description

- a) Scholarships shall be awarded to recipients at approved institutions for the following time frames:
 - 1a) A ~~full-time nursing~~ student in good standing pursuing *an associate degree in nursing* may receive a scholarship for *up to 2 academic years*. (Section 5 of the Law)
 - 2b) A ~~full-time nursing~~ student in good standing pursuing *a hospital-based diploma in nursing* may receive a scholarship for *up to 3 academic years*. (Section 5 of the Law)
 - 3e) A ~~full-time nursing~~ student in good standing pursuing *a baccalaureate degree in nursing* may receive a scholarship for *up to 4 academic years*. (Section 5 of the Law)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 4d) A ~~full-time nursing~~ student in good standing pursuing a *graduate degree in nursing* to become an advanced practice nurse may receive a scholarship for *up to 5 academic years*. (Section 5 of the Law)
- 5e) A ~~full-time nursing~~ student in good standing pursuing a *certificate in practical nursing* may receive a scholarship for *up to one academic year*. (Section 5 of the Law)
- 6f) A ~~full-time nursing~~ student in good standing pursuing a *graduate degree in nursing* for the purpose of becoming a nurse educator may receive a scholarship for *up to 3 years*. (Section 6.5(c) of the Law)
- bg) ~~Awards~~~~Full-time tuition and fees awards~~ for students at approved private institutions shall not exceed the tuition and fee *charges at community colleges and universities statewide and the uniform living allowance reported in the weighted Monetary Award Program (MAP) budget* for the academic year in which the scholarship is made. (Section 7 of the Law)
- ch) *Part-time awards shall be determined by applying the proportion represented by the part-time enrollment to full-time enrollment ratio to the average per term scholarship amount for a student in the same nursing degree category.* (Section 7 of the Law)
- di) *Using information provided annually by the Illinois Student Assistance Commission, 75% of the weighted tuition and fees charged by community colleges in Illinois shall be added to the uniform living allowance reported in the weighted Monetary Award Program (MAP) budget to determine the full-time scholarship amount for students pursuing an associate degree in nursing or a hospital-based diploma in nursing at an Illinois community college.* (Section 7 of the Law)
- ej) *Scholarship amounts for students pursuing associate, baccalaureate or graduate degrees in nursing at a college or university shall include 75% of the weighted tuition and fees charged by public universities in Illinois plus the uniform living allowance reported in the weighted MAP budget.* (Section 7 of the Law)
- fk) *Scholarship amounts for students in practical nursing programs shall include 75% of the average tuition and fees charges at all practical nursing programs plus the uniform living allowance reported in the weighted MAP budget.* (Section 7 of the Law)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- g) Scholarship funds shall not be used for expenses incurred when the recipient must complete a prerequisite course or courses (as determined by the approved institution).
- h) Scholarship funds shall not be used for expenses incurred when the recipient must repeat an academic course or courses, if the repetition is necessary because the recipient has an academic performance below an acceptable level (as determined by the approved institution).
- i) Under the provisions of the State Comptroller Act, recipients may have their scholarship funds offset to fulfill a delinquent State debt. The offset of funds shall not reduce, waive, defer or suspend a recipient's continuous attendance requirement or service obligation under this Part.

(Source: Amended at 40 Ill. Reg. 7113, effective April 21, 2016)

Section 597.220 Selection Criteria for Award of Scholarships

- a) ~~Scholarships awarded by the Department will be given to students who meet all eligibility requirements in Section 597.100 of this Part and who agree to the provisions of the contract.~~
- ab) Nursing scholarship recipients will~~Recipients shall~~ be selected based on the ~~basis of the following criteria:~~
 - 1) Recipients requesting a scholarship renewal will receive preference over other applicants if the recipients meet all the requirements in Section 597.115;
 - 2) ~~If~~ *in any year the number of qualified applicants exceeds the number of scholarships to be awarded, the Department shall, in consultation with the Center for Nursing Advisory Board, give preference to applicants in the following manner: consider the following factors in granting priority in awarding scholarships:*
 - A) *Financial need, as shown on a current SAR, standardized financial needs assessment form used by an approved institution, of students who will pursue~~pursuing~~ their education on a full-time or close to*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

full-time basis and who already have a certificate in practical nursing, a diploma in nursing, or an associate degree in nursing and are pursuing a higher degree. (Section 5(3)(A) of the Law)

~~B) A student's status as a registered nurse who is pursuing a graduate degree in nursing to pursue employment in an approved institution that educates licensed practical nurses and that educates registered nurses in undergraduate and graduate nursing programs.~~

B) A student's merit, as shown through his or her grade point average, class rank, and other academic and extracurricular activities ~~(Section 5(3)(C)(Sections 5 and 6.5(b) of the Law)~~, including, but not limited to:

- i) A cumulative ~~grade point average (GPA)~~ of at least 3.0 on a 4.0 scale; or
- ii) Class rank in the 50th percentile or higher; or
- iii) Demonstration of academic achievement by having previously earned a certificate in practical nursing, a hospital-based diploma in nursing, an associate degree in nursing, or a baccalaureate degree in nursing (as applicable).

~~3) In addition to the requirements in subsections (b)(1) and (b)(2), students pursuing a graduate degree in nursing who wish to become a nurse educator shall demonstrate their merit, as shown through their experience as a nurse, including supervisory experience, or experience as a nurse in the United States military. (Section 6.5(b)(3) of the Law)~~

C4) In the event of a tie, students having the fewest number of credit hours remaining to complete the certificate, diploma or degree will be awarded scholarships.

b) Nurse educator scholarship recipients will be selected based on the following:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Recipients requesting a scholarship renewal will receive preference over other applicants if the recipients meet all the requirements of Section 597.115;
 - 2) If in any year the number of qualified applicants exceeds the number of scholarships to be awarded, the Department shall, in consultation with the Center for Nursing Advisory Board, give preference to applicants in the following manner:
 - A) Financial need, as shown on a current SAR, of students who will pursue their education on a full-time or close to full-time basis and who already have a baccalaureate degree in nursing and are pursuing a higher degree. (Section 6.5(b)(1) of the Law)
 - B) A student's status as a registered nurse who is pursuing a graduate degree in nursing to pursue employment in an approved institution that educates licensed practical nurses and that educates registered nurses in undergraduate and graduate nursing programs. (Section 6.5(b)(2) of the Law)
 - C) A student's merit, as shown through his or her grade point average, class rank, experience as a nurse, including supervisory experience, experience as a nurse in the United States military, and other academic and extracurricular activities (Section 6.5(b)(3) of the Law), including, but not limited to:
 - i) A cumulative GPA of at least 3.0 on a 4.0 scale; or
 - ii) Class rank in the 50th percentile or higher.
 - D) In the event of a tie, students having the fewest number of credit hours remaining to complete the degree will be awarded scholarships.
- c) Scholarship awards shall be distributed as follows:
- 1) At least 40% of the scholarships awarded shall be for recipients who are pursuing baccalaureate degrees in nursing;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 2) *At least 30% of the scholarships awarded shall be for recipients who are pursuing associate degrees in nursing or a hospital-based diploma in nursing;*
- 3) *At least 20% of the scholarships awarded shall be for recipients who are pursuing a graduate degree in nursing; and*
- 4) *At least 10% of the scholarships awarded shall be for recipients who are pursuing a certificate in practical nursing. (Section 5 of the Law)*

(Source: Amended at 40 Ill. Reg. 7113, effective April 21, 2016)

Section 597.230 Student Enrollment and Institutions' Obligations

- a) An approved institution may accept a student into its nursing education program based on its own admission requirements, standards and policies.
- b) The Department shall disburse available scholarship funds for tuition and fees to the approved institution directly for the payment of tuition and other necessary fees or for credit against the student's obligation for tuition and fees. If the Department disburses scholarship funds directly to an approved institution, the approved institution shall be contractually obligated to *provide facilities and instruction to the student on the same terms as to other students.* (Section 9(a) of the Law)
- c) An approved institution shall provide written notice to the Department if any scholarship recipient who is enrolled in the approved institution ceases to be a student in good standing. The notice shall be sent to the Department within ten 10 business days after the institution determines that the student ceases to be in good standing. After the notification is received, the Department will terminate the Grant Agreement and the recipient shall repay all previously awarded scholarship funds (see Section 597.310).
- d) A student who receives a renewal scholarship shall either re-enroll in the approved institution that the student attended during the preceding academic year or enroll in another approved institution. The approved institution accepting the student for enrollment or re-enrollment shall notify the Department regarding the acceptance. The notice will be sent to the Department within ten 10 business days after the student's acceptance.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- e) Recipients shall furnish to the Department a copy of their class schedule for each quarter, trimester or semester while attending nursing school.

(Source: Amended at 40 Ill. Reg. 7113, effective April 21, 2016)

Section 597.235 Deferment of Continuous Attendance Requirement

A request to defer a recipient's continuous attendance requirement shall be submitted in writing to the Department. The request shall detail the reasons for the deferment and be accompanied and supported by the documentation described in this Section. The Department may grant one deferment per recipient.

- a) A deferment will be granted for up to one academic quarter, trimester or semester (except as otherwise allowed by this Section) if the recipient provides documentation of a physical or mental health disability that results in the recipient's temporary inability to fulfill the continuous attendance requirement. Documentation shall include an explanation from a licensed health care professional attesting to the recipient's temporary inability to fulfill the continuous attendance requirement. If the recipient's leave will exceed an academic quarter, trimester or semester, an extension of the deferment will be granted based on documented medical need. In no circumstance, however, would a deferment exceed 12 months.
- b) Recipients who are military reservists and are called to active duty will be granted a deferment beginning on the activation date in the active duty order. The recipient shall submit a copy of the order to active duty with the written request for deferment. The duration of the deferment shall equal the recipient's period of active military duty.
- c) Recipients who receive a deferment shall have their continuous attendance, scholarship assistance and service obligation requirements tolled. The tolling of these requirements shall equal the recipient's period of deferment.
- d) A recipient who does not request a deferment and who does not maintain the continuous attendance requirement shall have his or her scholarship award voided. The recipient shall be required to repay to the Department all scholarship monies received (see Section 597.310).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

(Source: Added at 40 Ill. Reg. 7113, effective April 21, 2016)

Section 597.240 Waiver of Continuous Attendance Requirement

A request to waive a recipient's continuous attendance requirement shall be submitted in writing to the Department. The request shall detail the reasons for the waiver and be accompanied and supported by documentation as described in this Section.

- a) Reasons for the waiver can include the recipient's:
 - 1) Total and permanent disability;
 - 2) Incompetency; or
 - 3) Death.
- b) If the waiver is due to total and permanent disability, proof of disability shall be:
 - 1) A declaration from the Social Security Administration;
 - 2) From the Illinois Workers' Compensation Commission;
 - 3) From the U.S. Department of Defense; or
 - 4) From an insurer authorized to transact business in Illinois who is providing permanent disability insurance coverage to a contractor. (Section 3(21) of the Law)
- c) If a waiver is requested because the recipient is incompetent, the request shall be supported by documentation from a court of law. No claim for repayment may be filed against the estate of an individual deemed incompetent. (Sections 6 and 6.5(d) of the Law)
- d) If the waiver is requested because of the recipient's death, the request shall be supported by a copy of the recipient's death certificate. No claim for repayment may be filed against the estate of a decedent. (Sections 6 and 6.5(d) of the Law)

(Source: Added at 40 Ill. Reg. 7113, effective April 21, 2016)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART D: TERMS OF PERFORMANCE

Section 597.300 Grant Agreement~~Contract~~

- a) Prior to receiving scholarship funding for any academic year, the recipient shall enter into a binding Grant Agreement~~contract~~ with the State of Illinois agreeing to the provisions of the Law and this Part.
- b) *The Department may require a recipient to reimburse the State for expenses, including but not limited to legal fees, incurred by the Department or other agent of the State for a successful legal action against the recipient for a breach of any provision of the Grant Agreement~~scholarship contract~~ (Section 4 of the Law).*
- c) The scholarship award will not be final until the recipient and the Department have executed a Grant Agreement setting forth the terms and conditions of the grant, using the form prescribed by the Department. The Department will withdraw the scholarship award if a consensus cannot be reached on the terms of the Grant Agreement.

(Source: Amended at 40 Ill. Reg. 7113, effective April 21, 2016)

Section 597.310 Repayment of Scholarship

- a) Any recipient who defaults on the terms of the Grant Agreement~~contract~~ shall pay to the Department an amount equal to the amount of scholarship funds received per year for each unfulfilled year of the nursing employment obligation or nurse educator employment obligation, together with interest at 7% per year on the unpaid balance. (Sections 6 and 6.5(d) of the Law)
- b) A default of the scholarship obligation shall include, but not be limited to:
 - 1) Misstatements in reporting information to the Department;
 - 2) Misrepresentation to the Department for the purpose of obtaining a scholarship;
 - 3) Failure to maintain the continuous attendance requirement;
 - 4) Failure to complete nursing school;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 5) Failure to become a licensed nurse in Illinois; and
- 6) Failure to fulfill the nurse employment or nurse educator employment obligation.
- cb) Cash repayment *must begin within 6 months following the date of the default action initiating the repayment.* (Sections 6 and 6.5(d) of the Law)
- de) Recipients in default shall enter into a Contract for Repayment with the Department as soon as the reason for default has been established. The Contract for Repayment shall specify the amount due, the repayment schedule and all other terms of the cash repayment. Interest charges shall be completely waived if the recipient repays the total scholarship amount prior to the first payment due date.
- ed) If a recipient fails to pay monies owed to the Department, *the Department may require a recipient to reimburse the State for expenses, including but not limited to legal fees and costs, incurred by the Department or other agent of the State for a successful legal action against the recipient for a breach of any provision of the Grant Agreement~~scholarship contract~~* and refer the recipient to the Illinois Attorney General or to a collection agency. The total 6-year interest shall be due if the recipient fails to fulfill the repayment requirements and the case is settled through authorized agencies outside the Department. (Section 4 of the Law)
- fe) *All cash repayments must be completed within 6 years from the date of the first annual cash payment.* (Sections 6 and 6.5(d) of the Law)
- gf) *In a breach of the Grant Agreement~~contract~~, the Department may utilize referral to the Department of Financial and Professional Regulation to revoke, suspend, refuse to renew, place on probationary status, or take other disciplinary action concerning the recipient's credentials.* (Section 4 of the Law)
- hg) *The Department may allow a nurse educator employment obligation fulfillment alternative if the nurse educator scholarship recipient is unsuccessful in finding work as a nurse educator. The Department shall maintain a database of all available nurse educator positions in this State.* (Section 6.5(d) of the Law) The Department shall utilize the following Internet address to ascertain all available nurse educator positions in Illinois: <http://www-nursing.illinois.gov/ads.asp>.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 40 Ill. Reg. 7113, effective April 21, 2016)

**Section 597.320 Fulfillment~~Satisfaction~~ of Nurse Employment or Nurse Educator
Employment~~Scholarship~~ Obligation**

- a) A recipient must graduate from the nursing program funded and provide a copy of the certificate, diploma or degree~~certificae~~ that indicates the graduation date as soon as the document is available.
- b) A recipient must be licensed as a registered professional nurse, an advanced practice nurse, or ~~as~~ a licensed practical nurse in the State of Illinois and must provide a copy of the license as soon as it is available.
- c) Within 12 months after graduation from an associate degree in nursing program, hospital-based diploma in nursing program, baccalaureate degree in nursing program, graduate degree in nursing program, or certificate in practical nursing program, any recipient who accepted a scholarship shall begin meeting the required nursing employment obligation. (Section 6 of the Law)
 - 1) To complete the nursing employment obligation, the recipient must work full time or part time (as applicable) at a medical facility in Illinois providing direct patient care. Fulfillment of the nursing employment obligation will be achieved as follows:
 - 2) Fulfillment of the nursing employment obligation may be achieved as follows:
 - A1) For each full-time semester completed, the obligation is six months of full-time employment or 12 months of part-time employment;
 - B2) For each part-time semester completed, the obligation is three months of full-time employment or six months of part-time employment;
 - C3) For each full-time quarter or trimester completed, the obligation is four months of full-time employment or eight months of part-time employment;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- D4) For each part-time quarter or trimester completed, the obligation is two months of full-time employment or four months of part-time employment;
- E5) For each full-time summer term completed, the obligation is three months of full-time employment or six months of part-time employment;
- F6) For each part-time summer term completed, the obligation is 1½ months of full-time employment or three months of part-time employment.
- d) Except as provided in Sections 597.330 and 597.335, within 12 months after graduation from a graduate degree in nursing program for nurse educators, any recipient who accepted a scholarship shall begin meeting the required nurse educator employment obligation by teaching nursing students at an approved institution in Illinois. (Section 6.5(d) of the Law)
- 1) To complete the nurse educator employment obligation, the recipient shall be employed full time or part time (as applicable) at an approved institution in Illinois to educate nursing students. Fulfillment of the nurse educator employment obligation will be achieved as follows:
- 2) Fulfillment of the nurse educator employment obligation may be achieved as follows:
- A1) For each full-time semester completed, the obligation is 12 months of employment;
- B2) For each part-time semester completed, the obligation is six months of employment;
- C3) For each full-time quarter or trimester completed, the obligation is eight months of employment;
- D4) For each part-time quarter or trimester completed, the obligation is four months of employment;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- ~~E5)~~ For each full-time summer term completed, the obligation is six months of employment;
- ~~F6)~~ For each part-time summer term completed, the obligation is three months of employment.
- e) ~~Within 12 months after graduation from an associate degree in nursing program, hospital based diploma in nursing program, baccalaureate degree in nursing program, graduate degree in nursing program, or certificate in practical nursing program, any recipient who accepted a scholarship under Section 5 of the Act shall begin meeting the required nursing employment obligation or nurse educator employment obligation providing direct patient care or employment as a nurse educator in the case of a recipient receiving a graduate degree in nursing. (Sections 6 and 6.5(d) of the Law) Employment as a "license pending" nurse does not meet the nursing employment requirements. Fulfillment of the nursing employment obligation or nurse educator employment obligation must be completed within a time period equivalent to twice the number of months of nursing employment obligation as described in subsections (c) and (d).~~
- ef) Forms to document full-time ~~or~~ and/or part-time nursing employment or nurse educator employment shall be sent to the recipient following graduation and licensure. Documentation forms will be forwarded periodically until the nursing employment obligation or nurse educator employment obligation is completed, at which time the recipient will be notified and the record closed.
- g) ~~If a recipient suffers a verifiable total and permanent disability, the nursing employment obligation or nurse educator employment obligation shall be excused and deemed satisfied. (See the definition of "total and permanent disability" in Section 597.10.)~~
- h) ~~If a recipient dies or is adjudicated as incompetent, all scholarship obligations shall be excused and deemed satisfied. (See the definition of "total and permanent disability" in Section 597.10.) No claim for repayment may be filed against the estate of such a decedent or incompetent. (Sections 6 and 6.5(d) of the Law)~~

(Source: Amended at 40 Ill. Reg. 7113, effective April 21, 2016)

Section 597.330 Deferment of Nurse Employment or Nurse Educator Employment

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Scholarship-Obligation

A request to defer the recipient's nurse employment or nurse educator employment obligation shall be submitted in writing to the Department. The request shall detail the reasons for the deferment and shall be accompanied and supported by documentation as described in this Section.

- a) Deferment of the nurse employment obligation may include the recipient:
- 1) Spending up to four years in military service before or after graduation. The recipient shall notify the Department within 30 days after enlisting in military service. (Section 6 of the Law)
 - 2) Enrolling in an academic program leading to a higher degree or a graduate degree in nursing. If the recipient receives funding through the Nursing Education Scholarship Program for a higher degree, the nursing employment obligation shall be deferred until he or she is no longer enrolled or has graduated. The recipient shall notify the Department within 30 days if he or she is enrolled in an academic program leading to a graduate degree in nursing. (Section 6 of the Law)
 - 3) Failing to fulfill the nursing employment obligation by involuntarily leaving the profession due to a decrease in the number of nurses employed in the State. When requesting a deferral, the recipient shall provide documentation to the Department demonstrating that nursing positions do not exist in that area. The following website shall be used to provide documentation: https://illinoisjoblink.illinois.gov/ada/skillmatch/jobseeker_jbs_jobserch_dsp.cfm. If a deferment is granted, it will be re-evaluated every 6 months. (Section 6 of the Law)
 - 4) Providing documentation of a physical or mental health disability that results in the recipient's temporary inability to fulfill the obligation. Documentation shall include an explanation from a licensed health care professional attesting to the recipient's temporary inability to fulfill the obligation. This deferment may be granted for up to one year.
 - 5) Requesting up to 12 weeks leave for maternity, paternity or adoption leave. If the recipient's leave will exceed 12 weeks, a deferment may be granted based on documented medical need.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 6) *The recipient must begin meeting the required nursing employment obligations no later than 6 months after the end of the deferments. (Section 6 of the Law)*
- b) Deferment of the nurse educator employment obligation may include the recipient:
- 1) *Spending up to four years in military service before or after graduation. The recipient shall receive a deferment if he or she notifies the Department, within 30 days after enlisting, that he or she is spending up to 4 years in military service. (Section 6.5(d) of the Law)*
 - 2) *Enrolling in an academic program leading to a graduate degree in nursing. A recipient shall receive a deferment if he or she notifies the Department within 30 days after enrolling that he or she is enrolled in an academic program leading to a graduate degree in nursing. (Section 6.5(d) of the Law)*
 - 3) *Providing documentation of a physical or mental health disability that results in the recipient's temporary inability to fulfill his or her employment obligation. Documentation shall include an explanation from a licensed health care professional attesting to the recipient's temporary inability to fulfill the nurse employment obligation. This deferment may be granted for up to one year.*
 - 4) *Requesting up to 12 weeks for maternity, paternity or adoption leave. If the recipient's leave will exceed 12 weeks, a deferment may be granted based on documented medical need.*
 - 5) *The nurse educator employment obligation may be deferred and re-evaluated every 6 months when the failure to fulfill the nurse educator employment obligation results from involuntarily leaving the profession due to a decrease in the number of nurses employed in this State. (Section 6.5(d) of the Law) When requesting this deferral, the recipient will need to provide documentation to the Department that nurse educator positions do not exist in his or her area. The following website will be used to provide documentation: <http://nursing.illinois.gov/ads.asp>.*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 6) *The Department may allow a nurse educator employment obligation fulfillment alternative if the nurse educator scholarship recipient is unsuccessful in finding work as a nurse educator. (Section 6.5(d) of the Law) Prior to the Department approving an alternative to the obligation, the recipient will need to provide documentation that nurse educator positions do not exist in his or her area. The following website will be used to provide documentation: <http://nursing.illinois.gov/ads.asp>. If the recipient demonstrates that no nurse educator positions exist, the Department will allow the recipient to fulfill the service obligation by working as a nurse in a medical facility in Illinois providing direct patient care.*
- 7) *The recipient must begin meeting the required nurse educator employment obligation no later than 6 months after the end of the deferment or deferments. (Section 6.5(d) of the Law)*
- c) Recipients who receive a deferment shall have their nurse employment or nurse educator employment obligation tolled. The tolling of these requirements shall equal the recipient's period of deferment.
- a) ~~The nursing employment obligation may be deferred and re-evaluated by a review of a written request from the recipient every 6 months when the failure to fulfill the nursing employment obligation results from involuntarily leaving the profession due to a decrease in the number of nurses employed in the State or when the failure to fulfill the nursing employment obligation results from total and permanent disability.~~
- b) ~~In order to defer the continuous nursing employment obligation, a recipient must request the deferment in writing from the Department and must provide a letter from his/her physician attesting to the recipient's inability (either temporarily or permanently) to continue employment. (Section 6 of the Law)~~
- e) ~~A recipient shall notify the Department within 30 days if the recipient spends up to 4 years in military service before or after graduation and after completion of the nursing employment obligation. (Section 6 of the Law) The time spent in military service, up to 4 years, shall be excluded from the computation of the number of months of nursing employment obligation as described in Section 597.320(e).~~
- d) ~~A recipient shall notify the Department within 30 days after enrollment if the~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

~~recipient is enrolled in an academic program leading to a graduate degree in nursing. (Section 6 of the Law) The nursing employment obligation shall be deferred until he or she has completed a graduate degree in nursing.~~

- e) ~~If a recipient receives funding through the Nursing Education Scholarship Program for a higher degree, the nursing employment obligation shall be deferred until he or she is no longer enrolled or has graduated with the higher degree. (Section 6 of the Law)~~
- f) ~~The recipient must begin meeting the required nursing employment obligation no later than 6 months after the end of any deferment. (Section 6 of the Law)~~
- g) ~~Within 12 months after graduation from a graduate degree in nursing program for nurse educators, any recipient who accepted a scholarship shall begin meeting the required nurse educator employment obligation. (Section 6.5(d) of the Law)~~
- h) ~~In order to defer the continuous employment obligation, a recipient must request the deferment in writing from the Department. (Section 6.5(d) of the Law) The following deferments are allowed:~~
 - 1) ~~A recipient shall receive a deferment if he or she notifies the Department, within 30 days after enlisting, that he or she is spending up to 4 years in military service.~~
 - 2) ~~A recipient shall receive a deferment if he or she notifies the Department, within 30 days after enrolling, that he or she is enrolled in an academic program leading to a graduate degree in nursing.~~
- i) ~~The recipient must begin meeting the required nurse educator employment obligation no later than 6 months after the end of the deferment or deferments. (Section 6.5(d) of the Law)~~

(Source: Amended at 40 Ill. Reg. 7113, effective April 21, 2016)

Section 597.335 Waiver of Nurse Employment or Nurse Educator Employment Obligation

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

A waiver request of a recipient's nurse employment or nurse educator employment obligation shall be submitted in writing to the Department. The request shall detail the reasons for the waiver and be accompanied and supported by documentation as described in this Section.

- a) Reasons for a waiver request may include the recipient's:
 - 1) Total and permanent disability;
 - 2) Incompetency; or
 - 3) Death.
- b) If the waiver is due to total and permanent disability, proof of disability shall be:
 - 1) A declaration from the Social Security Administration;
 - 2) From the Illinois Workers' Compensation Commission;
 - 3) From the U.S. Department of Defense; or
 - 4) From an insurer authorized to transact business in Illinois who is providing disability insurance coverage to a contractor. (Section 3(21) of the Law)
- c) If a waiver is requested because the recipient is incompetent, the request shall be supported by documentation from a court of law. No claim for repayment may be filed against the estate of an individual deemed incompetent. (Sections 6 and 6.5(d) of the Law)
- d) If the waiver is requested because of the recipient's death, the request shall be supported by a copy of the recipient's death certificate. No claim for repayment may be filed against the estate of a decedent. (Sections 6 and 6.5(d) of the Law)

(Source: Added at 40 Ill. Reg. 7113, effective April 21, 2016)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Control of Communicable Diseases Code
- 2) Code Citation: 77 Ill. Adm. Code 690
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
690.30	Amendment
690.100	Amendment
690.110	Amendment
690.335	New Section
- 4) Statutory Authority: Communicable Disease Report Act [745 ILCS 45] and the Department of Public Health Act [20 ILCS 2305]
- 5) Effective Date of Rules: April 21, 2016
- 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*: 40 Ill. Reg. 1484; January 22, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference between Proposal and Final Version: No changes were made as a result of public comment or in response to JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking reinstates the reporting of *Campylobacter* to the Department of Public Health. The amendments add the method of reporting, time within which to report, case control methods and laboratory reporting

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

requirements. The addition of the reporting of Campylobacter will aid the Department in the detection of cases, clusters and outbreaks of campylobacteriosis in Illinois.

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

Elizabeth Paton
Assistant General Counsel
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th floor
Springfield IL 62761

217/782-2043
e-mail: dph.rules@illinois.gov

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER k: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONS

PART 690
CONTROL OF COMMUNICABLE DISEASES CODE

SUBPART A: GENERAL PROVISIONS

- Section
- 690.10 Definitions
- 690.20 Incorporated and Referenced Materials
- 690.30 General Procedures for the Control of Communicable Diseases

SUBPART B: REPORTABLE DISEASES AND CONDITIONS

- Section
- 690.100 Diseases and Conditions
- 690.110 Diseases Repealed from This Part

SUBPART C: REPORTING

- Section
- 690.200 Reporting

SUBPART D: DETAILED PROCEDURES FOR THE CONTROL OF
COMMUNICABLE DISEASES

- Section
- 690.290 Acquired Immunodeficiency Syndrome (AIDS) (Repealed)
- 690.295 Any Unusual Case of a Disease or Condition Caused by an Infectious Agent Not Listed in this Part that is of Urgent Public Health Significance (Reportable by telephone immediately (within three hours))
- 690.300 Amebiasis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days) (Repealed)
- 690.310 Animal Bites (Reportable by mail or telephone as soon as possible, within 7 days) (Repealed)
- 690.320 Anthrax (Reportable by telephone immediately, within three hours, upon initial clinical suspicion of the disease)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 690.322 Arboviral Infections (Including, but Not Limited to, Chikungunya Fever, California Encephalitis, St. Louis Encephalitis, Dengue Fever and West Nile Virus) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.325 Blastomycosis (Reportable by telephone as soon as possible, within 7 days) (Repealed)
- 690.327 Botulism, Foodborne, Intestinal Botulism (Formerly Infant), Wound, or Other (Reportable by telephone immediately, within three hours upon initial clinical suspicion of the disease for foodborne botulism or within 24 hours by telephone or facsimile for other types)
- 690.330 Brucellosis (Reportable by telephone as soon as possible (within 24 hours), unless suspect bioterrorist event or part of an outbreak, then reportable immediately (within three hours) by telephone)
- 690.335 Campylobacteriosis (Reportable by mail, telephone, facsimile or electronically, within 7 days) (~~Repealed~~)
- 690.340 Chancroid (Repealed)
- 690.350 Chickenpox (Varicella) (Reportable by telephone, facsimile or electronically, within 24 hours)
- 690.360 Cholera (Toxigenic *Vibrio cholerae* O1 or O139) (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.362 Creutzfeldt-Jakob Disease (CJD) (All Laboratory Confirmed Cases) (Reportable by mail, telephone, facsimile or electronically within Seven days after confirmation of the disease)
- 690.365 Cryptosporidiosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.368 Cyclosporiasis (Reportable by mail, telephone, facsimile or electronically, within seven days)
- 690.370 Diarrhea of the Newborn (Reportable by telephone as soon as possible, within 24 hours) (Repealed)
- 690.380 Diphtheria (Reportable by telephone immediately, within three hours, upon initial clinical suspicion or laboratory test order)
- 690.385 Ehrlichiosis, Human Granulocytotropic anaplasmosis (HGA) (See Tickborne Disease)
- 690.386 Ehrlichiosis, Human Monocytotropic (HME) (See Tickborne Disease)
- 690.390 Encephalitis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days) (Repealed)
- 690.400 Escherichia coli Infections (*E. coli* O157:H7 and Other Shiga Toxin Producing *E. coli*, Enterotoxigenic *E. coli*, Enteropathogenic *E. coli* and Enteroinvasive *E. coli*) (Reportable by telephone or facsimile as soon as possible, within 24 hours)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 690.410 Foodborne or Waterborne Illness (Reportable by telephone or facsimile as soon as possible, within 24 hours) (Repealed)
- 690.420 Giardiasis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days) (Repealed)
- 690.430 Gonorrhea (Repealed)
- 690.440 Granuloma Inguinale (Repealed)
- 690.441 Haemophilus Influenzae, Meningitis and Other Invasive Disease (Reportable by telephone or facsimile, within 24 hours)
- 690.442 Hantavirus Pulmonary Syndrome (Reportable by telephone as soon as possible, within 24 hours)
- 690.444 Hemolytic Uremic Syndrome, Post-diarrheal (Reportable by telephone or facsimile, within 24 hours)
- 690.450 Hepatitis A (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.451 Hepatitis B and Hepatitis D (Reportable by mail, telephone, facsimile or electronically, within seven days)
- 690.452 Hepatitis C, Acute Infection and Non-acute Confirmed Infection (Reportable by mail, telephone, facsimile or electronically, within seven days)
- 690.453 Hepatitis, Viral, Other (Reportable by mail, telephone, facsimile or electronically, within 7 days) (Repealed)
- 690.460 Histoplasmosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.465 Influenza, Death (in persons less than 18 years of age) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.468 Influenza (Laboratory Confirmed (Including Rapid Diagnostic Testing)) Intensive Care Unit Admissions (Reportable by telephone or facsimile or electronically as soon as possible, within 24 hours)
- 690.469 Influenza A, Variant Virus (Reportable by telephone immediately, within three hours upon initial clinical suspicion or laboratory test order)
- 690.470 Intestinal Worms (Reportable by mail or telephone as soon as possible, within 7 days) (Repealed)
- 690.475 Legionellosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.480 Leprosy (Hansen's Disease) (Infectious and Non-infectious Cases are Reportable) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.490 Leptospirosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.495 Listeriosis (When Both Mother and Newborn are Positive, Report Mother Only)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.500 Lymphogranuloma Venereum (Lymphogranuloma Inguinale Lymphopathia Venereum) (Repealed)
- 690.505 Lyme Disease (See Tickborne Disease)
- 690.510 Malaria (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.520 Measles (Reportable by telephone as soon as possible, within 24 hours)
- 690.530 Meningitis, Aseptic (Including Arboviral Infections) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days) (Repealed)
- 690.540 Meningococemia (Reportable by telephone as soon as possible) (Repealed)
- 690.550 Mumps (Reportable by telephone, facsimile or electronically as soon as possible, within 24 hours)
- 690.555 Neisseria meningitidis, Meningitis and Invasive Disease (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.560 Ophthalmia Neonatorum (Gonococcal) (Reportable by mail or telephone as soon as possible, within 7 days) (Repealed)
- 690.565 Outbreaks of Public Health Significance (Including, but Not Limited to, Foodborne or Waterborne Outbreaks) (Reportable by telephone or electronically as soon as possible, within 24 hours)
- 690.570 Plague (Reportable by telephone immediately, within three hours upon initial clinical suspicion of the disease)
- 690.580 Poliomyelitis (Reportable by telephone immediately, within three hours) upon initial clinical suspicion of the disease)
- 690.590 Psittacosis (Ornithosis) Due to Chlamydia psittaci (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.595 Q-fever Due to Coxiella burnetii (Reportable by telephone as soon as possible, within 24 Hours, unless suspect bioterrorist event or part of an outbreak, then reportable immediately (within three hours) by telephone)
- 690.600 Rabies, Human (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.601 Rabies, Potential Human Exposure and Animal Rabies (Reportable by telephone or facsimile, within 24 hours)
- 690.610 Rocky Mountain Spotted Fever (See Tickborne Disease)
- 690.620 Rubella (German Measles) (Including Congenital Rubella Syndrome) (Reportable by telephone, facsimile or electronically as soon as possible, within 24 hours)
- 690.630 Salmonellosis (Other than Typhoid Fever) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 690.635 Severe Acute Respiratory Syndrome (SARS) (Reportable by telephone immediately (within 3 hours) upon initial clinical suspicion of the disease)
- 690.640 Shigellosis (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.650 Smallpox (Reportable by telephone immediately, within three hours upon initial clinical suspicion of the disease)
- 690.655 Smallpox vaccination, complications of (Reportable by telephone or electronically as soon as possible, within 24 hours)
- 690.658 Staphylococcus aureus, Methicillin Resistant (MRSA) Infection, Clusters of Two or More Laboratory Confirmed Cases Occurring in Community Settings (Including, but Not Limited to, Schools, Correctional Facilities, Day Care and Sports Teams) (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.660 Staphylococcus aureus, Methicillin Resistant (MRSA), Any Occurrence in an Infant Less Than 61 Days of Age (Reportable by telephone or facsimile or electronically as soon as possible, within 24 hours)
- 690.661 Staphylococcus aureus Infections with Intermediate (Minimum inhibitory concentration (MIC) between 4 and 8) (VISA) or High Level Resistance to Vancomycin (MIC greater than or equal to 16) (VRSA) (Reportable by telephone or facsimile, within 24 hours)
- 690.670 Streptococcal Infections, Group A, Invasive Disease (Including Streptococcal Toxic Shock Syndrome and Necrotizing fasciitis) (Reportable by telephone or facsimile, within 24 hours)
- 690.675 Streptococcal Infections, Group B, Invasive Disease, of the Newborn (birth to 3 months) (Reportable by mail, telephone, facsimile or electronically, within 7 days) (Repealed)
- 690.678 Streptococcus pneumoniae, Invasive Disease in Children Less than 5 Years (Including Antibiotic Susceptibility Test Results) (Reportable by mail, telephone, facsimile or electronically, within 7 days)
- 690.680 Syphilis (Repealed)
- 690.690 Tetanus (Reportable by mail, telephone, facsimile or electronically, within 7 days)
- 690.695 Toxic Shock Syndrome due to Staphylococcus aureus Infection (Reportable by mail, telephone, facsimile or electronically as soon as possible, within 7 days)
- 690.698 Tickborne Disease (Includes Babesiosis, Ehrlichiosis, Anaplasmosis, Lyme Disease and Spotted Fever Rickettsiosis) (Reportable by mail, telephone, facsimile or electronically, within seven days)
- 690.700 Trachoma (Repealed)
- 690.710 Trichinosis (Trichinellosis) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 690.720 Tuberculosis (Repealed)
- 690.725 Tularemia (Reportable by telephone as soon as possible, within 24 hours, unless suspect bioterrorist event or part of an outbreak, then reportable immediately (within three hours))
- 690.730 Typhoid Fever (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.740 Typhus (Reportable by telephone or facsimile as soon as possible, within 24 hours)
- 690.745 Vibriosis (Other than Toxigenic Vibrio cholera O1 or O139) (Reportable by mail, telephone, facsimile or electronically as soon as possible, within seven days)
- 690.750 Pertussis (Whooping Cough) (Reportable by telephone as soon as possible, within 24 hours)
- 690.752 Yersiniosis (Reportable by mail, telephone, facsimile or electronically, within seven days)
- 690.800 Any Suspected Bioterrorist Threat or Event (Reportable by telephone immediately, within 3 hours upon initial clinical suspicion of the disease)

SUBPART E: DEFINITIONS

- Section
690.900 Definition of Terms (Renumbered)

SUBPART F: GENERAL PROCEDURES

- Section
690.1000 General Procedures for the Control of Communicable Diseases (Renumbered)
690.1010 Incorporated and Referenced Materials (Renumbered)

SUBPART G: SEXUALLY TRANSMITTED DISEASES

- Section
690.1100 The Control of Sexually Transmitted Diseases (Repealed)

SUBPART H: PROCEDURES FOR WHEN DEATH OCCURS FROM
COMMUNICABLE DISEASES

- Section
690.1200 Death of a Person Who Had a Known or Suspected Communicable Disease
690.1210 Funerals (Repealed)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

SUBPART I: ISOLATION, QUARANTINE, AND CLOSURE

Section

690.1300	General Purpose
690.1305	Department of Public Health Authority
690.1310	Local Health Authority
690.1315	Responsibilities and Duties of the Certified Local Health Department
690.1320	Responsibilities and Duties of Health Care Providers
690.1325	Conditions and Principles for Isolation and Quarantine
690.1330	Order and Procedure for Isolation, Quarantine and Closure
690.1335	Isolation or Quarantine Premises
690.1340	Enforcement
690.1345	Relief from Isolation, Quarantine, or Closure
690.1350	Consolidation
690.1355	Access to Medical or Health Information
690.1360	Right to Counsel
690.1365	Service of Isolation, Quarantine, or Closure Order
690.1370	Documentation
690.1375	Voluntary Isolation, Quarantine, or Closure
690.1380	Physical Examination, Testing and Collection of Laboratory Specimens
690.1385	Vaccinations, Medications, or Other Treatments
690.1390	Observation and Monitoring
690.1400	Transportation of Persons Subject to Public Health or Court Order
690.1405	Information Sharing
690.1410	Amendment and Termination of Orders
690.1415	Penalties

SUBPART J: REGISTRIES

Section

690.1500	Extensively Drug-Resistant Organism Registry
690.1510	Entities Required to Submit Information
690.1520	Information Required to be Reported
690.1530	Methods of Reporting XDRO Registry Information
690.1540	Availability of Information

690.EXHIBIT A Typhoid Fever Agreement (Repealed)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

AUTHORITY: Implementing the Communicable Disease Report Act [745 ILCS 45] and implementing and authorized by the Department of Public Health Act [20 ILCS 2305].

SOURCE: Amended July 1, 1977; emergency amendment at 3 Ill. Reg. 14, p. 7, effective March 21, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 52, p. 131, effective December 7, 1979; emergency amendment at 4 Ill. Reg. 21, p. 97, effective May 14, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 38, p. 183, effective September 9, 1980; amended at 7 Ill. Reg. 16183, effective November 23, 1983; codified at 8 Ill. Reg. 14273; amended at 8 Ill. Reg. 24135, effective November 29, 1984; emergency amendment at 9 Ill. Reg. 6331, effective April 18, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9124, effective June 3, 1985; amended at 9 Ill. Reg. 11643, effective July 19, 1985; amended at 10 Ill. Reg. 10730, effective June 3, 1986; amended at 11 Ill. Reg. 7677, effective July 1, 1987; amended at 12 Ill. Reg. 10045, effective May 27, 1988; amended at 15 Ill. Reg. 11679, effective August 15, 1991; amended at 18 Ill. Reg. 10158, effective July 15, 1994; amended at 23 Ill. Reg. 10849, effective August 20, 1999; amended at 25 Ill. Reg. 3937, effective April 1, 2001; amended at 26 Ill. Reg. 10701, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 592, effective January 2, 2003, for a maximum of 150 days; emergency expired May 31, 2003; amended at 27 Ill. Reg. 10294, effective June 30, 2003; amended at 30 Ill. Reg. 14565, effective August 23, 2006; amended at 32 Ill. Reg. 3777, effective March 3, 2008; amended at 37 Ill. Reg. 12063, effective July 15, 2013; recodified at 38 Ill. Reg. 5408; amended at 38 Ill. Reg. 5533, effective February 11, 2014; emergency amendment at 38 Ill. Reg. 21954, effective November 5, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 4116, effective March 9, 2015; amended at 39 Ill. Reg. 11063, effective July 24, 2015; amended at 39 Ill. Reg. 12586, effective August 26, 2015; amended at 40 Ill. Reg. 7146, effective April 21, 2016.

SUBPART A: GENERAL PROVISIONS

Section 690.30 General Procedures for the Control of Communicable Diseases

This Section establishes routine measures for the control of communicable diseases by the Department or local health authorities and health care providers, and establishes progressive initiatives to ensure that disease-appropriate measures are implemented to control the spread of communicable diseases. These procedures are intended for use in homes and similar situations. This Section does not apply to sexually transmissible infections, which are regulated under the Control of Sexually Transmissible Infections Code.

- a) Investigation

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) *The Department of Public Health shall investigate the causes of contagious, or dangerously contagious, or infectious diseases, especially when existing in epidemic form, and take means to restrict and suppress the same, and whenever such disease becomes, or threatens to become, epidemic in any locality and the local board of health or local authorities neglect or refuse to enforce efficient measures for its restriction or suppression or to act with sufficient promptness or efficiency, or whenever the local board of health or local authorities neglect or refuse to promptly enforce efficient measures for the restriction or suppression of dangerously contagious or infectious diseases, the Department of Public Health may enforce such measures as it deems necessary to protect the public health, and all necessary expenses so incurred shall be paid by the locality for which services are rendered. (Section 2(a) of the Act)*
- 2) Each case or cluster of a reportable communicable disease shall be investigated to determine the source, where feasible. Findings of the investigation shall be reported as specified under the Section of this Part applicable to each specific disease.
- 3) The Department or local health authority may investigate the occurrence of cases, suspect cases, or carriers of reportable diseases or unusual disease occurrences in a public or private place for the purposes of verifying the existence of disease; ascertaining the source of the disease-causing agent; identifying unreported cases; locating and evaluating contacts of cases and suspect cases; identifying those at risk of disease; determining necessary control measures, including isolation and quarantine; and informing the public if necessary.
- 4) When the Director determines that a certain disease or condition that is known or suspected to be communicable or infectious warrants study, the Director may declare the disease or condition to be the subject of a medical investigation and require hospitals, physicians, health care facilities, etc., to submit information, data and reports, and allow review and examination of medical records as necessary for the purpose of the specific study. No practitioner or person shall be liable in any action at law for permitting examination and review. The data obtained shall be held confidential in accordance with the Communicable Disease Report Act.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 5) When two or more cases of a suspected or reportable infectious disease occur in any business, organization, institution, health care facility or private home, the business owner, the person in charge of the establishment, or the homeowner shall cooperate with public health authorities in the investigation of cases, suspect cases, outbreaks and suspect outbreaks. This includes, but is not limited to, release of food preparation methods; menus; lists of customers, attendees, residents or patients; environmental specimens; food specimens; clinical specimens; and the name and other pertinent information about employees, guests, members or residents diagnosed with a communicable disease as the information relates to an infectious disease investigation. When outbreaks of infectious disease occur in any business, organization, institution, health care facility or private home, employees of the location under investigation may be considered to be contacts to cases and be required to submit release specimens by the local health authority.
- 6) When two or more cases of a reportable communicable disease occur in association with a common source, the investigation should include a search for additional cases.
- 7) The Department may conduct sentinel surveillance for an infectious disease or syndrome, other than those diseases or syndromes for which general reporting is required under this Part, if the Department determines that sentinel surveillance will provide adequate data for the purpose of preventing or controlling disease or achieving other significant public health purposes in a defined geographic area or the entire State. The Department shall select, after consultation with the sites, sentinel surveillance sites that have epidemiological significance for the disease or syndrome under investigation. A disease or syndrome may be removed from sentinel surveillance if the Department determines that the surveillance is no longer necessary. The Department shall provide a description, in writing, to sentinel surveillance sites of a specific, planned mechanism for surveillance of the disease or syndrome and, as necessary, submission of clinical materials from cases and suspect cases.
- 8) An individual or entity, including a health information exchange, may carry out activities such as sentinel surveillance under a grant, contract or cooperative agreement with the Department. The authorized individual or entity functions as a public health authority for the purposes of the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

activity.

- 9) Investigations of outbreaks shall be summarized in a final report and submitted to the Department. The most current summary form shall be used, and a narrative report may also be requested.
- 10) Syndromic Data Collection
 - A) *The Department, in order to prevent and control disease, injury or disability among citizens of the State, may develop and implement, in consultation with local public health authorities, a statewide system for syndromic data collection through access to interoperable networks, health information exchanges and databases. The Department may also develop a system for the reporting of comprehensive, integrated data to identify and address unusual occurrences of disease symptoms and other medical complexes affecting the public's health.*
 - B) *The Department may enter into contracts or agreements with individuals, corporations, hospitals, universities, not-for-profit corporations, governmental entities, health information exchanges, or other organizations, under which those individuals or entities agree to provide assistance in the compilation of the syndromic data collection and reporting system.*
 - C) *The Department shall not release any syndromic data or information obtained pursuant to this subsection (a)(10) to any individuals or entities for purposes other than the protection of the public health. All access to data by the Department, reports made to the Department, the identity of, or facts that would tend to lead to the identity of the individual who is the subject of the report, and the identity of, or facts that would tend to lead to the identity of, the author of the report shall be strictly confidential, are not subject to inspection or dissemination, and shall be used only for public health purposes by the Department, local public health authorities, or the Centers for Disease Control and Prevention. Entities or individuals submitting reports or providing access to the Department shall not be held liable for the release of information or confidential data to the Department in accordance with this*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

subsection (a)(10). (Section 2(i)(A) through (C) of the Act)

- 11) Investigations conducted by the Department or local health authority may include, but are not limited to:
 - A) Review of pertinent, relevant medical records by authorized personnel, if necessary to confirm the diagnosis; investigation of causes; identification of other cases related to the outbreak or the reported dangerously contagious or infectious disease in a region, community, or workplace; to conduct epidemiologic studies; to determine whether a patient with a reportable dangerously contagious or infectious disease has received adequate treatment to render the patient non-infectious or whether a person exposed to a case has received prophylaxis, if appropriate. Review of records may occur without patient consent and shall be conducted at times and with such notice as is possible under the circumstances;
 - B) Performing interviews with the case, or persons knowledgeable about the case, and collecting pertinent and relevant information about the causes of or risk factors for the reportable condition;
 - C) Medical examination and testing of persons, with their explicit consent;
 - D) Obtaining, from public or private businesses or institutions, the identities of and locating information about persons, travelers, passengers or transportation crews with a similar or common potential exposure to the infectious agent as a reported case; exposure may be current or have occurred in the past;
 - E) Interviewing or administering questionnaire surveys confidentially to any resident of any community, or any agent, owner, operator, employer, employee, or client of a public or private business or institution, who is epidemiologically associated either with the outbreak or with the reported dangerously contagious or infectious disease case or has had a similar exposure as a reported case;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- F) Collecting environmental samples of substances or measurements of physical agents that may be related to the cause of an outbreak or reportable dangerously contagious or infectious disease;
 - G) Taking photographs related to the purpose of the investigation. If the photographs are taken in a business, the employer shall have the opportunity to review the photographs taken or obtained for the purpose of identifying those that contain or might reveal a trade secret; and
 - H) Entering a place of employment for the purpose of conducting investigations of those processes, conditions, structures, machines, apparatus, devices, equipment, records, and materials within the place of employment that are relevant, pertinent, and necessary to the investigation of the outbreak or reportable dangerously contagious or infectious disease. Investigations shall be conducted during regular business hours, if possible, and with as much notice as possible under the circumstances.
- b) Control of Food Products
- Whenever a case, a carrier, or a suspect case or carrier of the following diseases exists in a home or establishment where food is produced that is likely to be consumed raw or handled after pasteurization and before final packaging, the sale, exchange, removal or distribution of the food items from the home or establishment may be prohibited by the Department or the local health authority as necessary to prevent the transmission of communicable diseases.
- 1) Campylobacteriosis
 - 24) Cholera
 - 32) Cryptosporidiosis
 - 43) Diphtheria
 - 54) E. coli infections (Shiga toxin-producing E. coli, Enterotoxigenic E. coli, Enteropathogenic E. coli and Enteroinvasive E. coli)
 - 65) Foodborne or waterborne illness

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 6) ~~Giardiasis~~
 - 7) Hepatitis A
 - 8) Norovirus
 - 9) Salmonellosis
 - 10) Shigellosis
 - 11) Smallpox
 - 12) Staphylococcal skin infections
 - 13) Streptococcal infections
 - 14) Typhoid fever
 - 15) Yersiniosis
- c) Schools, Child Care Facilities, and Colleges/Universities
- 1) Except in an emergency, the occurrence of a case of a communicable disease in a school, child care facility or college/university should not be considered a reason for closing the school, facility or college/university.
 - 2) Persons suspected of being infected with a reportable infectious disease for which isolation is required, or persons with diarrhea or vomiting believed to be infectious in nature, shall be refused admittance to the school or child care facility while acute symptoms are present.
 - 3) School, child care facility, and college/university authorities shall handle contacts of infectious disease cases as prescribed in this Part, or as recommended by the local health authority.
 - 4) When outbreaks of disease occur in any child care facility, staff and attendees of the facility may be considered to be contacts to cases and may be required by the local health authority to submit specimens for testing.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- d) Release of Specimens
 - 1) Whenever this Part requires the submission of laboratory specimens for release from imposed restrictions, the results of the examinations will not be accepted unless the specimens have been examined in the Department's laboratory or an acceptable laboratory. The number of specimens needed for release, as detailed under specific diseases, is the minimum and may be increased by the Department as necessary. Improper storage or transportation of a specimen or inadequate growth of the culture suggestive of recent antibiotic usage can result in disapproval of the submitted specimen by the Department's laboratory or an acceptable laboratory and result in the need for an additional specimen to be collected.
 - 2) The local health authority may require testing of food handlers for specific pathogens, including, but not limited to, Norovirus, as necessary in response to an outbreak.
- e) Persons with diarrhea or vomiting of infectious or unknown cause shall not work in sensitive occupations or as food handlers until 48 hours after diarrhea and vomiting have resolved and shall adhere to restrictions specified in this Part specific to each etiologic agent.
- f) Persons with draining skin lesions shall not work as food handlers unless the drainage is contained by a dressing and lesions are not on the hands or forearms.

(Source: Amended at 40 Ill. Reg. 7146, effective April 21, 2016)

SUBPART B: REPORTABLE DISEASES AND CONDITIONS

Section 690.100 Diseases and Conditions

The following diseases and conditions are declared to be contagious, infectious or communicable and may be dangerous to the public health. Each suspected or diagnosed case shall be reported to the local health authority, which shall subsequently report each case to the Department. The method of reporting shall be as described in the individual Section for the reportable disease.

- a) Class I(a)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

The following diseases shall be reported immediately (within three hours) by telephone, upon initial clinical suspicion of the disease, to the local health authority, which shall then report to the Department immediately (within three hours). This interval applies to primary reporters identified in Section 690.200(a)(1) who are required to report to local health authorities and to local health authorities that are required to report to the Department. The Section number associated with each of the listed diseases indicates the Section under which the diseases are reportable. Laboratory specimens of agents required to be submitted under Subpart D shall be submitted within 24 hours to the Department laboratory.

- | | | |
|-----|---|---------|
| 1) | Any unusual case of a disease or condition caused by an infectious agent not listed in this Part that is of urgent public health significance | 690.295 |
| 2) | Anthrax* | 690.320 |
| 3) | Botulism, foodborne | 690.327 |
| 4) | Brucellosis* (if suspected to be a bioterrorist event or part of an outbreak) | 690.330 |
| 5) | Diphtheria | 690.380 |
| 6) | Influenza A, Novel Virus | 690.469 |
| 7) | Plague* | 690.570 |
| 8) | Poliomyelitis | 890.580 |
| 9) | Q-fever* (if suspected to be a bioterrorist event or part of an outbreak) | 690.595 |
| 10) | Severe Acute Respiratory Syndrome | 690.635 |
| 11) | Smallpox | 690.650 |
| 12) | Tularemia* (if suspected to be a bioterrorist event or part of an outbreak) | 690.725 |

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- | | | |
|---|--|---------|
| 13) | Any suspected bioterrorist threat or event | 690.800 |
| b) Class I(b) | | |
| <p>The following diseases shall be reported as soon as possible during normal business hours, but within 24 hours (i.e., within eight regularly scheduled business hours after identifying the case), to the local health authority, which shall then report to the Department as soon as possible, but within 24 hours. This interval applies to primary reporters identified in Section 690.200(a)(1) who are required to report to local health authorities and to local health authorities that are required to report to the Department. The Section number associated with each of the listed diseases indicates the Section under which the diseases are reportable. Laboratory specimens of agents required to be submitted under Subpart D shall be submitted within 7 days after identification of the organism to the Department laboratory.</p> | | |
| 1) | Botulism, intestinal, wound, and other | 690.327 |
| 2) | Brucellosis* (if not suspected to be a bioterrorist event or part of an outbreak) | 690.330 |
| 3) | Chickenpox (Varicella) | 690.350 |
| 4) | Cholera* | 690.360 |
| 5) | Escherichia coli infections* (E. coli O157:H7 and other Shiga toxin-producing E. coli, enterotoxigenic E. coli, enteropathogenic E. coli and enteroinvasive E. coli) | 690.400 |
| 6) | Haemophilus influenzae, meningitis and other invasive disease* | 690.441 |
| 7) | Hantavirus pulmonary syndrome* | 690.442 |
| 8) | Hemolytic uremic syndrome, post-diarrheal | 690.444 |
| 9) | Hepatitis A | 690.450 |
| 10) | Influenza admissions into intensive care unit | 690.468 |

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

11)	Measles	690.520
12)	Mumps	690.520
13)	Neisseria meningitidis, meningitis and invasive disease*	690.555
14)	Outbreaks of public health significance (including, but not limited to, foodborne and waterborne outbreaks)	690.565
15)	Pertussis* (whooping cough)	690.750
16)	Q-fever due to Coxiella burnetii* (if not suspected to be a bioterrorist event or part of an outbreak)	690.595
17)	Rabies, human	690.600
18)	Rabies, potential human exposure and animal rabies	690.601
19)	Rubella	690.620
20)	Smallpox vaccination, complications of	690.655
21)	Staphylococcus aureus, Methicillin resistant (MRSA) clusters of two or more cases in a community setting	690.658
22)	Staphylococcus aureus, Methicillin resistant (MRSA), any occurrence in an infant under 61 days of age	690.660
23)	Staphylococcus aureus infections with intermediate or high level resistance to Vancomycin*	690.661
24)	Streptococcal infections, Group A, invasive and sequelae to Group A streptococcal infections	690.670
25)	Tularemia* (if not suspected to be a bioterrorist event or part of an outbreak)	690.725
26)	Typhoid fever*	690.730

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

27) Typhus 690.740

c) Class II

The following diseases shall be reported as soon as possible during normal business hours, but within seven days, to the local health authority, which shall then report to the Department within seven days. The Section number associated with each of the listed diseases indicates the Section under which the diseases are reportable. Laboratory specimens of agents required to be submitted under Subpart D shall be submitted within seven days after identification of the organism to the Department laboratory.

1)	Arboviral Infection* (including, but not limited to, Chikungunya fever, California encephalitis, Dengue fever, St. Louis encephalitis and West Nile virus)	690.322
<u>2)</u>	<u>Campylobacteriosis</u>	<u>690.335</u>
<u>32)</u>	Creutzfeldt-Jakob Disease	690.362
<u>43)</u>	Cryptosporidiosis	690.365
<u>54)</u>	Cyclosporiasis	690.368
<u>65)</u>	Hepatitis B and Hepatitis D	690.451
<u>76)</u>	Hepatitis C	690.452
<u>87)</u>	Histoplasmosis	690.460
<u>98)</u>	Influenza, deaths in persons less than 18 years of age	690.465
<u>109)</u>	Legionellosis*	690.475
<u>1140)</u>	Leprosy	690.480
<u>1244)</u>	Leptospirosis*	690.490

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

<u>1342</u>)	Listeriosis*	690.495
<u>1413</u>)	Malaria*	690.510
<u>1544</u>)	Psittacosis due to <i>Chalmydia psittaci</i>	690.590
<u>1645</u>)	Salmonellosis* (other than typhoid fever)	690.630
<u>1746</u>)	Shigellosis*	690.640
<u>1847</u>)	Toxic shock syndrome due to <i>Staphylococcus aureus</i> infection	690.695
<u>1948</u>)	<i>Streptococcus pneumoniae</i> , invasive disease in children less than five years	690.678
<u>2049</u>)	Tetanus	690.690
<u>2120</u>)	Tickborne Disease, including Babesiosis, Ehrlichiosis, Anaplasmosis, Lyme disease, and Spotted Fever Rickettsiosis	690.698
<u>2224</u>)	Trichinosis	690.710
<u>2322</u>)	Vibriosis (Other than Toxigenic <i>Vibrio cholera</i> O1 or O139)	690.745
<u>2423</u>)	Yersiniosis	690.752

* Diseases for which laboratories are required to forward clinical materials to the Department's laboratory.

- d) When an epidemic of a disease dangerous to the public health occurs, and present rules are not adequate for its control or prevention, the Department shall issue more stringent requirements.

(Source: Amended at 40 Ill. Reg. 7146, effective April 21, 2016)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Section 690.110 Diseases Repealed from This Part

- a) The following diseases have been repealed from this Part and are no longer reportable.
- 1) Amebiasis
 - 2) Blastomycosis
 - ~~3) Campylobacteriosis~~
 - ~~34) Diarrhea of the newborn~~
 - ~~45) Giardiasis~~
 - ~~56) Hepatitis, viral, other~~
 - ~~67) Meningitis, aseptic~~
 - ~~78) Streptococcal infections, group B, invasive disease, of the newborn~~
- b) The following diseases have been repealed from this Part, but are reportable under the Section specified:
- 1) Acquired immunodeficiency syndrome (AIDS) 77 Ill. Adm. Code 693.20
 - 2) Chancroid 77 Ill. Adm. Code 693.20
 - 3) Gonorrhea 77 Ill. Adm. Code 693.20
 - 4) Ophthalmia neonatorum 77 Ill. Adm. Code 693.20
 - 5) Syphilis 77 Ill. Adm. Code 693.20
 - 6) Tuberculosis 77 Ill. Adm. Code 696.170

(Source: Amended at 40 Ill. Reg. 7146, effective April 21, 2016)

SUBPART D: DETAILED PROCEDURES FOR THE

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

CONTROL OF COMMUNICABLE DISEASES

Section 690.335 Campylobacteriosis (Reportable by mail, telephone, facsimile or electronically, within 7 days) (~~Repealed~~)

- a) Control of Case
Standard precautions shall be followed. Contact precautions shall be followed for diapered or incontinent persons or during institutional outbreaks until diarrhea is absent for 24 hours.
- b) Control of Contacts
No restriction of contacts.
- c) Sale of Food, Milk, Etc. (See Section 690.30(b).)
- d) Laboratory Reporting
 - 1) Laboratories shall report to the local health authority patients from whom Campylobacter has been isolated or patients who have a positive result on any laboratory test indicative of and specific for detecting Campylobacter infection.
 - 2) Laboratories shall report and submit to the Department's laboratory any food or clinical Campylobacter isolates resulting from an outbreak investigation.

(Source: Former Section repealed at 32 Ill. Reg. 3777, effective March 3, 2008; new Section added at 40 Ill. Reg. 7146, effective April 21, 2016)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Prequalification of Contractors, Authorization to Bid, and Subcontractor Registration
- 2) Code Citation: 44 Ill. Adm. Code 650
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
650.10	Amendment
650.20	Amendment
650.30	Amendment
650.40	Amendment
650.50	Amendment
650.70	Amendment
650.80	Amendment
650.90	Amendment
650.260	Amendment
650.290	Amendment
650.300	Amendment
650.315	Amendment
650.340	Amendment
650.370	Amendment
650.380	Amendment
650.APPENDIX A	Amendment
- 4) Statutory Authority: Implementing Section 4-103 of the Illinois Highway Code [605 ILCS 5/4-103] and Section 2705-595 of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-595] and authorized by Section 4-201.1 of the Illinois Highway Code [605 ILCS 5/4-201.1]
- 5) Effective Date of Rules: April 25, 2016
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rulemakings contain incorporations by reference? No
- 8) A copy of these adopted rules, including any material incorporated by reference, is on file in the Department's Office of Chief Counsel.
- 9) Notice of Proposal published in the *Illinois Register*: 39 Ill. Reg. 15061; November 20, 2015

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between Proposal and Final Version: Between proposal and final version, no changes were made.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were made.
- 13) Will these rulemakings replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemakings: At Section 650.10, Purpose, the Department is clarifying that the Chief Procurement Officer for the Department of Transportation and the Department work cooperatively in prequalifying contractors to determine their responsibility.

At Section 650.20, Definitions, the Department is clarifying the definitions of "Authorization to Bid," "Prequalification," "Request for Authorization to Bid or Not for Bid Status," and adding definitions for "Eligible" and "Special Letting."

At Section 650.30, Introduction to Prequalification, the Department is clarifying that a determination of prequalification, and not the Certificate of Eligibility, permits a contractor to make application for Authorization to Bid on contracts, in accordance with this Part.

At Section 650.40, Application Requirements, the Department is updating website links.

At Section 650.50, Time for Submission, the Department is clarifying the timeframe for a determination of a prequalification rating. In the past, due to administrative delays, the Department has been unable to make the determination three days in advance of the letting. Under the proposed amendment, as long as the contractor complies with the application requirements and deadlines, the Department will work to issue the rating prior to the letting date so the contractor can bid on projects.

At Section 650.70, Waiver of Prequalification and Additional Responsibility Considerations, the Department is bringing the Part up to current practice.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

At Section 650.80, Issuance and Effect of Ratings, the Department is removing subsection (d) because the financial interest disclosures are not part of the prequalification process. Instead, they are currently, and appropriately, prescribed under 44 Ill. Adm. Code 6.

At Section 650.90, Effective Date of Ratings, the Department is clarifying that the effective date of a firm's Prequalification shall be the date on which the ratings are determined and approved

At Section 650.260, Equipment Factor (EqF), the Department is clarifying that any piece of equipment that can be assembled for contract performance may be used.

At Section 650.290, Advertising for Bids, the Department is clarifying that the procedures for procuring contracts are set out in the Chief Procurement Officer's rules for contract procurement found at 44 Ill. Adm. Code 6.

At Section 650.300, Request for Authorization to Bid or Not for Bid Status, the Department is clarifying that the Form BDE124 shall be used by contractors to request Authorization to Bid.

At Section 650.315, Disclosure of Other Procurement Relationships, the Department is updating the Part for consistency with section 50-35(a) of the Code.

At Section 650.340, Joint Ventures, the Department is making the unaudited thresholds consistent with current practice.

At Section 650.370, Registration of Subcontractors, the Department will collect information from Participant firms who are primarily providing trucking and material supplies in accordance with federal regulations. Subcontractors and prequalified firms on the Registered list of firms will not change.

At Section 650.380, Eligibility to Quote or Perform Subcontract Work, the Department is clarifying that bids can be solicited from anyone, however, those subcontractors chosen by the Department's contractors must be registered in accordance with Subpart C of this Part before they are approved to work on Department projects.

At Section 650.APPENDIX A, Available Work Categories, the Department is adding pressure washing to the "25 – Painting and Cleaning" category. The Department is adding modified urethane to the "27 – Pavement Markings" category. The Department is

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

amending the calculation of work rating to the "3 – Hot-Mix Asphalt (HMA) Plant Mix" category.

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

Mr. Michael Copp, Prequalification Engineer
Illinois Department of Transportation
Bureau of Construction
2300 S. Dirksen Parkway, Room 322
Springfield IL 62764

217/782-3413

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

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, GRANTMAKING,
PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE B: SUPPLEMENTAL PROCUREMENT RULES
CHAPTER IX: DEPARTMENT OF TRANSPORTATIONPART 650
PREQUALIFICATION OF CONTRACTORS, AUTHORIZATION TO BID,
AND SUBCONTRACTOR REGISTRATION

SUBPART A: PREQUALIFICATION

Section	Purpose
650.10	Purpose
650.20	Definitions
650.30	Introduction to Prequalification
650.40	Application Requirements
650.50	Time for Submission
650.60	Public Disclosure of Contractor Information
650.70	Waiver of Prequalification and Additional Responsibility Considerations
650.80	Issuance and Effect of Ratings
650.90	Effective Date of Ratings
650.100	Expiration Date of Ratings
650.110	Denial or Revocation of Ratings
650.120	Extension of Ratings
650.130	Revisions to Prequalification Ratings
650.140	Transfer of Prequalification Ratings
650.150	Reconsideration and Appeal
650.160	Financial Rating – General
650.170	Financial Statement
650.180	Balance Sheet Schedules
650.190	Other Factors Considered in Determining Financial Ratings
650.200	Methods of Improving a Financial Rating
650.210	Computation of Financial Rating
650.220	Work Rating – General
650.230	Determination of Work Ratings
650.240	Performance Factor (PF)
650.250	Experience Factor (EF)
650.260	Equipment Factor (EqF)
650.270	Capacity to Perform (CP)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

650.280 Calculation of Work Ratings

SUBPART B: AUTHORIZATION TO BID

Section

650.290 Advertising for Bids
650.300 Request for Authorization to Bid or Not for Bid Status
650.310 Affidavit of Availability
650.315 Disclosure of Other Procurement Relationships
650.320 Analyzing Requests for Authorization to Bid
650.330 Issuance of Authorization to Bid
650.340 Joint Ventures
650.350 Denial of Authorization to Bid

SUBPART C: SUBCONTRACTOR REGISTRATION

Section

650.360 Purpose
650.370 Registration of Subcontractors
650.380 Eligibility to Quote or Perform Subcontract Work

650.APPENDIX A Available Work Categories
650.APPENDIX B Request for Extension of Prequalification Ratings (Repealed)
650.APPENDIX C Financial Pledge Letters (Repealed)
650.APPENDIX D Financial Verification Letter (Repealed)
650.APPENDIX E Corporate Resolution (Repealed)

AUTHORITY: Implementing Section 4-103 of the Illinois Highway Code [605 ILCS 5/4-103] and Section 2705-595 of the Civil Administrative Code of Illinois [20 ILCS 2705/2705-595] and authorized by Section 4-201.1 of the Illinois Highway Code [605 ILCS 5/4-201.1].

SOURCE: Adopted at 18 Ill. Reg. 9478, effective July 2, 1994; amended at 21 Ill. Reg. 11238, effective July 29, 1997; amended at 22 Ill. Reg. 20393, effective November 4, 1998; amended at 24 Ill. Reg. 18775, effective December 7, 2000; amended at 30 Ill. Reg. 16373, effective October 10, 2006; amended at 32 Ill. Reg. 7989, effective May 8, 2008; emergency amendment at 35 Ill. Reg. 15485, effective September 9, 2011, for a maximum of 150 days; amended at 36 Ill. Reg. 1775, effective January 19, 2012; recodified Title of the Part at 39 Ill. Reg. 5903; amended at 40 Ill. Reg. 7170, effective April 25, 2016.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

SUBPART A: PREQUALIFICATION

Section 650.10 Purpose

- a) The purpose of this Part is to establish policies and procedures to allow the Illinois Department of Transportation (the Department), in cooperation with the Chief Procurement Officer for the Department, to fulfill its obligations to award all construction and maintenance contracts to the lowest responsive and responsible bidder by prequalifying contractors to determine their responsibility.
- b) A prequalification rating grants neither a license to do business nor a right to bid on or to be awarded a Department contract. It is a preliminary determination of the responsibility of a bidder, who is otherwise in compliance with 44 Ill. Adm. Code 6the procurement rules of the Department, to do the work of a construction or maintenance contract advertised by the Department. Contractors prequalified by this Part may also be used by units of local government on contracts approved for letting and award by the Department.

(Source: Amended at 40 Ill. Reg. 7170, effective April 25, 2016)

Section 650.20 Definitions

"Affidavit of Availability" – A sworn affidavit indicating all work under contract, pending awards, all subcontracts and value of subcontracts.

"Affiliate" – A member of a group of two or more companies related to one another through common ownership, common management, common control or the power to exercise common control. Two corporations are affiliated when one owns less than a majority of the voting stock of the other, or when both are subsidiaries of a third corporation.

"Applicant" – Any prospective contractor who has applied for prequalification in compliance with the procedures delineated in this Part. "Applicant" may be used interchangeably with "Contractor" throughout this Part.

"Application for Prequalification" – A package of forms titled "Application for Prequalification, Statement of Experience, Equipment and Financial Condition" (Form BC-8) required to be submitted by an applicant in support of its request for a determination of responsibility and a prequalification rating.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

"Authorization to Bid" – The permission given to a contractor to submit a bid on a given Department letting item and the permission to have that bid [made public](#) read.

"Available Bidding Capacity" – The applicable available work ratings and the available financial rating.

"Available Financial Rating" – Financial rating as indicated on the Certificate of Eligibility less the total value of all uncompleted work to be done with the applicant's own forces and work subcontracted to others.

"Available Work Rating" – The work rating in a particular category as indicated on the Certificate of Eligibility less all similar uncompleted work to be done with the applicant's own forces (for a listing of available work categories, see Appendix A of this Part).

"Certificate of Appraiser" – The certification by an appraiser that the appraisal is performed with no direct or indirect interest, financial or otherwise, in the business of the applicant.

"Certificate of Eligibility" – A certificate issued to the applicant by the Department indicating the applicant's financial rating, work ratings and the effective period of prequalification.

"Code" – The Illinois Procurement Code [30 ILCS 500].

"Combining Financial Statement" – A comprehensive financial statement that presents the assets, liabilities, net worth, and operating figures of two or more affiliated companies. The statement presents each affiliate's financial data in separate, adjacent columns and a total column for the combined affiliate data.

"Consolidated Financial Statement" – A financial statement that presents the assets, liabilities, and operating accounts of a parent company and its subsidiaries.

"Contract" – The written agreement between the Department and the contractor setting forth the obligations of the parties thereunder, including, but not limited to, the performance of the work, the furnishing of labor and materials, and the basis of payment. The contract consists of the invitation for bids, the proposal, the

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

letter of award, the contract form and contract bond, any specifications and supplemental specifications, any special provisions, any general and detailed plans, and all agreements that are required to complete the construction of the work, including contract time_s— all of which constitute one instrument.

"Contractor" – The individual, partnership, corporation or other business entity recognized by law contracting with the Department for performance of prescribed work. An applicant which has been issued a Certificate of Eligibility.

"Contractor" may be used interchangeably with "Applicant" throughout this Part.

"Department" – The Illinois Department of Transportation.

"Department of Human Rights Identification Number" – A number assigned to an applicant who has prequalified with the Department of Human Rights.

"Director" – The Director of the Division of Highways or the Director's designee.

"Eligible" – Satisfying the appropriate conditions as set forth in the contract solicitation documents.

"Engineer of Construction" – The individual responsible for directing the development of the Department's highway construction policies ~~that~~^{which} assure uniform practices, interpretation and applications in Illinois.

"Financial Rating" – The measured ability of an applicant to sustain adequate cash flow for the duration of an awarded contract based on the submitted application for prequalification.

"Financial Statement" – A presentation of financial data, including accompanying notes, derived from accounting records that are intended to show an applicant's economic resources and obligations at a point in time or the changes therein for a period of time in conformity with a comprehensive basis of accounting.

"Joint Venture" – Two or three contractors combining their available financial and work ratings for the purpose of bidding a construction project.

"Letter of Subordination" – A signed statement from a stockholder, officer, director, employee, parent, subsidiary or affiliate agreeing not to withdraw a

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

specific amount of money loaned to the applicant during the period of prequalification.

"Net Worth" – Total assets minus total liabilities.

"Parent" – A corporation that owns or controls subsidiary companies through the ownership of voting stock. A parent corporation is usually an operating company in its own right. Where the parent has no business of its own, the term "holding company" may apply.

"Prequalification" – The rating process established by the Department ~~required of that requires~~ all prospective bidders, ~~unless waived, to obtain a Certificate of Eligibility~~ prior to being considered for ~~Authorization to Bid issuance of bidding proposal forms and plans for any contract awarded by the Department,~~ as well as ~~being considered for~~ contracts ~~to be~~ awarded by local agencies requiring approval of award by the Department. Once prequalified, an applicant is issued a Certificate of Eligibility.

"Prequalification Section" – The section within the Bureau of Construction of the Department responsible for determining responsibility, financial ratings, work ratings, and the issuance of bidding proposals.

"Request for Authorization to Bid or Not for Bid Status" – A form, BDE 124, provided by the Department to assist a contractor in making a formal request for ~~Authorization plans and proposals on CD-ROM, and subsequent authorization to Bid~~ bid on the requested items.

"Responsibility" – The capability in all respects to perform fully the requirements of an awarded contract, and the integrity and reliability that will assure good faith performance.

"Special Letting" – A letting that is not listed on the Department's annual letting schedule as posted on the Transportation Procurement Bulletin.

"Specialty Items" – Items that are designated in the contract documents that are considered to require specialized construction techniques that are not ordinarily available in contracting organizations qualified to bid.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

"Standard Specifications" – A Department publication entitled Standard Specifications for Road and Bridge Construction that sets forth the contract provisions for road and bridge construction.

"Subsidiary" – A corporation having more than 50% of the voting stock owned by another corporation called the "parent".

"Transportation [Procurement](#) Bulletin" – The public document that is the official publication and invitation issued by the Department for bids on construction projects.

"Working Capital" – Current assets less applied discounts and current liabilities.

"Work Rating" – The dollar value of work of a particular category of construction that an applicant can perform with his/her organization and equipment in one construction season.

(Source: Amended at 40 Ill. Reg. 7170, effective April 25, 2016)

Section 650.30 Introduction to Prequalification

- a) As required by [Subpart B](#) ~~this Part~~, each contractor shall be prequalified, or deemed eligible, prior to being ~~granted~~ considered for issuance of an Authorization to Bid on contracts advertised by the Department.
- b) Except as otherwise provided in Section 650.70 ~~of this Part~~, in order to become prequalified, an applicant shall submit an application for prequalification using forms furnished by the Department.
- c) Upon receipt of a completed application, the Prequalification Section evaluates the information, determines the responsibility of the applicant and calculates a prequalification rating for the applicant.
- d) The prequalification rating is a combination of two subratings: the financial rating and the work rating. The policies and procedures used by the Prequalification Section to determine these two subratings are delineated in this Subpart.
- e) After the Prequalification Section determines the applicant to be responsible and

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

calculates the applicant's prequalification ratings, the applicant will be issued a Certificate of Eligibility. Once prequalified, a contractor may be considered for ~~This certificate permits the applicant, now a prequalified contractor, to make application for~~ Authorization to Bid on contracts within the contractor's available bidding capacity in accordance with Subpart B ~~of this Part~~.

- f) Pursuant to the Code, an applicant must also be prequalified or submit evidence of application with the Illinois Department of Human Rights (IDHR) prior to obtaining Authorization to Bid on contracts which are subject to the competitive bidding requirements of the Code. Information and forms concerning the rules of IDHR may be obtained from the following website: <http://www.illinois.gov/dhr/publiccontracts/Pages/default.aspx>.

~~Illinois Department of Human Rights
Public Contracts Division
100 West Randolph – Suite 10-100
Chicago, Illinois 60601~~

~~312/814-2432~~

- g) Pursuant to Section 13.05 of the Business Corporation Act of 1983 [805 ILCS 5/13.05], out-of-state contractors are required to secure a certificate from the Illinois Secretary of State authorizing them to do business in Illinois. All contractors are required to be *authorized to transact business or conduct affairs in Illinois prior to submission of a bid* [30 ILCS 500/20-43]. In addition, out-of-state prequalified contractors are required to staff and maintain an office located within the geographic boundaries of the State of Illinois. The in-state office will be the primary office at which all business with the Department will be conducted. The certificate must be obtained prior to the execution of a contract. Application forms can be obtained from the following website: http://www.cyberdriveillinois.com/departments/business_services/home.html.

~~Illinois Secretary of State
Corporation Division
Howlett Building
3rd Floor
Springfield, Illinois 62756
217/782-1834~~

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 40 Ill. Reg. 7170, effective April 25, 2016)

Section 650.40 Application Requirements

- a) The application for prequalification is available on the Department's ~~website~~~~internet home page~~ at <http://www.idot.illinois.gov/doingbusiness/procurements/constructionservices/index>~~www.dot.il.gov~~ or by writing or calling:

Illinois Department of Transportation
Bureau of Construction, Prequalification Section
2300 South Dirksen Parkway, Room 322
Springfield, Illinois 62764

217/782-3413

- b) An application for prequalification shall be complete and submitted on the form furnished by the Department and in accordance with this Part.
- c) An application for prequalification shall consist of the following information:
- 1) The applicant's name, address, telephone number and telefax number;
 - 2) The applicant's Federal Employer's Identification Number (F.E.I.N.) or social security number if the applicant does not have a F.E.I.N.;
 - 3) The applicant's Illinois Department of Human Rights Identification Number and registration expiration date;
 - 4) The applicant's completed Statement of Experience and Financial Condition;
 - 5) All other information required by this Part or requested by the Prequalification Section.
- d) Submission of a completed application before the cut-off dates is the sole responsibility of the applicant. Cut-off dates are established based on the date of the letting and whether the applicant is a first-time applicant or an applicant seeking to renew its prequalification ratings (see Section 650.50(a) and (b) for

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

additional information). A schedule of cut-off dates is available at <http://www.idot.illinois.gov/doingbusiness/procurements/construction/services/constructionbulletins/transportationbulletin/indexwww.dot.il.gov/desenv/letsched.html>.

(Source: Amended at 40 Ill. Reg. 7170, effective April 25, 2016)

Section 650.50 Time for Submission

- a) An applicant seeking to be prequalified with the Department for the first time must submit a complete application for prequalification no later than 4:30 p.m. prevailing time no later than ~~21~~twenty-one days prior to the scheduled date of the letting for which the applicant desires to bid. If the day of receipt falls on a weekend or a holiday, the following work day will determine the cut-off. The Department gives public notice of the letting dates and cut-off dates in the Transportation Bulletin. The Prequalification Section will make its determination ~~at least three days~~ prior to the relevant letting date.
- b) An applicant seeking to renew its prequalification ratings with the Department must submit a complete renewal application prior to the expiration of the applicant's existing prequalification ratings (see Section 650.100 for additional information).
- c) An applicant seeking to revise its current prequalification ratings with the Department must submit revisions no later than 4:30 p.m. prevailing time no later than 21 days prior to the scheduled date of the letting for which the applicant desires to bid. The Prequalification Section will make its ratings determination prior to the relevant letting date.
- d) If additional projects are advertised for a letting or special letting through the issuance of a supplemental bulletin, the day of receipt for application forms or additional information is seven days after the date of issuance of the supplemental bulletin to submit bids on those projects advertised in the supplemental bulletin.

(Source: Amended at 40 Ill. Reg. 7170, effective April 25, 2016)

Section 650.70 Waiver of Prequalification and Additional Responsibility Considerations

Prequalification may be waived or additional responsibility or eligibility factors may be

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

established for selected contracts advertised in the Transportation [Procurement](#) Bulletin. In such contracts, the manner of determining bidder responsibility will be stated in the advertised contract and Transportation [Procurement](#) Bulletin. Contracts in which such waiver may be made include, but are not limited to, contracts that require specialized skills not covered by available work categories, contracts for furnished manufactured products, [small business set-asides](#), or contracts in which a waiver is necessary to achieve sufficient competition. However, contractors must still obtain an Illinois Department of Human Rights identification number and comply with the procedures of Subpart B ~~of this Part~~.

(Source: Amended at 40 Ill. Reg. 7170, effective April 25, 2016)

Section 650.80 Issuance and Effect of Ratings

- a) Once the Prequalification Section has completed its analysis of all information relevant to the determination of ratings and has established the ratings of the applicant, a Certificate of Eligibility will be issued to the applicant. A copy of the Certificate of Eligibility will be provided to requesting units of local government.
- b) ~~Prequalification~~[The Certificate of Eligibility](#) permits the prequalified contractor to make application for Authorization to Bid on contracts in accordance with the procedures of Subpart B ~~of this Part~~. The Certificate of Eligibility may be used by units of local government as evidence of contractor eligibility to bid on contracts advertised and awarded by the units of local government with approval by the Department as required by law.
- c) The Certificate of Eligibility and the ratings therein confer neither a license nor a right to bid on or to be awarded a contract. Prequalification is an initial, preliminary determination of responsibility which must be finally determined at the time of award and execution of a contract advertised by the Department or at the time of approval in the case of contracts subject to Department approval by law.
- d) ~~Financial Interest Disclosure~~
 - 1) ~~Section 50-35 of the Illinois Procurement Code [30 ILCS 500/50-35] requires that all bids of more than \$10,000 be accompanied by disclosure of the financial interests of the bidder. The financial interests to be disclosed include the ownership or distributive income share that is in excess of 5% or an amount greater than 60% of the annual salary of the~~

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

~~Governor, of the bidding entity or its parent entity, whichever is less, unless the contractor or bidder is a publicly traded entity subject to Federal 10K reporting, in which case it may submit its 10K disclosure in place of the prescribed disclosure. The disclosure includes the names, addresses, and dollar or proportionate share of ownership of each person making the disclosure, the instrument of ownership or beneficial relationship, and notice of any potential conflict of interest resulting from the current ownership or beneficial interest of each person making the disclosure having any of the relationships identified in Section 50-35 of the Code and on the disclosure form provided by the Department with the Invitation for Bids in the Transportation Bulletin.~~

- ~~2) A contractor that is issued a Certificate of Eligibility and that intends to make application for Authorization to Bid on contracts in accordance with the procedures of Subpart B of this Part may file the disclosure forms with the Prequalification Section and periodically update the forms as necessary in order to comply with the disclosure requirements.~~
- ~~3) The Invitation for Bids issued by the Department provides space for the bidding contractor to incorporate by reference the disclosure forms on file and to certify that the forms are accurate.~~

(Source: Amended at 40 Ill. Reg. 7170, effective April 25, 2016)

Section 650.90 Effective Date of Ratings

The effective date of ~~a firm's prequalificationa Certificate of Eligibility~~ shall be the date on which the ratings are determined and approved unless, for a new applicant, the application or additional information is received during the prequalification cut-off period (see Section 650.50(a)~~of this Part~~) in advance of a letting. For a renewal applicant, the effective date of ~~prequalificationa Certificate of Eligibility~~ shall be the date on which the ratings are determined and approved unless the application or additional information is received after the authorization to bid cut-off date (see Section 650.330(b)~~of this Part~~) in advance of a letting. In these instances, the effective date shall be the day following the letting or the date on which the ratings are determined and approved, whichever is later.

(Source: Amended at 40 Ill. Reg. 7170, effective April 25, 2016)

Section 650.260 Equipment Factor (EqF)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- a) Work categories which require the applicant to have specific equipment and plant facilities are indicated in ~~Section 650. Appendix A of this Part~~. Determination of work ratings in these categories requires the calculation of an Equipment Factor which measures the physical productive capacity of the applicant's equipment and facilities. Equipment Factors are based on standards which produce an average dollar value of productivity as set forth in ~~Section 650. Appendix A of this Part~~. The Department may adjust the standards as necessary to reflect increases in construction costs. The word "equipment" used in this Section includes all machines, tools and plant facilities.
- b) In calculating Equipment Factors, the Department will consider:
- 1) Equipment owned outright.
 - 2) Rented equipment. Confirmation of rented equipment available for use by the lessee shall be by submittal of a signed and notarized affidavit. No credit will be given for rented equipment not available to establish an equipment factor. Applicants shall submit a copy of the rental agreement, which must contain the following:
 - A) Time period.
 - B) Make, model, year, serial number and size or capacity of the equipment.
 - C) Monetary consideration.
 - D) Signature of the lessee and lessor.
- c) Credit for equipment will not be given until the applicant provides proof that all required federal, State or local permits or licenses to operate the equipment have been obtained.
- d) No credit will be given for any piece of equipment that is not serviceable, that is in disrepair or that is inoperable. A disassembled piece of equipment, including new equipment, that is in all other respects serviceable, operable if assembled and available in accordance with subsection (f) ~~of this Section~~ may be credited provided that it will be assembled for the performance of contracts awarded

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

during the period of prequalification. For example, a batch plant supporting a Portland Cement Concrete Paving work rating may be disassembled, stored and reassembled for use on contracts awarded during the period of prequalification.

- e) Equipment, including but not limited to front-end loaders, motor graders and cranes are versatile and can perform several types of work. If the contractor does not assign equipment to a specific category, the Department will assign the equipment on the basis of the contractor's work experience and requested ratings.
- f) The Department will give credit for equipment that is available for a work rating category. Conditions rendering equipment unavailable may include but are not limited to the following:
 - 1) Equipment owned but leased to another individual or business.
 - 2) Equipment that is devoted to a business enterprise of the applicant unrelated to or inconsistent with making the equipment available for the work category sought. Examples of this unavailability condition include but are not limited to the following. An applicant may have front-end loaders that are used in a quarry. This equipment would not be considered available for the work category of Earthwork. An applicant may sell the product of a concrete plant to the public by retail sales. This plant would not be available for the work category of Portland Cement Concrete Paving.
 - 3) Equipment that is not readily transported or relocated and that is not located within the State of Illinois or a bordering state or commonwealth at a location sufficiently proximate to the State of Illinois necessary to satisfy contract delivery requirements.
 - 4) Equipment that is readily transported or relocated but the applicant does not demonstrate, with intent and action, the transportation or relocation to the State of Illinois or a bordering state or commonwealth at a location sufficiently proximate to the State of Illinois necessary to satisfy contract delivery requirements.
 - 5) Equipment not available to the applicant or not capable of being used to perform contracts for any reason.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- g) The applicant shall make equipment available for inspection by the Department to verify possession, to determine serviceability, and to confirm availability for use in the work category.

(Source: Amended at 40 Ill. Reg. 7170, effective April 25, 2016)

SUBPART B: AUTHORIZATION TO BID

Section 650.290 Advertising for Bids

The procedures for procuring contracts are set out in the [Chief Procurement Officer's Department's](#) rules for contract procurement found at 44 Ill. Adm. Code ~~6660~~. The procedures of this Subpart B govern the granting of authority to bid on contracts advertised for bids in the Transportation [Procurement](#) Bulletin in accordance with the [Chief Procurement Officer's Department's](#) rules for contract procurement.

(Source: Amended at 40 Ill. Reg. 7170, effective April 25, 2016)

Section 650.300 Request for Authorization to Bid or Not for Bid Status

A Request for Authorization to Bid or Not for Bid Status (Form [BDE 124BD-124 INT](#)) is published with the Transportation [Procurement](#) Bulletin. The Form [BDE 124BD-124 INT](#) shall be used by contractors to request [Authorization to Bid proposals and plans on CD-ROM and to request formal authorization to bid](#) on contracts advertised in the Transportation [Procurement](#) Bulletin. Anyone may obtain proposal forms and plans regardless of prequalification status. An Authorization to Bid must be granted in accordance with this Part before a prequalified contractor may submit a bid, [unless prequalification is waived](#).

(Source: Amended at 40 Ill. Reg. 7170, effective April 25, 2016)

Section 650.315 Disclosure of Other Procurement Relationships

- a) Section 50-35(h) of the Illinois Procurement Code [30 ILCS 500/50-35(h)] requires that all bids of more than ~~\$50,000~~[\\$10,000](#) be accompanied by disclosure of all current or pending contracts, proposals, leases, or other ongoing procurement relationships the contractor has with any other unit of State government. ~~This disclosure is required in addition to the financial interest disclosure provided at Section 650.80(d) of this Part.~~

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- b) The Department provides the form for making the required disclosure of other procurement relationships with the Invitation for Bids in the [Transportation Procurement Bulletin](#).
- c) Contractors submitting an Affidavit of Availability with a request for Authorization to Bid may incorporate by reference on this disclosure form the contents of the Affidavit of Availability that are responsive to the disclosure requirement. Procurement relationships that are not included in the Affidavit of Availability shall be disclosed on the form. ~~Contractors not required to submit an Affidavit of Availability as provided in Section 650.310(a) of this Part shall make the required disclosures on the disclosure form.~~

(Source: Amended at 40 Ill. Reg. 7170, effective April 25, 2016)

Section 650.340 Joint Ventures

- a) Prequalified contractors may combine their available bidding capacity and request an Authorization to Bid for a single contract to bid as a joint venture after Department approval.
- b) Each request for approval of a joint venture shall be indicated by the filing of a Certificate of Joint Venture for each of the contracts for which joint venture approval is sought. The form is available from the Prequalification Section. It identifies the managing partner and indicates the joint venture agreement shall be available to the Department for inspection. In addition, each joint venture partner firm shall submit an Affidavit of Availability. The Certificate must be received no later than 4:30 p.m. prevailing time at least seven days prior to the scheduled date of the letting for which bidding proposals are sought.
- c) The proposed joint venture shall not be approved for the issuance of bidding proposals if the establishment of a joint venture would unduly restrict competition. A determination that a proposed joint venture would unduly restrict competition is limited to any of the following reasons:
 - 1) That the proposed joint venture would consist of more than three prequalified contractors unless the project is designated by the Department in the advertisement for bids as open for unrestricted joint venturing due to the magnitude, complexity and risks of the work.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 2) That for letting items estimated by the Department to be bid at less than \$1,000,000, more than one of the proposed joint venture partners has the individual prequalification ratings and bid capacity to bid the item without the approval of the venture. This determination shall not apply to joint ventures between affiliated contractors based upon 51 percent or more common controlling ownership or common management where the officers, directors or general partners control the board of directors and/or management of each contractor.
- d) Contractors whose financial ratings are based upon unaudited financial statements will not be permitted to joint venture with each other to bid contracts that are estimated to exceed ~~\$750,000~~\$500,000 or \$1,500,000, depending on the contractor's unaudited status (see Section 650.170(c)(1)(A) and (B)). However, such contractors may be permitted to joint venture with contractors who have a financial rating based upon an audited statement to bid contracts estimated to exceed ~~\$750,000~~\$500,000.
- e) If a joint venture work rating is limited by its maximum financial rating, the full value of the computed work rating will be used in analyzing the joint venture request for a bidding proposal. However, the combined maximum work rating in any category shall not exceed the combined maximum financial rating of the joint venture.

(Source: Amended at 40 Ill. Reg. 7170, effective April 25, 2016)

SUBPART C: SUBCONTRACTOR REGISTRATION

Section 650.370 Registration of Subcontractors

- a) All firms desiring to bid or quote subcontract work to prequalified contractors holding authorization to bid on contracts advertised by the Department shall register on an annual basis for inclusion in the participant list. Prequalified contractors are included automatically on the participant list. Participant firms~~Contractors~~ that are not subcontractors or prequalified but that desire to bid or quote ~~subcontract~~ work or materials on any Department contract shall register in accordance with this Subpart C.
- b) The Department shall furnish an electronic registration form for use by potential subcontractors and other participant firms desiring registration. The electronic

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

form is obtained and shall be completed at the Department's website at <http://www.idot.illinois.gov/doingbusiness/procurements/constructionservices/indexwww.dot.il.gov>. Requests for information regarding registration and the electronic form may be made by mail or by telephone to:

Illinois Department of Transportation
Bureau of Construction, Prequalification Section
2300 S. Dirksen Parkway, Room 322
Springfield IL 62764

(217) 782-6667

- c) The following information will be required to be reported on the registration form:
- 1) the firm's name;
 - 2) the firm's address and telephone number;
 - 3) the firm's tax ID type and tax ID number;
 - 4) the date the firm was established and its form of business organization;
 - 5) the annual gross receipts of the firm for the prior fiscal year of the firm;
~~and~~
 - 6) the owners of the firm; ~~and~~
 - 7) type of work.
- d) A registered firm will be issued a confirmation number.

(Source: Amended at 40 Ill. Reg. 7170, effective April 25, 2016)

Section 650.380 Eligibility to Quote or Perform Subcontract Work

~~A~~ No prequalified contractor who is issued an authorization to bid in accordance with this Part may solicit or accept bids or quotes from potential subcontractors, for the performance of work on contracts, that are not registered with the Department ~~in accordance with this Subpart C.~~

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

However, subcontractors must be registered in accordance with Subpart C before being approved to work on projects. This requirement will be enforced by appropriate contract provisions.

(Source: Amended at 40 Ill. Reg. 7170, effective April 25, 2016)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Section 650.APPENDIX A Available Work Categories

- 1 Earthwork
- 2 Portland Cement Concrete (PCC) Paving
- 3 Hot-Mix Asphalt (HMA) Plant Mix
- 4
- 5 HMA Paving
- 6 Cleaning and Sealing Cracks & Joints
- 7 Soil Stabilization and Modification
- 8 Aggregate Bases & Surfaces (Type A and Type B)
- 9 Structures (Highway, Railroad, and Waterway)
- 10 Structures Repair
- 11 Anchors and Tiebacks
- 12 Drainage
- 13 Drainage Cleaning
- 14 Electrical
- 15 Cover and Seal Coats (Type A and Type B)
- 16 Slurry Applications
- 17 Concrete Construction
- 18 Landscaping
- 19 Seeding and Sodding

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 20 Vegetation Spraying
- 21 Tree Trimming and Selective Tree Removal
- 22 Fencing
- 23 Guardrail
- 24 Grouting
- 25 Painting [and Cleaning](#)
- 26 Signing
- 27 Pavement Markings (Paint, Thermoplastic, Epoxy, ~~and Polyurea~~, [and Modified Urethane](#))
- 28
- 29
- 30 Installation of Raised Pavement Markers
- 31 Pavement Texturing and Surface Removal
- 32 Cold Milling, Planing and Rotomilling
- 33 Erection
- 34 Demolition
- 35 Fabrication
- 36 Tunnel Excavation
- 37 Expressway Cleaning
- 38 Railroad (Track) Construction

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

- 39 Marine Construction
- 40 Hydraulic Dredging
- 41 Hot (in-place) Recycling
- 42 Cold (in-place) Recycling

1 – EARTHWORK

Consists of clearing, grubbing, tree removal (except selective tree removal), hedge removal, roadway excavation, channel excavation, borrow excavation, special excavation, topsoil excavation and placement, ditch excavation, common excavation, solid rock excavation, mine refuse excavation, pavement removal, hauling, embankment (earth, stone, gravel or other materials), backfilling (all types of materials), grading, compacting and trenching. This category is also applicable to projects involving Demolition (see definition), riprap installation, construction of aggregate ditch, construction of gabions, slope mattress and revetment mats (riprap or interlocking concrete blocks) and removals. In addition, this category is applicable to Seeding for Land Reclamation projects.

EQUIPMENT: Scrapers, gradalls, graders, cranes, shovels, excavators, backhoe loaders, front-end loaders, skid-steer loaders, bulldozers, sheeps foot rollers, vibratory rollers or fine grading equipment are required to establish a rating.

CALCULATION OF WORK RATING: Primary or advanced formula.

<u>Equipment</u>	<u>Equipment factor (EqF)</u>
Self-propelled scrapers	\$21,000 per cubic meter of heaped capacity \$16,000 per cubic yard of heaped capacity
Pull type scrapers	\$12,000 per cubic meter of heaped capacity \$9,000 per cubic yard of heaped capacity
Gradalls	\$115,000 each
Graders	\$100,000 each
Cranes, shovels, excavators and backhoe loaders	\$360,000 for .5 cubic meter bucket size \$405,000 for .75 cubic meter bucket size \$480,000 for 1 cubic meter bucket size

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

	\$580,000 for 1.25 cubic meter bucket size
	\$730,000 for 1.5 cubic meter bucket size
	\$800,000 for 1.75 cubic meter bucket size
	\$880,000 for 2 cubic meter bucket size
	\$1,060,000 for 2.5 cubic meter bucket size
	\$1,400,000 for 3 cubic meter bucket size
	\$1,730,000 for 3.5 cubic meter bucket size
	\$375,000 for .75 cubic yard bucket size
	\$405,000 for 1 cubic yard bucket size
	\$460,000 for 1.25 cubic yard bucket size
	\$550,000 for 1.5 cubic yard bucket size
	\$635,000 for 1.75 cubic yard bucket size
	\$750,000 for 2 cubic yard bucket size
	\$835,000 for 2.5 cubic yard bucket size
	\$1,010,000 for 3 cubic yard bucket size
	\$1,210,000 for 3.5 cubic yard bucket size
	\$1,440,000 for 4 cubic yard bucket size
	\$1,610,000 for 4.5 cubic yard bucket size
Front-end loaders	\$115,000 for less than 1.5 cubic meter bucket size
	\$210,000 for 1.5 to 2 cubic meter bucket size
	\$340,000 for 2.1 to 3 cubic meter bucket size
	\$475,000 for 3.1 to 4 cubic meter bucket size
	\$605,000 for greater than 4 cubic meter bucket size
	\$115,000 for less than or equal to 2 cubic yard bucket size
	\$230,000 for 2.1 to 3 cubic yard bucket size
	\$375,000 for 3.1 to 4 cubic yard bucket size
	\$460,000 for 4.1 to 5 cubic yard bucket size
	\$605,000 for greater than 5 cubic yard bucket size
Skid-steer loaders	\$50,000 each
Bulldozers	\$200,000 each
Fine grading equipment	\$200,000 each
Self-propelled rollers	\$50,000 each
Pull-type rollers	\$15,000 each
Disc	\$15,000 each
Water truck	\$1.35 per liter
	\$5 per gallon
Off-road and bottom-dump trucks	\$20,000 per cubic meter of heaped capacity
	\$15,000 per cubic yard of heaped capacity

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

2 – PORTLAND CEMENT CONCRETE (PCC) PAVING

Consists of constructing pcc pavement, continuously reinforced pcc pavement, pcc base course and pcc base course widening, cement aggregate mixture sub-base, pozzolanic stabilized mixture sub-base and pozzolanic stabilized base course. This category is also applicable to Concrete Construction.

EQUIPMENT: A central mix plant or a batch plant with truck mixers, formless paver and finishing machine. A concrete plant with either a formless paver or a finishing machine is the minimum equipment requirement.

CALCULATION OF WORK RATING: Primary or advanced formula.

<u>Equipment</u>	<u>Equipment Factor (EqF)</u>
Central Mix Plant and Batch Plant*	(C.M./Batch) x (20 Batches/Hr.) x (8 Hrs./Day) x (80 Days/Yr.) x (\$105/C.M.) x (1.0) for an approved plant (C.Y./Batch) x (20 Batches/Hr.) x (8 Hrs./Day) x (80 Days/Yr.) x (\$80/C.Y.) x (1.0)
Central Mix Dual Plant and Dual Batch Plant*	(C.M./Batch) x (20 Batches/Hr.) x (8 Hrs./Day) x (80 Days/Yr.) x (\$105/C.M.) x (1.7) for an approved plant (C.Y./Batch) x (20 Batches/Hr.) x (8 Hrs./Day) x (80 Days/Yr.) x (\$80/C.Y.) x (1.7)

* To receive the maximum equipment factor (EqF) for a batch plant, the contractor shall possess a minimum of one truck mixer for every cubic yard of batch capacity of the plant.

3 – HOT-MIX ASPHALT (HMA) PLANT MIX

The placement of HMA pavement (Full Depth), binder and surface course (Class I and Superpave), base course widening, base course, stabilized sub-base, shoulder, shoulder curb, sidewalk, driveway, median, patching, open graded asphalt friction course and incidental surfacing. Also includes placement and hot recycling of reclaimed aggregates and asphaltic cements, and placement and production of cold mix stabilized base. This category is also applicable to HMA Paving.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

EQUIPMENT REQUIRED: An approved HMA plant, an approved HMA spreading and finishing machine and compaction equipment.

CALCULATION OF WORK RATING: Primary or advanced formula.

<u>Plant Production Rating</u>	<u>Equipment Factor (EqF)</u>
Metric Tons Per Hour (MTPH)	MTPH x (8 Hrs./Day) x (80 Days/Yr.) x (\$ 7235 /Ton)
Tons Per Hour (TPH)	TPH x (8 Hrs./Day) x (80 Days/Yr.) x (\$ 6932 /Ton)

Note: An approved HMA plant is a new or used plant that is used to calculate the EqF pursuant to Section 650.260 of this Part, and that is assigned a nominal production rating by the Bureau of Materials and Physical Research for the work category. Contracts may require the production of Class I or Superpave mixtures. The approved plant will be rated for production of Class I and Superpave mixtures prior to the production of such mixtures.

5 – HMA PAVING

Consists of placing HMA base, surface, widening or shoulders with a HMA spreading and finishing machine. This category is restricted to either 1,200 tons in any one contract (Class I, BAM, or Superpave) or as specified by the local agency. HMA, sidewalk, driveway, median and patching are not to be included in the tonnage determination. This work can also be completed under HMA Plant Mix.

EQUIPMENT REQUIRED: An approved HMA spreading and finishing machine and compaction equipment.

CALCULATION OF WORK RATING: Secondary formula.

6 – CLEANING AND SEALING CRACKS & JOINTS

Consists of routing and sealing cracks for asphaltic and concrete pavements.

EQUIPMENT REQUIRED: Router and melter.

CALCULATION OF WORK RATING: Secondary formula.

7 – SOIL STABILIZATION AND MODIFICATION

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Consists of constructing soil-cement base course and lime modified soils.

EQUIPMENT REQUIRED: Grader, rotary speedmixer, mechanical spreader, water tanker and compaction equipment.

CALCULATION OF WORK RATING: Secondary formula.

8 – AGGREGATE BASES & SURFACES (TYPE A)

Consists of constructing granular sub-base, aggregate base course, aggregate surface course, aggregate shoulders and aggregate-turf pavement. Also includes construction of cement aggregate mixture sub-base, pozzolanic stabilized mixture sub-base, pozzolanic stabilized base course, lime modified soils (disc harrow method), calcium chloride applications, and sub-ballast.

8 – AGGREGATE BASES & SURFACES (TYPE B)

Consists of hauling and spreading aggregate.

EQUIPMENT REQUIRED: Grader or mechanical spreader, and compaction equipment if applicable.

CALCULATION OF WORK RATING: Primary or advanced formula.

<u>Equipment</u>	<u>Equipment Factor (EqF)</u>
Grader and compaction equipment (Type A)	\$375,000 each
Mechanical spreader and compaction equipment (Type A)	\$375,000 each
Grader (Type B)	\$375,000 each
Mechanical spreader (Type B)	\$375,000 each
Widener	\$200,000 each

9 – STRUCTURES (HIGHWAY)

Consists of excavation for structures (includes cofferdams, temporary cribs, etc.), constructing concrete structures (bridges, box culverts, etc.), membrane waterproofing, constructing steel structures (bridges, corrugated structural plate drainage structures, etc.), constructing metal railings, constructing timber structures (bridges, etc.), erection, installation of reinforcement bars, piling (all types), and construction of temporary bridges. This category is also applicable to

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Structures Repair, Demolition, Concrete Construction, Fencing and Signing.

EQUIPMENT REQUIRED: see Structures (Waterway) Equipment.

CALCULATION OF WORK RATING: see Structures (Waterway) Calculation.

9 – STRUCTURES (RAILROAD)

Consists of items listed above. This category is specific to structures carrying railroad transportation.

9 – STRUCTURES (WATERWAY)

Consists of the construction of major structures and appurtenances for water storage and distribution, flood control and recreation. This includes dams, spillways, spillway crest gates, sluiceway, sluiceway gates, canals, channel appurtenances (culverts, flumes, inverted siphons, etc.), pump stations (including mechanical equipment), aqueducts, irrigation structures (checks, dams, gates, etc.), locks and dams, dikes, groins and jetties. This category also includes excavation for structures (includes cofferdams, temporary cribs, etc.), piling (all types), de-watering and Demolition

EQUIPMENT: Bulldozers, front-end loaders, shovels, cranes, backhoe loaders, excavators, pile hammers and bridge deck finishing machines. A crane is the minimum equipment requirement. However, a crane is not required for those contractors requesting a structures rating for \$150,000 or less.

CALCULATION OF WORK RATING: Secondary formula.

10 – STRUCTURES REPAIR

Consists of bridge deck repair or bridge deck removal and replacement. This includes the use of latex modified concrete, polymer concrete, epoxy and other materials for patching, deck overlays, sealing, etc. Also includes membrane waterproofing, constructing metal railings, installation of reinforcement bars, superstructure repairs such as replacement of joints, replacement of bearings, beam straightening (heat or mechanical), repair and retrofit of fracture and fatigue distressed steel girders, member strengthening, etc. Substructure repairs are also included and consist of the use of epoxy, shotcrete and other materials for minor repairs of spalled or deteriorated concrete. This category is also applicable to Concrete Construction, Fencing and Signing. This work can be completed under the Structures (Highway) category.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

EQUIPMENT: Front-end loaders, cranes, backhoe loaders, excavators and bridge deck finishing machines. A crane is the minimum equipment requirement. However, a crane is not required for those contractors requesting a structures repair rating for \$150,000 or less.

CALCULATION OF WORK RATING: Secondary formula.

11 – ANCHORS AND TIEBACKS

Construction of all types of anchors and tiebacks that provide resistance to lateral and uplift forces in bridge abutments, retaining walls, bulkheads, dams, deep excavations and various support systems (underpinning, etc.).

EQUIPMENT REQUIRED: Auger, drilling, or jacking equipment. Grouting equipment to include air compressor, mixing equipment, agitator-type reservoir tank and grout pump.

CALCULATION OF WORK RATING: Secondary formula.

12 – DRAINAGE

Consists of the installation and removal of precast concrete box culverts, installation and removal of pipe culverts and storm sewers, relining of pipe culverts and storm sewers, installation of pipe drains and pipe underdrains, exploration trenches for locating farm underdrains, minor boring and jacking of pipe-in-place, installation of cast iron soil pipe, installation of water mains and water service lines, adjusting sanitary sewers and water service lines, construction of catch basins, manholes, inlets, inspection holes and valve vaults, minor cleaning of catch basins, adjustment and reconstruction of catch basins, manholes, inlets, inspection holes and valve vaults, installation and adjustment of frames and grates, filling existing manholes, catch basins, inlets, wells and drainage structures, moving fire hydrants, moving domestic meter vaults and water service boxes, riprap installation, construction of aggregate ditch, installation of excelsior blanket, fiber mat and fiberglass roving, construction of gabions, slope mattress and revetment mats (riprap or interlocking concrete blocks), construction of trench and backfill for communication cables, ducts and conduits, construction of inverted siphons, construction of flumes, construction of pump stations (including mechanical equipment) and installation of corrugated structural plate drainage structures. This category is also applicable to de-watering projects, well drilling, slurry trench cut-off walls (soil-bentonite or cement-bentonite), and Drainage Cleaning.

EQUIPMENT REQUIRED: Trenching machine or backhoe loader or excavator.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

CALCULATION OF WORK RATING: Secondary formula.

13 – DRAINAGE CLEANING

Consists of cleaning of pipe culverts, storm sewers and catch basins. This work can also be completed under the Drainage Category.

EQUIPMENT REQUIRED: Vacuum or jetting equipment.

CALCULATION OF WORK RATING: Secondary formula.

14 – ELECTRICAL

Consists of the installation of electric cable, duct and conduits, construction of trench and backfill for cables, ducts and conduits, traffic surveillance and control installations, traffic signal installations, installation of light pole, installation of light tower, installation of vapor luminaire, installation of sign lighting, installation of temporary lighting systems, installation of navigational lighting systems, installation of photocell relay service, installation of airport lighting systems, installation of airport beacon towers and airport rotating beacons, and other appropriate illumination systems. This category is also applicable to electronic weigh scale installations, installation and maintenance of motorist call box systems and installation of electrical controls/mechanical equipment for pump stations.

EQUIPMENT REQUIRED: Trenching machine or backhoe loader or excavator or aerial equipment.

CALCULATION OF WORK RATING: Secondary formula.

15 – COVER AND SEAL COATS (TYPE A)

Consists of the application of bituminous materials for priming, road oiling, cover coating and seal coating.

15 – COVER AND SEAL COATS (TYPE B)

Consists of sealing parking lots and driveways.

EQUIPMENT REQUIRED: Distributor (Type A).

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

CALCULATION OF WORK RATING: Primary or advanced formula.

<u>Equipment</u>	<u>Equipment Factor (EqF)</u>
Distributor (Type A)	\$400,000 each
Tanker Truck* (Type A)	\$50,000 each

* A maximum of two tanker trucks per distributor will be allowed.

16 – SLURRY APPLICATIONS

Consists of slurry sealing and micro-surfacing.

EQUIPMENT REQUIRED: Slurry or micro-surfacing equipment.

CALCULATION OF WORK RATING: Secondary formula.

17 – CONCRETE CONSTRUCTION

Consists of masonry work or the construction of concrete barrier, curb, gutter, combination curb and gutter, sidewalk, driveway pavement, median, paved ditch, flumes, slope wall, retaining wall, railroad crossing, pavement, base course, base course widening and all types of pavement patching. This category also includes construction of revetment mats (cast-in-place concrete slabs), construction of foundations (light pole, light tower, etc.) and various undersealing projects that allow the voids to be filled by gravity flow. Removal of concrete that consists of any of the aforementioned items or similar items is applicable to this work rating. This category is also applicable to construction of box culverts and other similar miscellaneous drainage structures. The total of pavement, base course and base course widening cannot exceed 15,000 square yards in any one contract. This work can also be completed under the PCC Paving and Structures (Highways, Waterways) categories.

EQUIPMENT: Concrete saws, generators, vibrators, forms, tampers, screeds and concrete placement equipment.

CALCULATION OF WORK RATING: Secondary formula.

18 – LANDSCAPING

Consists of planting trees, shrubs, vines and other materials. This category also includes

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

applying fertilizing nutrients, mulching, watering, pruning and selective removal of unwanted plants and Seeding and Sodding.

EQUIPMENT: Auger equipment or hoe, tillers, disks, slope harrows, hydraulic seeders, tractor drawn or mounted seeders, rangeland type grass drill, mulch blowers, tree spade and water trucks. Seed bed preparation and seeding equipment, a tractor loader and a water truck is the minimum equipment requirement.

CALCULATION OF WORK RATING: Secondary formula.

19 – SEEDING AND SODDING

Consists of seeding, sodding, applying fertilizer nutrients, mulching, watering, installation of excelsior blanket, fiber mat and other erosion work. This work can also be completed under the Landscaping category.

EQUIPMENT: Tillers, disks, slope harrows, hydraulic seeders, tractor drawn or mounted seeders, rangeland type grass drill, mulch blowers and water tankers. Seed bed preparation, seeding equipment and a tractor is the minimum equipment requirement.

CALCULATION OF WORK RATING: Secondary formula.

20 – VEGETATION SPRAYING

Consists of the application of chemicals to remove or control vegetation.

EQUIPMENT REQUIRED: Tanker truck with on- and off-road spraying equipment.

CALCULATION OF WORK RATING: Secondary formula. The contractor must have an Illinois Commercial Pesticide Applicator's license. Workers must have an Illinois Commercial Pesticide Operator's license issued by the Illinois Department of Agriculture.

21 – TREE TRIMMING AND SELECTIVE TREE REMOVAL

Consists of commercial arborist work such as trimming and thinning of trees, root pruning and removal of individual trees and tree stumps.

EQUIPMENT REQUIRED: Aerial equipment, brush chipper, pruning tools and stump grinder.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

CALCULATION OF WORK RATING: Secondary formula.

22 – FENCING

Consists of constructing chain link fence, wire fence and wood fence. This category is also applicable to the installation of object markers, delineators and mile post markers. This work can also be completed under the Structural (Highway, Railroad) and Structures Repair categories.

EQUIPMENT: Post hole auger equipment needed for Fencing rating of \$200,000 or more.

CALCULATION OF WORK RATING: Secondary formula.

23 – GUARDRAIL

Consists of constructing steel plate beam guardrail, wood guardrail, cable road guard, posts (including guard posts), pipe handrail and metal railings. Removal of any of the aforementioned items or similar items is applicable to this work category.

EQUIPMENT REQUIRED: Post hammer or post hole auger.

CALCULATION OF WORK RATING: Secondary formula.

24 – GROUTING

Consists of shotcrete construction, lime injection systems, clay grouting, chemical grouting, compaction grouting, cement grouting, jet grouting, asphalt grouting and bituminous or cement fly ash undersealing of concrete pavements. Applicable to soil stabilization and rehabilitation of dams, bridges, sewers, tanks, reservoirs, tunnels, culverts, walls, masonry structures, etc. This category is also applicable to mud jacking, slab jacking and various under-sealing projects.

EQUIPMENT REQUIRED: Air compressor, mixing equipment, agitator-type reservoir tank and grout pump.

CALCULATION OF WORK RATING: Secondary formula.

25 – PAINTING AND CLEANING

Consists of the cleaning, containment and painting of metal surfaces. This includes structural

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

steel, sign structures, sign supports, traffic signal hardware, lighting hardware, etc. [This category is also applicable to pressure washing.](#)

EQUIPMENT REQUIRED: Air compressor, sandblast equipment, ~~and~~ paint spraying equipment, [and power washer.](#)

CALCULATION OF WORK RATING: Secondary formula.

26 – SIGNING

Consists of installing, relocating, renovating, refurbishing and cleaning sign panels. This category also includes the installation and relocation of sign supports and sign structures, installation of object markers, installation of delineators and installation of mile post markers. Removal of any of the aforementioned items is also applicable to this work category. This work can also be completed under the Structures (Highway) and Structure Repair categories.

EQUIPMENT REQUIRED: Auger and aerial equipment. A crane will also meet minimum equipment requirements. Auger only will be limited to roadside signing.

CALCULATION OF WORK RATING: Secondary formula.

27 – PAVEMENT MARKINGS (PAINT)

Consists of the installation of paint pavement marking lines, letters and symbols.

EQUIPMENT REQUIRED: Truck mounted or hand operated painting equipment.

CALCULATION OF WORK RATING: Secondary formula.

27 – PAVEMENT MARKINGS (THERMOPLASTIC)

Consists of the installation of thermoplastic pavement marking lines, letters and symbols.

EQUIPMENT REQUIRED: Truck mounted or hand operated equipment that is approved by the Bureau of Operations within the Division of Highways.

CALCULATION OF WORK RATING: Secondary formula.

27 – PAVEMENT MARKINGS (EPOXY)

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

Consists of the installation of epoxy pavement marking lines, letters and symbols.

EQUIPMENT REQUIRED: Equipment that is approved by the Bureau of Operations within the Division of Highways.

CALCULATION OF WORK RATING: Secondary formula.

27 – PAVEMENT MARKINGS (POLYUREA)

Consists of the installation of polyurea pavement marking lines, letters and symbols.

EQUIPMENT REQUIRED: Equipment that is approved by the Bureau of Operations within the Division of Highways.

CALCULATION OF WORK RATING: Secondary formula.

27 – PAVEMENT MARKINGS (MODIFIED URETHANE)

Consists of the installation of modified urethane pavement marking lines, letters and symbols.

EQUIPMENT REQUIRED: Equipment that is approved by the Bureau of Operations within the Division of Highways.

CALCULATION OF WORK RATING: Secondary formula.

30 – INSTALLATION OF RAISED PAVEMENT MARKERS

Consists of the installation of raised reflective pavement markers and their removal.

EQUIPMENT REQUIRED: Plunge router or saw.

CALCULATION OF WORK RATING: Secondary formula.

31 – PAVEMENT TEXTURING AND SURFACE REMOVAL

Consists of grooving or grinding PCC pavement or continuously reinforced PCC pavement.

EQUIPMENT REQUIRED: Grooving or grinding equipment.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

CALCULATION OF WORK RATING: Secondary formula.

32 – COLD MILLING, PLANING AND ROTOMILLING

Consists of bituminous surface removal or texturing bituminous pavements. Also applicable to pulverizing and mixing existing bituminous material.

EQUIPMENT REQUIRED: Milling, planing or grinding machine.

CALCULATION OF WORK RATING: Secondary formula.

33 – ERECTION

Consists of erecting structural steel or sign trusses. This work can be completed under the Structures (Highway, Railroad) category.

EQUIPMENT REQUIRED: Crane.

CALCULATION OF WORK RATING: Secondary formula.

34 – DEMOLITION

Consists of the removal of timber, steel and concrete structures and buildings. This work can be completed under the Structures (Highway, Railroad, Waterway) and Earthwork categories.

EQUIPMENT REQUIRED: Crane or excavator or front-end loader, backhoe loader or bulldozer.

CALCULATION OF WORK RATING: Secondary formula.

35 – FABRICATION

Consists of fabricating, delivering and storing structural steel.

EQUIPMENT REQUIRED: Fabrication plant.

CALCULATION OF WORK RATING: Secondary formula.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

36 – TUNNEL EXCAVATION

Consists of earth and rock excavation for tunnels, and construction of liner plate shafts, steel sheeted shafts and wood sheeted shafts. This category also includes rock bolting and major boring and jacking of pipe-in-place.

EQUIPMENT REQUIRED: Tunnel boring machine.

CALCULATION OF WORK RATING: Secondary formula.

37 – EXPRESSWAY CLEANING

Consists of sweeping expressways and arterial routes.

EQUIPMENT REQUIRED: Motorized street sweeping equipment.

CALCULATION OF WORK RATING: Secondary formula.

38 – RAILROAD (TRACK) CONSTRUCTION

Consists of sub-ballast construction, ballast construction, installation of crossites and installation of steel rails.

EQUIPMENT REQUIRED: Ballast regulator, tamper and lifting equipment.

CALCULATION OF WORK RATING: Secondary formula.

39 – MARINE CONSTRUCTION

Consists of the construction of harbors and docking facilities on lakes or rivers. This includes breakwater structures, groins, jetties, seawalls, major revetments (riprap, interlocking concrete blocks and cast-in-place concrete slabs), bulkheads, piers, wharves, fenders and dolphins. This work category is also applicable to excavation for structures (includes cofferdams, temporary cribs, etc.), piling (all types), de-watering, mechanical dredging, underwater inspection and underwater repair.

EQUIPMENT REQUIRED: Barge and barge-mounted crane.

CALCULATION OF WORK RATING: Secondary formula.

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTED AMENDMENTS

40 – HYDRAULIC DREDGING

Dredging of various waterways by the use of pumping equipment.

EQUIPMENT REQUIRED: Barge and pumping equipment.

CALCULATION OF WORK RATING: Secondary formula.

41 – HOT (IN-PLACE) RECYCLING

A road construction technique that involves a single-pass or a two-pass operation that scarifies and rejuvenates the existing pavement material or combines existing pavement material with virgin material.

EQUIPMENT REQUIRED: Either a single recycle machine or a recycling train capable of heating, scarifying, remixing and relaying pavement material. Compaction equipment is also required.

CALCULATION OF WORK RATING: Secondary formula.

42 – COLD (IN-PLACE) RECYCLING

A road construction technique that reuses existing pavement material.

EQUIPMENT REQUIRED: Emulsion tanker truck, recycle machine, paver and compaction equipment.

CALCULATION OF WORK RATING: Secondary formula.

(Source: Amended at 40 Ill. Reg. 7170, effective April 25, 2016)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

STRATTON OFFICE BUILDING

ROOM D-1

SPRINGFIELD, ILLINOIS

MAY 10, 2016

10:30 A.M.

***NOTICE:** It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706*

RULEMAKINGS SCHEDULED FOR JCAR REVIEW

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

PROPOSED RULEMAKINGSAgriculture

8-215-15-09065 BT

1. Anhydrous Ammonia, Low Pressure Nitrogen Solutions, Equipment, Containers, and Storage Facilities (8 Ill. Adm. Code 215)
 - First Notice Published: 39 Ill. Reg. 9065 – 7/10/15
 - Expiration of Second Notice: 5/11/16

Attorney General

77-4500-16-03425 MR

2. Hospital Financial Assistance under the Fair Patient Billing Act (77 Ill. Adm. Code 4500)
 - First Notice Published: 40 Ill. Reg. 3425 – 3/4/16
 - Expiration of Second Notice: 6/4/16

Gaming Board

11-1800-15-14809 LB

3. Video Gaming (General) (11 Ill. Adm. Code 1800)
 - First Notice Published: 39 Ill. Reg. 14809 – 11/13/15
 - Expiration of Second Notice: 6/20/16

Health Facilities and Services Review Board

77-1120-15-13566 AC

4. Health Facilities and Services Financial and Economic Feasibility Review (77 Ill. Adm. Code 1120)
 - First Notice Published: 39 Ill. Reg. 13566 – 10/16/15
 - Expiration of Second Notice: 5/25/16

Illinois State Toll Highway Authority

92-2520-16-02440 LB

5. State Toll Highway Rules (92 Ill. Adm. Code 2520)
 - First Notice Published: 40 Ill. Reg. 2440 – 2/5/16
 - Expiration of Second Notice: 5/14/16

Insurance

50-901-15-14218 MR

6. Destruction of Records (50 Ill. Adm. Code 901)
 - First Notice Published: 39 Ill. Reg. 14218 – 11/6/15
 - Expiration of Second Notice: 5/22/16

Natural Resources

17-2080-16-03161 BT

7. Operation of Watercraft Carrying Passengers For Hire on Illinois Waters (17 Ill. Adm. Code 2080)
 - First Notice Published: 40 Ill. Reg. 3161 – 2/19/16
 - Expiration of Second Notice: 5/28/16

Pollution Control Board

35-101-16-00052 JE

8. General Rules (35 Ill. Adm. Code 101)

- First Notice Published: 40 Ill. Reg. 52 – 1/4/16
- Expiration of Second Notice: 6/8/16

35-102-16-00095 JE

9. Regulatory and Information Hearings and Proceedings (35 Ill. Adm. Code 102)
 - First Notice Published: 40 Ill. Reg. 95 – 1/4/16
 - Expiration of Second Notice: 6/8/16

35-103-16-00107 JE

10. Enforcement (35 Ill. Adm. Code 103)
 - First Notice Published: 40 Ill. Reg. 107 – 1/4/16
 - Expiration of Second Notice: 6/8/16

35-114-16-00114 JE

11. Regulatory Relief Mechanisms (35 Ill. Adm. Code 114)
 - First Notice Published: 40 Ill. Reg. 114 – 1/4/16
 - Expiration of Second Notice: 6/8/16

35-105-16-00121 JE

12. Appeals of Final decisions of State Agencies (35 Ill. Adm. Code 105)
 - First Notice Published: 40 Ill. Reg. 121 – 1/4/16
 - Expiration of Second Notice: 6/8/16

35-106-16-00127 JE

13. Proceedings Pursuant to Specific Rules or Statutory Provisions (35 Ill. Adm. Code 106)
 - First Notice Published: 40 Ill. Reg. 127 – 1/4/16
 - Expiration of Second Notice: 6/8/16

35-107-16-00138 JE

14. Petition to Review Pollution Control Facility Siting Decisions (35 Ill. Adm. Code 107)
 - First Notice Published: 40 Ill. Reg. 138 – 1/4/16
 - Expiration of Second Notice: 6/8/16

35-108-16-00144 JE

15. Administrative Citations (35 Ill. Adm. Code 108)
 - First Notice Published: 40 Ill. Reg. 144 – 1/4/16
 - Expiration of Second Notice: 6/8/16

35-125-16-00148 JE

16. Tax Certifications (35 Ill. Adm. Code 125)
 - First Notice Published: 40 Ill. Reg. 148 – 1/4/16
 - Expiration of Second Notice: 6/8/16

Public Health

77-730-16-00322 AC

17. Manufacturing, Processing, Packing or Holding of Food Code (77 Ill. Adm. Code 730)
-First Notice Published: 40 Ill. Reg. 322 – 1/8/16
-Expiration of Second Notice: 6/2/16

68-750-15-14297 AC

18. Plumbers Licensing Code (68 Ill. Adm. Code 750)
-First Notice Published: 39 Ill. Reg. 14297 – 11/6/15
-Expiration of Second Notice: 6/5/16

77-750-16-01508 AC

19. Food Service Sanitation Code (77 Ill. Adm. Code 750)
-First Notice Published: 40 Ill. Reg. 01508 – 1/22/16
-Expiration of Second Notice: 6/9/16

Racing Board

11-603-16-02892 LB

20. Medication (11 Ill. Adm. Code 603)
-First Notice Published: 40 Ill. Reg. 2892 – 2/16/16
-Expiration of Second Notice: 5/18/16

11-1413-16-02907 LB

21. Entries, Subscriptions, and Declarations (11 Ill. Adm. Code 1413)
-First Notice Published: 40 Ill. Reg. 2907 – 2/16/16
-Expiration of Second Notice: 5/18/16

State Universities Retirement System

80-1600-16-00187 MR

22. Universities Retirement (80 Ill. Adm. Code 1600)
-First Notice Published: 40 Ill. Reg. 187 – 1/4/16
-Expiration of Second Notice: 5/21/16

Student Assistance Commission

23-2742-16-02195 BT

23. Grant Program for Medical Assistants in Training (23 Ill. Adm. Code 2742)

-First Notice Published: 40 Ill. Reg. 2195 – 1/29/16
-Expiration of Second Notice: 5/28/16

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of April 19, 2016 through April 25, 2016. The rulemakings are scheduled for review at the Committee's May 10, 2016 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start of First Notice</u>	<u>JCAR Meeting</u>
6/2/16	<u>Department of Public Health</u> , Manufacturing, Processing, Packing or Holding of Food Code (77 Ill. Adm. Code 730)	1/8/16 40 Ill. Reg.322	5/10/16
6/4/16	<u>Office of the Attorney General</u> , Hospital Financial Assistance under the Fair Patient Billing Act (77 Ill. Adm. Code 4500)	3/4/16 40 Ill. Reg. 3425	5/10/16
6/5/16	<u>Department of Public Health</u> , Plumbers Licensing Code (68 Ill. Adm. Code 750)	11/6/15 39 Ill. Reg. 14297	5/10/16
6/5/16	<u>Department of Revenue</u> , Medical Cannabis Privilege Tax Law (86 Ill. Adm. Code 429)	2/19/16 40 Ill. Reg. 3173	5/10/16
6/8/16	<u>Department of Natural Resources</u> , Raccoon, Opossum, Striped Skunk, Red Fox, Coyote, and Woodchuck (Groundhog) Hunting (17 Ill. Adm. Code 550)	1/22/16 40 Ill. Reg. 1413	5/10/16
6/8/16	<u>Department of Natural Resources</u> , Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, River Otter, Beaver and Woodchuck (Groundhog) Trapping (17 Ill. Adm. Code 570)	1/22/16 40 Ill. Reg. 1430	5/10/16

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 40, Issue 19 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

74 - 900	.....	6891
14 - 510	.....	6907
23 - 1501	.....	6923
89 - 140	.....	6936
89 - 152	.....	6966
41 - 2120	.....	6974
35 - 731	.....	6991
77 - 600	.....	7021
44 - 2000	.....	7043

ADOPTED RULES

62 - 240	4/22/2016	7051
77 - 597	4/21/2016	7113
77 - 690	4/21/2016	7146
44 - 650	4/25/2016	7170

ORDER FORM

<input type="checkbox"/> Print Version of the Illinois Register <input type="checkbox"/> New <input type="checkbox"/> Renewal	\$290.00 (annually)
<input type="checkbox"/> Back Issues of the Illinois Register (Current Year Only) Volume # _____ Issue# _____ Date _____	\$ 10.00 (each)
<input type="checkbox"/> Microfiche sets of the Illinois Register (1977 – 2004) Specify Year(s) _____	\$ 200.00 (per set)
<input type="checkbox"/> Yearly Index Cumulative/Sections Affected Indices (Current Year)	\$ 5.00 (per set)
(Processing fee for credit cards purchases, if applicable.)	\$ 2.00
TOTAL AMOUNT OF ORDER	\$ _____

Check Make Checks Payable To: **Secretary of State**

<input type="checkbox"/> VISA <input type="checkbox"/> Master Card <input type="checkbox"/> Discover <small>(There is a \$2.00 processing fee for credit card purchases.)</small>
Card #: _____ Expiration Date: _____
Signature: _____

Send Payment To: Secretary of State E-mail: eAdministrativeCode@ilsos.net
 Department of Index Phone: (217) 782-7017
 Administrative Code Division
 111 E. Monroe
 Springfield, IL 62756

Name:	Attention:	ID #:
Address:		
City:	State:	Zip Code:
Phone:	Fax:	E-Mail:

Published by **JESSE WHITE** • Secretary of State
www.cyberdriveillinois.com