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Editor's Note: The Secretary of State Index Department is providing this opportunity to remind you that the next filing period for your Regulatory Agenda will occur from October 15, 2015 until January 4, 2016.

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
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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

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material
- 2) Code Citation: 32 Ill. Adm. Code 337
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
337.10	New Section
337.20	New Section
337.30	New Section
337.40	New Section
337.50	New Section
337.1010	New Section
337.1020	New Section
337.1030	New Section
337.1040	New Section
337.1050	New Section
337.1060	New Section
337.1070	New Section
337.2010	New Section
337.2020	New Section
337.2030	New Section
337.2040	New Section
337.2050	New Section
337.2060	New Section
337.2070	New Section
337.2080	New Section
337.2090	New Section
337.3010	New Section
337.3020	New Section
337.3030	New Section
337.3040	New Section
337.3050	New Section
337.3060	New Section
337.5010	New Section
337.5020	New Section
337.6010	New Section
337.APPENDIX A	New Section

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED RULES

- 4) Statutory Authority: Implementing and authorized by Section 10 of the Radiation Protection Act of 1990 [420 ILCS 40/10]
- 5) A Complete Description of the Subjects and Issues Involved: The Agency is proposing this new regulation regarding the physical protection of byproduct material for compatibility with the U.S. Nuclear Regulatory Commission's (USNRC) changes to 10 CFR 20, 30, 32, 33, 34, 35, 36, 27, 29, 41, 71 and 73 pursuant to RATS ID 2013-1 (78 FR 16922, published March 19, 2013). In the aftermath of 9/11, the USNRC and the Agency issued a combination of legally binding orders and license amendments to radioactive material licensees to ensure that radioactive materials were protected from criminal activities that might represent a higher threat level than previously anticipated. This new regulation codifies these previous measures and formally establishes security requirements for licensees that use and/or transport category 1 and 2 quantities of radioactive material. The loss of control, theft or diversion of these quantities of radioactive material could result in significant adverse impacts constituting a threat to the public health and safety and the environment. Existing licensees subject to the additional security requirements of this proposed regulation will be required to comply on the effective date of this rulemaking.

Section 31 of the Radiation Protection Act of 1990 [420 ILCS 40/31] provides that the Agency is exempt from rulemaking procedures in the Illinois Administrative Procedure Act when regulations that are identical in substance are necessary to implement, secure, or maintain federal authorization for a program. After consideration of comments from the appropriate federal agency, the Agency may adopt the verbatim text of the laws, regulations, or orders as necessary and appropriate for authorization or maintenance of the program. The USNRC has reviewed the proposed regulation and has provided comments to the Agency and changes have been incorporated where necessary. Because this rulemaking is not subject to the Illinois Administrative Procedure Act, and in accordance with Section 31, this rulemaking will become effective following the first notice period immediately upon filing for adoption with the Secretary of State or at a date required or authorized by the relevant federal laws, regulations, or orders as stated in the notice of the rulemaking, and shall be published in the Illinois Register.

- 6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking: No, this regulation is being proposed solely on the basis of compatibility with the USNRC's changes to 10 CFR Parts 20, 30, 32, 33, 34, 35, 36, 37, 39, 51, 71 and 73 pursuant to RATS ID 2013-1 (78 FR 16922, published March 19, 2013).

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- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? Yes, incorporations by reference are made to Title 10 and 28 of the Code of Federal Regulations.
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: Local law enforcement agencies may see an impact as radioactive material licensees are required to coordinate with the local law enforcement for response to incidents at the licensee's facility pursuant to Section 337.2030. However, the impact will be minimal as this coordination is already occurring with existing licensees that fall under the requirements of this proposed regulation.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. The Agency will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:
- Traci Burton
Rules Coordinator
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704
- 217/785-9860
fax: 217/524-3698
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities or not-for-profit corporations affected: There are small businesses and not-for-profit corporations that fall under the requirements of this proposed regulation. The existing licensees are currently subject to similar security requirements issued through the USNRC orders and State licensing amendments. New licensees will have to comply with requirements of this Part prior to possession of materials.

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- B) Reporting, bookkeeping or other procedures required for compliance: Radioactive material licensees that fall under the requirements of this proposed regulation are required to create an access authorization program including background investigations on personnel that have or may have access to the category 1 and 2 material. In addition, the licensees are required to maintain and protect records obtained through the access authorization program. The licensee shall have monitoring and detecting capability and coordinate with the local law enforcement agency. In addition, the licensee shall implement a maintenance and testing program for alarms and systems used for detection of unauthorized access. The licensee shall submit reports for any suspected criminal event. The licensee shall also conduct preplanning prior to transferring material covered under this regulation.
- C) Types of professional skills necessary for compliance: Radioactive material licensees that fall under the requirements of this proposed regulation shall be able to develop and implement procedures in health physics, radiation safety, environmental safety, security and human resource management. The provision of this proposed regulation requires the ability to understand and apply regulations and safety principles. Licensees shall be able to perform investigations of potential radiation and security hazards and be deemed trustworthy and reliable by passing an FBI background check. The majority of licensees that fall under the requirements of this proposed regulation have already demonstrated these professional skills under terms of their existing licenses.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2015

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

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED RULES

TITLE 32: ENERGY

CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY
SUBCHAPTER b: RADIATION PROTECTION

PART 337

PHYSICAL PROTECTION OF CATEGORY 1 AND CATEGORY 2
QUANTITIES OF RADIOACTIVE MATERIAL

SUBPART A: GENERAL INFORMATION

Section	
337.10	Purpose
337.20	Scope
337.30	Incorporations by Reference
337.40	Definitions
337.50	Specific Exemptions

SUBPART B: BACKGROUND INVESTIGATIONS AND
ACCESS CONTROL PROGRAM

Section	
337.1010	Personnel Access Authorization Requirements for Category 1 or Category 2 Quantities of Radioactive Material
337.1020	Access Authorization Program Requirements
337.1030	Background Investigations
337.1040	Requirements for Criminal History Records Checks of Individuals Granted Unescorted Access to Category 1 or Category 2 Quantities of Radioactive Material
337.1050	Relief from Fingerprinting, Identification, and Criminal History Records Checks and Other Elements of Background Investigations for Designated Categories of Individuals Permitted Unescorted Access to Certain Radioactive Materials
337.1060	Protection of Information
337.1070	Access Authorization Program Review

SUBPART C: PHYSICAL PROTECTION REQUIREMENTS DURING USE

Section	
337.2010	Security Program
337.2020	General Security Program Requirements

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NOTICE OF PROPOSED RULES

337.2030	LLEA Coordination
337.2040	Security Zones
337.2050	Monitoring, Detection and Assessment
337.2060	Maintenance and Testing
337.2070	Requirements for Mobile Devices
337.2080	Security Program Review
337.2090	Reporting of Events

SUBPART D: PHYSICAL PROTECTION IN TRANSIT

Section	
337.3010	Additional Requirements for Transfer of Category 1 and Category 2 Quantities of Radioactive Material
337.3020	Applicability of Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material During Transit
337.3030	Preplanning and Coordination of Shipment of Category 1 or Category 2 Quantities of Radioactive Material
337.3040	Advance Notification of Shipment of Category 1 Quantities of Radioactive Material
337.3050	Requirements for Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material During Shipment
337.3060	Reporting of Events

SUBPART E: RECORDS

Section	
337.5010	Form of Records
337.5020	Record Retention

SUBPART F: ENFORCEMENT

Section	
337.6010	Resolution of Conflicting Requirements During Transition Period

337.APPENDIX A Category 1 and Category 2 Radioactive Materials

AUTHORITY: Implementing and authorized by Section 10 of the Radiation Protection Act of 1990 [420 ILCS 40/10].

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NOTICE OF PROPOSED RULES

SOURCE: Adopted at 40 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL INFORMATION

Section 337.10 Purpose

This Part contains the requirements for the physical protection program for any licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material listed in Appendix A. These requirements provide reasonable assurance of the security of category 1 or category 2 quantities of radioactive material by protecting these materials from theft, sabotage or diversion. Specific requirements for access, use, transfer and transport of material are included. No provision of this Part authorizes possession of licensed material. The requirements in this Part are in addition to, and not in substitution for, other requirements in 32 Ill. Adm. Code: Chapter II, Subchapters b and d. All applicants for a license and existing licensees are subject to this Part, unless specifically exempted.

Section 337.20 Scope

- a) Subparts B and C apply to any person who possesses or uses at any site an aggregated category 1 or category 2 quantity of radioactive material.
- b) Subpart D applies to any person who:
 - 1) Transports or delivers a category 1 or category 2 quantity of radioactive material to a carrier for transport in a single shipment; or
 - 2) Imports or exports a category 1 or category 2 quantity of radioactive material.

AGENCY NOTE: The provisions of this Part only apply to the domestic portion of the transport.

- c) Each licensee is responsible for ensuring that persons performing activities under a radioactive material license issued by IEMA comply with 32 Ill. Adm. Code: Chapter II, Subchapters b and d, conditions of the license and any orders issued by IEMA.

Section 337.30 Incorporations by Reference

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NOTICE OF PROPOSED RULES

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

Section 337.40 Definitions

As used in this Part:

"Access control" means a system for allowing only approved individuals to have unescorted access to the security zone and for ensuring that all other individuals are subject to escorted access.

"Aggregated" means accessible by the breach of a single physical barrier that would allow access to radioactive material in any form, including any devices that contain the radioactive material, when the total activity equals or exceeds a category 2 quantity of radioactive material.

"Approved individual" means an individual whom the licensee has determined to be trustworthy and reliable for unescorted access in accordance with Subpart B and who has completed the training required by Section 337.2020(c). This does not mean the individual has met the requirements to be an approved authorized user of radioactive material.

"Atomic Energy Act of 1954" means (42 USC 2169).

"Background investigation" means the investigation required by Section 337.1030 and conducted by a licensee or applicant for a license to support the determination of trustworthiness and reliability.

"Carrier" means a person engaged in the transportation of passengers or property by land or water as a common, contract or private carrier, or by civil aircraft.

"Category 1 quantity of radioactive material" means a quantity of radioactive material meeting or exceeding the category 1 threshold in Table 1 of Appendix A. This is determined by calculating the ratio of the total activity of each radionuclide to the category 1 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a

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category 1 quantity. Category 1 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod or fuel pellet.

"Category 2 quantity of radioactive material" means a quantity of radioactive material meeting or exceeding the category 2 threshold but less than the category 1 threshold in Table 1 of Appendix A. This is determined by calculating the ratio of the total activity of each radionuclide to the category 2 threshold for that radionuclide and adding the ratios together. If the sum is equal to or exceeds 1, the quantity would be considered a category 2 quantity. Category 2 quantities of radioactive material do not include the radioactive material contained in any fuel assembly, subassembly, fuel rod or fuel pellet.

"Diversion" means the unauthorized movement of radioactive material subject to this Part to a location different from the material's authorized destination inside or outside of the site that the material is used or stored.

"Escorted access" means accompaniment while in a security zone by an approved individual who maintains continuous direct visual surveillance at all times over an individual who is not approved for unescorted access.

"FBI" means the Federal Bureau of Investigation.

"Fingerprint Orders" means the orders issued by the U.S. Nuclear Regulatory Commission or the legally binding requirements issued by Agreement States that require fingerprints and criminal history records checks for individuals with unescorted access to category 1 and category 2 quantities of radioactive material or safeguards information-modified handling.

"IEMA" means the Illinois Emergency Management Agency.

"License issuing authority" means the licensing agency that issued the license (i.e., the U.S. Nuclear Regulatory Commission, IEMA or the appropriate agency of another Agreement State).

"Local law enforcement agency" or "LLEA" means a public or private organization that has been approved by a federal, state or local government to carry firearms and make arrests. The LLEA is authorized, and has the capability,

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to provide an armed response in the jurisdiction where the licensed category 1 or category 2 quantities of radioactive material is used, stored or transported.

"Mobile device" means a piece of equipment containing licensed radioactive material that is either mounted on wheels or casters, or otherwise equipped for moving without a need for disassembly or dismounting, or designed to be hand carried. Mobile devices do not include stationary equipment installed in a fixed location.

"Movement control center" means an operations center that is remote from transport activity and maintains position information on the movement of radioactive material, receives reports of attempted attacks or thefts, provides a means for reporting these and other problems to appropriate agencies, and requests and coordinates appropriate aid.

"No-later-than arrival time" means the date and time that the shipping licensee and receiving licensee have established as the time that an investigation will be initiated if the shipment has not arrived at the receiving facility. The no-later-than arrival time may not be more than 6 hours after the estimated arrival time for shipments of category 2 quantities of radioactive material.

"Reviewing official" means the individual who shall make the trustworthiness and reliability determination of an individual to determine whether the individual may have, or continue to have, unescorted access to the category 1 or category 2 quantities of radioactive materials that are possessed by the licensee. The reviewing official may have unescorted access to category 1 or category 2 quantities of radioactive material only if his or her job duties require this unescorted access. If the job duties require access to the material, the reviewing official shall also meet the training requirements for use of that radioactive material.

"Sabotage" means deliberate damage, with malevolent intent, to a category 1 or category 2 quantities of radioactive material, a device that contains a category 1 or category 2 quantities of radioactive material or the components of the security system.

"Safeguards information" means information not classified as National Security Information or Restricted Data, which specifically identifies a licensee's or applicant's detailed control and accounting procedures for the physical protection

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of special nuclear material in quantities determined by the U.S. Nuclear Regulatory Commission (NRC) through order or regulation to be significant to the public health and safety or the common defense and security; detailed security measures (including security plans, procedures and equipment) for the physical protection of source, byproduct or special nuclear material in quantities determined by NRC through order or regulation to be significant to the public health and safety or the common defense and security; security measures for the physical protection of and location of certain plant equipment vital to the safety of production or utilization facilities; and any other information within the scope of section 147 of the Atomic Energy Act of 1954, as amended, the unauthorized disclosure of which, as determined by the NRC through order or regulation, could reasonably be expected to have a significant adverse effect on the health and safety of the public or the common defense and security by significantly increasing the likelihood of sabotage or theft or diversion of source, byproduct or special nuclear material.

"Safeguards information - modified handling" is the designation or marking applied to safeguards information that NRC has determined requires handling requirements modified from the specific safeguards information handling requirements that are applicable to safeguards information needing a higher level of protection.

"Safe haven" means a readily recognizable and readily accessible site where security is present or at which, in the event of an emergency, the transport crew can notify and wait for LLEA.

"Security zone" means any temporary or permanent area determined and established by the licensee for the physical protection of category 1 or category 2 quantities of radioactive material.

"Telemetric position monitoring system" means a data transfer system that captures information by instrumentation and/or measuring devices about the location and status of a transport vehicle or package between the departure and destination locations.

"Trustworthiness and reliability" are characteristics of an individual considered dependable in judgment, character and performance, such that unescorted access to category 1 or category 2 quantities of radioactive material by that individual does not constitute an unreasonable risk to the public health and safety or security.

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For this purpose, a determination of trustworthiness and reliability is based upon the results of a background investigation and certification by the reviewing official.

"Unescorted access" means solitary access to an aggregated category 1 or category 2 quantities of radioactive material or the devices that contain the material.

Section 337.50 Specific Exemptions

A licensee that possesses radioactive waste that contains category 1 or category 2 quantities of radioactive material quantities of radioactive is exempt from the requirements of Subparts B, C and D; except that any radioactive waste that contains discrete sources, ion-exchange resins or activated material that weighs less than 2,000 kg (4,409 lbs) is not exempt from the requirements. The licensee shall implement the following requirements to secure the radioactive waste:

- a) Use continuous physical barriers that allow access to the radioactive waste only through established access control points;
- b) Use a locked door or gate with monitored alarm at the access control point;
- c) Assess and respond to each actual or attempted unauthorized access to determine whether an actual or attempted theft, sabotage or diversion occurred; and
- d) Immediately notify the coordinating LLEA (see Section 337.2030) and request an armed response from the LLEA upon determination that there was an actual or attempted theft, sabotage or diversion of the radioactive waste that contains category 1 or category 2 quantities of radioactive material. Immediately after initiating a response, but not at the expense of causing delay or interfering with the LLEA response to the event, the licensee shall notify IEMA at 217/782-7860 or 800/782-7860. In no case shall the notification to IEMA be made later than 1 hour after the discovery of any attempted or actual theft, sabotage or diversion.

**SUBPART B: BACKGROUND INVESTIGATIONS AND
ACCESS CONTROL PROGRAM****Section 337.1010 Personnel Access Authorization Requirements for Category 1 or
Category 2 Quantities of Radioactive Material**

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED RULES

a) General

- 1) Each licensee that possesses an aggregated quantity of radioactive material at or above the category 2 threshold shall establish, implement and maintain its access authorization program in accordance with the requirements of this Subpart.
- 2) An applicant for a new license and each licensee that would become newly subject to the requirements of this Subpart upon application for modification of its license shall implement the requirements of this Subpart, as appropriate, before taking possession of an aggregated category 1 or category 2 quantities of radioactive material.
- 3) Any licensee that has not previously implemented the security orders or legally binding requirements of the Agreement States or been subject to the provisions of this Subpart, shall implement the provisions of this Subpart before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

AGENCY NOTE: Security order refers to any order that was issued by the NRC or an amendment to a license issued by IEMA that required fingerprints and an FBI criminal history records check for access to safeguards information, safeguards information-modified handling, or risk significant material.

b) General Performance Objective

The licensee's access authorization program shall ensure that the individuals specified in subsection (c)(1) are trustworthy and reliable.

c) Applicability

- 1) Licensees shall subject the following individuals to an access authorization program:
 - A) Any individual whose assigned duties require unescorted access to category 1 or category 2 quantities of radioactive material or to any device that contains the radioactive material; and
 - B) Reviewing officials.

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- 2) Licensees need not subject the categories of individuals listed in Section 337.1050(a) to the investigation elements of the access authorization program identified in Section 337.1030.
- 3) Licensees shall approve for unescorted access to category 1 or category 2 quantities of radioactive material only those individuals with job duties that require unescorted access to category 1 or category 2 quantities of radioactive material.

Section 337.1020 Access Authorization Program Requirements

- a) Granting Unescorted Access Authorization
 - 1) Licensees shall implement the requirements of this Subpart for granting initial or reinstated unescorted access authorization.
 - 2) Individuals who have been determined to be trustworthy and reliable shall also complete the security training required by Section 337.2020(c) before being allowed unescorted access to category 1 or category 2 quantities of radioactive material.
- b) Reviewing Officials
 - 1) Reviewing officials are the only individuals who may make trustworthiness and reliability determinations that allow individuals to have unescorted access to category 1 or category 2 quantities of radioactive material possessed by the licensee.
 - 2) Each licensee shall name one or more individuals to be reviewing officials. After completing the background investigation on the reviewing official, the licensee shall provide, under oath or affirmation, a certification that the reviewing official is deemed trustworthy and reliable by the licensee. The fingerprints of the named reviewing official shall be taken by a law enforcement agency, federal or state agencies that provide fingerprinting services to the public, or commercial fingerprinting services authorized by a state to take fingerprints. The licensee shall recertify that the reviewing official is deemed trustworthy and reliable every 10 years in accordance with Section 337.1030(b).

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- 3) Reviewing officials shall be permitted to have unescorted access to category 1 or category 2 quantities of radioactive material if their job duties require unescorted access to category 1 or category 2 quantities of radioactive material as referenced in Section 337.1010(c)(3).
 - 4) Reviewing officials cannot approve other individuals to act as reviewing officials.
 - 5) A reviewing official does not need to undergo a new background investigation before being named by the licensee as the reviewing official if:
 - A) The individual has previously undergone a background investigation that included fingerprinting and an FBI criminal history records check and has been determined to be trustworthy and reliable by the licensee; or
 - B) The individual falls within a category listed in Section 337.1050(a).
- c) Informed Consent
- 1) Licensees may not initiate a background investigation without the informed and signed consent of the subject individual. This consent shall include authorization to share personal information with other individuals or organizations as necessary to complete the background investigation. Before a final adverse determination, the licensee shall provide the individual with an opportunity to correct any inaccurate or incomplete information that is developed during the background investigation. Licensees do not need to obtain signed consent from those individuals that meet the requirements of Section 337.1030(d). A signed consent shall be obtained prior to any reinvestigation.
 - 2) The subject individual may withdraw his or her consent at any time. Licensees shall inform the individual that:
 - A) If an individual withdraws his or her consent, the licensee may not initiate any elements of the background investigation that were not

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in progress at the time the individual withdrew his or her consent;
and

- B) The withdrawal of consent for the background investigation is sufficient cause for denial or termination of unescorted access authorization.
- d) **Personal History Disclosure**
Any individual who is applying for unescorted access authorization shall disclose the personal history information that is required by the licensee's access authorization program for the reviewing official to make a determination of the individual's trustworthiness and reliability. Refusal to provide, or the falsification of, any personal history information required by this Subpart is sufficient cause for denial or termination of unescorted access.
- e) **Determination Basis**
- 1) The reviewing official shall determine whether to permit, deny, unfavorably terminate, maintain or administratively withdraw an individual's unescorted access authorization based on an evaluation of all of the information collected to meet the requirements of this Subpart.
 - 2) The reviewing official may not permit any individual to have unescorted access until the reviewing official has evaluated all of the information collected to meet the requirements of this Subpart and determined that the individual is trustworthy and reliable. The reviewing official may deny unescorted access to any individual based on information obtained at any time during the background investigation.
 - 3) The licensee shall document the basis for concluding whether there is reasonable assurance that an individual is trustworthy and reliable.
 - 4) The reviewing official may terminate or administratively withdraw an individual's unescorted access authorization based on information obtained after the background investigation has been completed and the individual is granted unescorted access authorization.
 - 5) Licensees shall maintain a list of persons currently approved for authorization. When a licensee determines that a person no longer

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requires unescorted access or meets the access authorization requirement, the licensee shall remove the person from the approved list as soon as possible, but no later than 7 working days after the determination, and take prompt measures to ensure that the individual is unable to have unescorted access to the material.

- f) Procedures. Licensees shall develop, implement and maintain written procedures for implementing the access authorization program. The procedures shall include provisions for:
- 1) The notification of individuals who are denied unescorted access;
 - 2) The review, at the request of the affected individual, of a denial or termination of unescorted access authorization;
 - 3) Ensuring that the individual is informed of the grounds for the denial or termination of unescorted access authorization; and
 - 4) Allowing the individual an opportunity to provide additional relevant information.
- g) Right to Correct and Complete Information
- 1) Prior to any final adverse determination, licensees shall provide each individual subject to this Subpart with the right to complete, correct and explain information obtained as a result of the background investigation. Confirmation of receipt by the individual of this notification shall be maintained by the licensee for a period of 1 year from the date of the notification.
 - 2) If, after reviewing his or her criminal history record, an individual believes that it is incorrect or incomplete and wishes to change, correct, update or explain anything in the record, the individual may initiate challenge procedures. These procedures include direct application by the individual challenging the record to the law enforcement agency that contributed the questioned information or a direct challenge as to the accuracy or completeness of any entry on the criminal history record to the Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, ATTN: SCU, Mod. D-2, 1000 Custer Hollow Road, Clarksburg

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WV 26306, as set forth in 28 CFR 16.30 through 16.34. In the latter case, the FBI will forward the challenge to the entity that submitted the data and will request that the submitting entity verify or correct the challenged entry. Upon receipt of an official communication directly from the submitting entity that contributed the original information, the FBI Identification Division should make any necessary changes in accordance with the information supplied by that submitting entity. Licensees shall provide at least 10 business days for an individual to initiate action to challenge the results of an FBI criminal history records check after the record is made available for his or her review. The licensee shall make a final adverse determination based upon the criminal history records only after receipt of the FBI's confirmation or correction of the record.

- h) Records
 - 1) The licensee shall retain documentation regarding the trustworthiness and reliability of individual employees for 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material.
 - 2) The licensee shall retain a copy of the current access authorization program procedures as a record for 3 years after the procedure is no longer needed. If any portion of the procedure is superseded, the licensee shall retain the superseded material for 5 years after the record is superseded.
 - 3) The licensee shall retain the list of persons approved for unescorted access authorization for 5 years after the list is superseded or replaced.

Section 337.1030 Background Investigations

- a) Initial Investigation

Before allowing an individual unescorted access to category 1 or category 2 quantities of radioactive material or to the devices that contain the material, licensees shall complete a background investigation of the individual seeking unescorted access authorization. The scope of the investigation shall encompass at least the 7 years preceding the date of the background investigation or since the individual's 18th birthday, whichever is shorter. The background investigation shall include, at a minimum:

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- 1) Fingerprinting and an FBI identification and criminal history records check in accordance with Section 337.1040;
- 2) Verification of true identity. Licensees shall verify the true identity of the individual who is applying for unescorted access authorization to ensure that the applicant is who he or she claims to be. A licensee shall review official identification documents (e.g., driver's license; passport; government identification and/or certificate of birth issued by the state, province or country of birth) and compare the documents to personal information provided by the individual to identify any discrepancy in the information. Licensees shall document the type, expiration and identification number of the identification document or maintain a photocopy of identifying documents on file in accordance with Section 337.1060. Licensees shall certify in writing that the identification was properly reviewed and shall maintain the certification and all related documents for review upon inspection;
- 3) Employment history verification. Licensees shall complete an employment history verification, including military history. Licensees shall verify the individual's employment with each previous employer for the most recent 7 years before the date of application or since the individual's 18th birthday, whichever is shorter;
- 4) Verification of education. Licensees shall verify that the individual participated in the education process during the claimed period; and
- 5) Character and reputation determination. Licensees shall complete reference checks to determine the character and reputation of the individual who has applied for unescorted access authorization. Unless other references are not available, reference checks may not be conducted with any person who is known to be a close member of the individual's family, including, but not limited to, the individual's spouse, parents, siblings or children or any individual who resides in the individual's permanent household. Reference checks under this Subpart shall be limited to whether the individual has been and continues to be trustworthy and reliable.

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- b) The licensee shall, to the extent possible, obtain independent information to corroborate that provided by the individual (e.g., seek references not supplied by the individual).
- c) If a previous employer, educational institution or any other entity with which the individual claims to have been engaged fails to provide information or indicates an inability or unwillingness to provide information within a time frame deemed appropriate by the licensee (no less than 10 business days after the request) or if the licensee is unable to reach the entity, the licensee shall document the refusal, unwillingness or inability in the record of investigation and attempt to obtain the information from an alternate source.
- d) Grandfathering
 - 1) Individuals who were previously determined to be trustworthy and reliable for unescorted access to category 1 or category 2 quantities of radioactive material under the Fingerprint Orders may continue to have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. These individuals shall be subject to the reinvestigation requirement.
 - 2) Individuals who have been determined to be trustworthy and reliable under the provisions of a security order for access to safeguards information, safeguards information-modified handling or risk-significant material may have unescorted access to category 1 and category 2 quantities of radioactive material without further investigation. The licensee shall document that the individual was determined to be trustworthy and reliable under the provisions of a security order. These individuals shall be subject to the reinvestigation requirement.
- e) Reinvestigations
Licensees shall conduct a reinvestigation every 10 years for any individual with unescorted access to category 1 or category 2 quantities of radioactive material. The reinvestigation shall consist of fingerprinting and an FBI identification and criminal history records check in accordance with Section 337.1040. The reinvestigations shall be completed within 10 years after the date that these elements were last completed.

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Section 337.1040 Requirements for Criminal History Records Checks of Individuals Granted Unescorted Access to Category 1 or Category 2 Quantities of Radioactive Material

- a) General Performance Objective and Requirements
 - 1) Except for those individuals listed in Section 337.1050 and those individuals grandfathered under Section 337.1030(d), each licensee subject to the provisions of this Subpart shall fingerprint each individual who is to be permitted unescorted access to category 1 or category 2 quantities of radioactive material. Licensees shall transmit all collected fingerprints to the NRC for transmission to the FBI. The licensee shall use the information received from the FBI as part of the required background investigation to determine whether to grant or deny further unescorted access to category 1 or category 2 quantities of radioactive material for that individual.
 - 2) The licensee shall notify each affected individual that his or her fingerprints will be used to secure a review of his or her criminal history record and shall inform him or her of the procedures for revising the record or adding explanations to the record.
 - 3) Fingerprinting is not required if:
 - A) A licensee is reinstating an individual's unescorted access authorization;
 - B) The individual returns to the same facility that granted the unescorted access authorization within 365 days after termination of his or her unescorted access authorization; and
 - C) The previous unescorted access authorization was terminated under favorable conditions.
 - 4) Fingerprints are not required if an individual who is an employee of a licensee, contractor, manufacturer or supplier has been granted unescorted access to category 1 or category 2 quantities of radioactive material, access to safeguards information or safeguards information-modified handling by another licensee based upon a background investigation conducted under this Subpart, the Fingerprint Orders or 10 CFR 73. An

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existing criminal history records check file may be transferred, in accordance with the provisions of Section 337.1060(c), to the licensee asked to grant unescorted access.

- 5) Licensees shall use the information obtained as part of a criminal history records check solely for the purpose of determining an individual's suitability for unescorted access authorization.
- b) Prohibitions
- 1) Licensees may not base a final determination to deny an individual unescorted access authorization solely on the basis of information received from the FBI involving:
 - A) An arrest more than 1 year old in which there is no information of the disposition of the case; or
 - B) An arrest that resulted in dismissal of the charge or an acquittal.
 - 2) Licensees may not use information received from a criminal history records check obtained under this Subpart in a manner that would infringe upon the rights of any individual under the First Amendment to the Constitution of the United States nor shall licensees use the information in any way that would discriminate among individuals on the basis of race, religion, national origin, gender or age.
- c) Procedures for Processing of Fingerprint Checks
- 1) For the purpose of complying with this Subpart, licensees shall use an appropriate method listed in 10 CFR 37.7 to submit to the U.S. Nuclear Regulatory Commission, Director, Division of Facilities and Security, 11545 Rockville Pike, ATTN: Criminal History Program/Mail Stop TWB-05 B32M, Rockville MD 20852, one completed, legible standard fingerprint card (Form FD-258, ORIMDNRCOOOZ), electronic fingerprint scan or, where practicable, other fingerprint record for each individual requiring unescorted access to category 1 or category 2 quantities of radioactive material.

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AGENCY NOTE: Copies of these forms may be obtained by writing the Office of Information Services, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001, by calling 630/829-9565 or by email to FORMS.Resource@nrc.gov.

- 2) Fees for the processing of fingerprint checks are due upon application. Licensees shall submit payment with the application for the processing of fingerprints through corporate check, certified check, cashier's check, money order or electronic payment made payable to "U.S. NRC". Combined payment for multiple applications is acceptable. The amount of the fingerprint check application fee is available on NRC's website. To find the current fee amount, go to the Electronic Submittals page at <http://www.nrc.gov/site-help/e-submittals.html> and see the link for the Criminal History Program under Electronic Submission Systems.

AGENCY NOTE: For guidance on making electronic payments, contact the Personnel Security Branch, Division of Facilities and Security at 301/492-3531.

- 3) NRC will forward to the submitting licensee all data received from the FBI as a result of the licensee's applications for criminal history records checks.

Section 337.1050 Relief from Fingerprinting, Identification, Criminal History Records Checks and Other Elements of Background Investigations for Designated Categories of Individuals Permitted Unescorted Access to Certain Radioactive Materials

- a) Fingerprinting, and the identification and criminal history records checks required by section 149 of the Atomic Energy Act of 1954, as amended, and other elements of the background investigation are not required for the following individuals prior to granting unescorted access to category 1 or category 2 quantities of radioactive material:
 - 1) An employee of the NRC or of the Executive Branch of the U.S. government who has undergone fingerprinting for a prior U.S. government criminal history records check;
 - 2) A member of Congress;

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- 3) An employee of a member of Congress or Congressional committee who has undergone fingerprinting for a prior U.S. government criminal history records check;
- 4) The Governor of Illinois or his or her designated State employee representative;
- 5) Federal, State of Illinois or local law enforcement personnel;
- 6) The IEMA Director and State Homeland Security Advisor or their designated State employee representatives;
- 7) IEMA employees conducting security inspections on behalf of the NRC under an agreement executed under section 274.i of the Atomic Energy Act of 1954;
- 8) Representatives of the International Atomic Energy Agency (IAEA) engaged in activities associated with the U.S./IAEA Safeguards Agreement who have been certified by the NRC;
- 9) Emergency response personnel who are responding to an emergency;
- 10) Commercial vehicle drivers for road shipments of category 1 and category 2 quantities of radioactive material;
- 11) Package handlers at transportation facilities such as freight terminals and railroad yards;
- 12) Any individual who has an active federal security clearance, provided that he or she makes available the appropriate documentation. Written confirmation from the agency/employer that granted the federal security clearance or reviewed the criminal history records check shall be provided to the licensee. The licensee shall retain this documentation for a period of 3 years from the date the individual no longer requires unescorted access to category 1 or category 2 quantities of radioactive material;
- 13) Any individual employed by a service provider licensee that the service provider licensee has conducted the background investigation for the individual and approved the individual for unescorted access to category 1

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or category 2 quantities of radioactive material. Written verification from the service provider shall be provided to the licensee. The licensee shall retain the documentation for a period of 3 years from the date the individual no longer requires unescorted access authorization; and

- 14) Any individual employed by a service provider licensee that the service provider licensee has conducted the background investigation for the individual and approved the individual for unescorted access to category 1 or category 2 quantities of radioactive material. Written verification from the service provider shall be provided to the licensee. The licensee shall retain the documentation for a period of 3 years from the date the individual no longer requires unescorted access authorization.
- b) Fingerprinting and the identification and criminal history records checks required by Section 149 of the Atomic Energy Act of 1954 are not required for an individual who has had a favorably adjudicated U.S. Government criminal history records check within the last 5 years under a comparable U.S. Government program involving fingerprinting and an FBI identification and criminal history records check provided that he or she makes available the appropriate documentation. Written confirmation from the agency/employer that reviewed the criminal history records check shall be provided to the licensee. The licensee shall retain this documentation for a period of 5 years from the date the individual no longer requires unescorted access authorization. These programs include, but are not limited to:
 - 1) National Agency Check;
 - 2) Transportation Worker Identification Credentials (TWIC) under 49 CFR 1572;
 - 3) Bureau of Alcohol, Tobacco, Firearms and Explosives background check and clearances under 27 CFR 555;
 - 4) Health and Human Services security risk assessments for possession and use of select agents and toxins under 42 CFR 73;
 - 5) Hazardous material security threat assessment for hazardous material endorsement to commercial driver's license under 49 CFR 1572; and

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- 6) Customs and Border Protection's Free and Secure Trade (FAST) Program.

Section 337.1060 Protection of Information

- a) Each licensee who obtains background information on an individual under this Subpart shall establish and maintain a system of files and written procedures for protection of the record and the personal information from unauthorized disclosure.
- b) The licensee shall not disclose the record or personal information collected and maintained to persons other than the subject individual, his or her representative or those who have a need to have access to the information in performing assigned duties in the process of granting or denying of unescorted access authorization. No individual authorized to have access to the information shall disseminate the information to any other individual who does not have a need to know.
- c) The personal information obtained on an individual from a background investigation may be provided to another licensee:
 - 1) Upon the individual's written request, to the licensee holding the data, to disseminate the information contained in his or her file; and
 - 2) The recipient licensee verifies information such as name, date of birth, social security number, gender and other applicable physical characteristics of the individual.
- d) The licensee shall make background investigation records obtained under this Subpart available for examination by an authorized representative of IEMA to determine compliance with the law.
- e) The licensee shall retain all fingerprint and criminal history records received from the FBI, including data indicating no record, or a copy of these records if the individual's file has been transferred. The records shall be retained for 5 years from the date the individual no longer requires unescorted access authorization.

Section 337.1070 Access Authorization Program Review

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- a) Each licensee shall be responsible for the continuing effectiveness of the access authorization program. Each licensee shall ensure that access authorization programs are reviewed to confirm compliance with the requirements of this Subpart and that comprehensive actions are taken to correct any noncompliance that is identified. The review program shall evaluate all program performance objectives and requirements. Each licensee shall periodically, and no less than annually, review the access program content and implementation.
- b) The results of the reviews, along with any recommendations, shall be documented. Each review report shall identify conditions that are adverse to the proper performance of the access authorization program and the cause of those conditions. When appropriate, the report shall recommend corrective actions and identify corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas when indicated.
- c) Review records shall be maintained for 5 years.

SUBPART C: PHYSICAL PROTECTION REQUIREMENTS DURING USE

Section 337.2010 Security Program

- a) Applicability
 - 1) Each licensee that possesses an aggregated category 1 or category 2 quantity of radioactive material shall establish, implement and maintain a security program in accordance with the requirements of this Subpart.
 - 2) An applicant for a new license and each licensee that would become newly subject to the requirements of this Subpart upon application for modification of its license shall implement the requirements of this Subpart, as appropriate, before taking possession of an aggregated category 1 or category 2 quantity of radioactive material.
 - 3) Any licensee that has not previously implemented the security requirements or been subject to the provisions of Subpart C shall provide written notification to IEMA at the address specified in 32 Ill. Adm. Code 310.110 at least 90 days before aggregating radioactive material to a quantity that equals or exceeds the category 2 threshold.

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- b) **General Performance Objective**
Each licensee shall establish, implement and maintain a security program that is designed to monitor and, without delay, detect, assess and respond to an actual or attempted unauthorized access to category 1 or category 2 quantities of radioactive material.
- c) **Program Features**
Each licensee's security program shall include the program features, as appropriate, described in Sections 337.2020 through 337.2080.

Section 337.2020 General Security Program Requirements

- a) **Security Plan**
 - 1) Each licensee identified in Section 337.2010(a) shall develop a written security plan specific to its facilities and operations. The purpose of the security plan is to establish the licensee's overall security strategy to ensure the integrated and effective functioning of the security program required by this Subpart. The security plan shall, at a minimum:
 - A) Describe the measures and strategies used to implement the requirements of this Subpart; and
 - B) Identify the security resources, equipment and technology used to satisfy the requirements of this Subpart.
 - 2) The security plan shall be reviewed and approved by the individual with overall responsibility for the security program.
 - 3) A licensee shall revise its security plan as necessary to ensure the effective implementation of this Part. The licensee shall ensure that:
 - A) The revision has been reviewed and approved by the individual with overall responsibility for the security program; and
 - B) The affected individuals are instructed on the revised plan before the changes are implemented.

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- 4) The licensee shall retain a copy of the current security plan as a record for 3 years after the security plan is no longer required. If any portion of the plan is superseded, the licensee shall retain the superseded portion for 3 years after the record is superseded.
- b) Implementing Procedures
- 1) The licensee shall develop and maintain written procedures that document how the requirements of this Subpart and the security plan will be met.
 - 2) The implementing procedures and revisions to these procedures shall be approved in writing by the individual with overall responsibility for the security program.
 - 3) The licensee shall retain a copy of the current procedure as a record for 3 years after the procedure is no longer needed. Superseded portions of the procedure shall be retained for 3 years after the record is superseded.
- c) Training
- 1) Each licensee shall conduct training to ensure that those individuals implementing the security program possess and maintain the knowledge, skills and abilities to carry out their assigned duties and responsibilities effectively. The training shall include:
 - A) The licensee's security program and procedures to secure category 1 or category 2 quantities of radioactive material and the purposes and functions of the security measures employed;
 - B) The responsibility to promptly report to the licensee any condition that causes or may cause a violation of this Part;
 - C) The responsibility of the licensee to promptly report to the LLEA and licensee any actual or attempted theft, sabotage or diversion of category 1 or category 2 quantities of radioactive material; and
 - D) The appropriate response to security alarms.

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- 2) In determining those individuals who shall be trained on the security program, the licensee shall consider each individual's assigned activities during authorized use and response to potential situations involving actual or attempted theft, diversion or sabotage of category 1 or category 2 quantities of radioactive material. The extent of the training shall be commensurate with the individual's potential involvement in the security of category 1 or category 2 quantities of radioactive material.
 - 3) Refresher training shall be provided at a frequency not to exceed 12 months and when significant changes have been made to the security program. This training shall include:
 - A) Review of the training requirements of subsection (c)(1) and any changes made to the security program since the last training;
 - B) Reports on any relevant security issues, problems and lessons learned;
 - C) Relevant results of IEMA inspections; and
 - D) Relevant results of the licensee's program review and testing and maintenance.
 - 4) The licensee shall maintain records of the initial and refresher training for 3 years from the date of the training. The training records shall include dates of the training, topics covered, a list of licensee personnel in attendance and related information.
- d) Protection of Information
- 1) Licensees authorized to possess category 1 or category 2 quantities of radioactive material shall limit access to, and unauthorized disclosure of, their security plan, implementing procedures and the list of individuals that have been approved for unescorted access.
 - 2) Efforts to limit access shall include the development, implementation and maintenance of written policies and procedures for controlling access to, and for proper handling and protection against unauthorized disclosure of, the security plan and implementing procedures.

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- 3) Before granting an individual access to the security plan or implementing procedures, licensees shall:
 - A) Evaluate an individual's need to know the security plan or implementing procedures; and
 - B) If the individual has not been authorized for unescorted access to category 1 or category 2 quantities of radioactive material, safeguards information or safeguards information-modified handling, the licensee shall complete a background investigation to determine the individual's trustworthiness and reliability. A trustworthiness and reliability determination shall be conducted by the reviewing official and shall include the background investigation elements contained in Section 337.1030(a)(2) through (a)(5), (b) and (c).
- 4) Licensees need not subject the following individuals to the background investigation elements for protection of information:
 - A) The categories of individuals listed in Section 337.1050(a); or
 - B) Security service provider employees, provided written verification that the employee has been determined to be trustworthy and reliable, by the required background investigation in Section 337.1030(a)(2) through (a)(5), (b) and (c), has been provided by the security service provider.
- 5) The licensee shall document the basis for concluding that an individual is trustworthy and reliable and should be granted access to the security plan or implementing procedures.
- 6) Licensees shall maintain a list of persons currently approved for access to the security plan or implementing procedures. When a licensee determines that a person no longer needs access to the security plan or implementing procedures, or no longer meets the access authorization requirements for access to the information, the licensee shall remove the person from the approved list as soon as possible, but no later than 7

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business days, and take prompt measures to ensure that the individual is unable to obtain the security plan or implementing procedures.

- 7) When not in use, the licensee shall store its security plan and implementing procedures in a manner designed to prevent unauthorized access. Information stored in nonremovable electronic form shall be password protected.
- 8) The licensee shall retain as a record for 3 years after the document is no longer needed:
 - A) A copy of the information protection procedures; and
 - B) The list of individuals approved for access to the security plan or implementing procedures.

Section 337.2030 LLEA Coordination

- a) A licensee subject to this Subpart shall coordinate, to the extent practicable, with an LLEA for responding to threats to the licensee's facility, including any necessary armed response. The information provided to the LLEA shall include:
 - 1) A description of the facilities and the category 1 and category 2 quantities of radioactive material, along with a description of the licensee's security measures that have been implemented to comply with this Subpart; and
 - 2) A notification that the licensee will request a timely armed response by the LLEA to any actual or attempted theft, sabotage or diversion of category 1 or category 2 quantities of radioactive material.
- b) The licensee shall notify IEMA within 3 business days if:
 - 1) The LLEA has not responded to the request for coordination within 60 days of the coordination request; or
 - 2) The LLEA notifies the licensee that the LLEA does not plan to participate in coordination activities.

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- c) The licensee shall document its efforts to coordinate with the LLEA. The documentation shall be kept for 3 years.
- d) The licensee shall coordinate with the LLEA at least every 12 months, or when changes to the facility design or operation adversely affect the potential vulnerability of the licensee's material to theft, sabotage or diversion.

Section 337.2040 Security Zones

- a) Licensees shall ensure that all aggregated category 1 and category 2 quantities of radioactive material is used or stored within licensee-established security zones. Security zones may be permanent or temporary.
- b) Temporary security zones shall be established as necessary to meet the licensee's transitory or intermittent business activities, such as periods of maintenance, source delivery and source replacement.
- c) Security zones shall, at a minimum, allow unescorted access only to approved individuals through:
 - 1) Isolation of category 1 and category 2 quantities of radioactive materials by the use of continuous physical barriers that allow access to the security zone only through established access control points. A physical barrier is a natural or man-made structure or formation sufficient for the isolation of the category 1 or category 2 quantities of radioactive material within a security zone;
 - 2) Direct control of the security zone by approved individuals at all times; or
 - 3) A combination of continuous physical barriers and direct control.
- d) For category 1 quantities of radioactive material, during periods of maintenance, source receipt, preparation for shipment, installation or source removal or exchange, the licensee shall, at a minimum, provide sufficient individuals approved for unescorted access to maintain continuous surveillance of sources in temporary security zones and in any security zone where physical barriers or intrusion detection systems have been disabled to allow those activities.

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- e) Individuals not approved for unescorted access to category 1 or category 2 quantities of radioactive material shall be escorted by an approved individual when in a security zone.

Section 337.2050 Monitoring, Detection and Assessment

- a) Monitoring and Detection
 - 1) Licensees shall establish and maintain the capability to continuously monitor and detect, without delay, all unauthorized entries into its security zones. Licensees shall provide the means to maintain continuous monitoring and detection capability in the event of a loss of the primary power source or provide for an alarm and response in the event of a loss of this capability to continuously monitor and detect unauthorized entries.
 - 2) Monitoring and detection shall be performed by:
 - A) A monitored intrusion detection system that is linked to an onsite or offsite central monitoring facility;
 - B) Electronic devices for intrusion detection alarms that will alert nearby facility personnel;
 - C) A monitored video surveillance system;
 - D) Direct visual surveillance by approved individuals located within the security zone; or
 - E) Direct visual surveillance by a licensee-designated individual located outside the security zone.
 - 3) A licensee subject to this Subpart shall also have a means to detect unauthorized removal of the radioactive material from the security zone. This detection capability shall provide:
 - A) For category 1 quantities of radioactive material, immediate detection of any attempted unauthorized removal of the radioactive material from the security zone. Immediate detection capability shall be provided by:

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- i) Electronic sensors linked to an alarm;
 - ii) Continuously monitored video surveillance; or
 - iii) Direct visual surveillance.
 - B) For category 2 quantities of radioactive material, weekly verification through physical checks, tamper indicating devices, use or other means to ensure that the radioactive material is present.
- b) **Assessment**
Licensees shall immediately assess each actual or attempted unauthorized entry into the security zone to determine whether the unauthorized access was an actual or attempted theft, sabotage or diversion.
- c) **Personnel Communications and Data Transmission**
For personnel and automated or electronic systems supporting the licensee's monitoring, detection and assessment systems, licensees shall:
- 1) Maintain continuous capability for personnel communication and electronic data transmission and processing among site security systems; and
 - 2) Provide an alternative communication capability for personnel and an alternative data transmission and processing capability in the event of a loss of the primary means of communication or data transmission and processing. Alternative communications and data transmission systems may not be subject to the same failure modes as the primary systems.
- d) **Response**
Licensees shall immediately respond to any actual or attempted unauthorized access to the security zones or actual or attempted theft, sabotage or diversion of category 1 or category 2 quantities of radioactive material at licensee facilities or temporary job sites. For any unauthorized access involving an actual or attempted theft, sabotage or diversion of category 1 or category 2 quantities of radioactive material, the licensee's response shall include requesting, without delay, an armed response from the LLEA.

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Section 337.2060 Maintenance and Testing

- a) Each licensee subject to this Subpart shall implement a maintenance and testing program to ensure that intrusion alarms, associated communication systems and other physical components of the systems used to secure or detect unauthorized access to radioactive material are maintained in operable condition and are capable of performing their intended function when needed. The equipment relied on to meet the security requirements shall be inspected and tested for operability and performance at the manufacturer's suggested frequency. If there is no manufacturer's suggested frequency, the testing shall be performed at least annually, not to exceed 12 months.
- b) The licensee shall maintain records on the maintenance and testing activities for 3 years.

Section 337.2070 Requirements for Mobile Devices

Each licensee that possesses mobile devices containing category 1 or category 2 quantities of radioactive material shall:

- a) Have two independent physical controls that form tangible barriers to secure the material from unauthorized removal when the device is not under direct control and constant surveillance by the licensee; and
- b) For devices in or on a vehicle or trailer, unless the health and safety requirements for a site prohibit the disabling of the vehicle, the licensee shall utilize a method to disable the vehicle or trailer when not under direct control and constant surveillance by the licensee. Licensees shall not rely on the removal of an ignition key to meet this requirement.

Section 337.2080 Security Program Review

- a) Each licensee shall be responsible for the continuing effectiveness of the security program. Each licensee shall ensure that the security program is reviewed to confirm compliance with the requirements of this Subpart and that comprehensive actions are taken to correct any noncompliance that is identified. The review shall include the radioactive material security program content and implementation.

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Each licensee shall periodically, not to exceed 12 months, review the security program content and implementation.

- b) The results of the review, along with any recommendations, shall be documented. Each review report shall identify conditions that are adverse to the proper performance of the security program, and the cause of the conditions, and, when appropriate, recommend corrective actions and identify corrective actions taken. The licensee shall review the findings and take any additional corrective actions necessary to preclude repetition of the condition, including reassessment of the deficient areas when indicated.
- c) The licensee shall maintain the review documentation for 3 years.

Section 337.2090 Reporting of Events

- a) The licensee shall immediately notify the LLEA after determining that an unauthorized entry resulted in an actual or attempted theft, sabotage or diversion of a category 1 or category 2 quantity of radioactive material. Immediately after initiating a response, but not at the expense of causing delay or interfering with the LLEA response to the event, the licensee shall notify IEMA at 217/782-7860 or 800/782-7860. In no case shall the notification to IEMA be later than 1 hour after the discovery of any attempted or actual theft, sabotage or diversion.
- b) The licensee shall assess any suspicious activity related to possible theft, sabotage or diversion of category 1 or category 2 quantities of radioactive material and notify the LLEA as appropriate. As soon as possible, but not later than 1 hour after notifying the LLEA, the licensee shall notify IEMA at 217/782-7860 or 800/782-7860.
- c) **Written Reports.** A licensee required to make a notification pursuant to subsection (a) or (b) shall, within 30 days after making the notification, submit a written report to IEMA regarding the suspicious activity or the actual or attempted theft, sabotage or diversion. The written report shall include sufficient information for IEMA analysis and evaluation, including:
 - 1) A description of the source of radiation involved, including the kind, quantity and chemical and physical form;

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- 2) A description of the circumstances under which the actual or attempted theft, sabotage or diversion of a category 1 or category 2 quantity of radioactive material occurred;
 - 3) A statement of disposition, or probable disposition, of the source of radiation involved;
 - 4) Exposures of individuals to radiation, circumstances under which the exposures occurred, and the possible total effective dose equivalent to persons in unrestricted areas;
 - 5) Actions that have been taken, or will be taken, to recover the source of radiation; and
 - 6) Corrective actions taken, or that will be taken, to protect against a recurrence of a theft, sabotage or diversion of a category 1 or category 2 quantity of radioactive material.
- d) The licensee shall also report any additional substantive information on the actual or attempted theft, sabotage or diversion of a category 1 or category 2 quantity of radioactive material within 30 days after the licensee learns of that information.
- e) The licensee shall prepare any report filed with IEMA pursuant to this Section so that names of individuals who may have received exposure to radiation are stated in a separate and detachable portion of the written report.

AGENCY NOTE: Notification under this Part satisfies the requirements of 32 Ill. Adm. Code 340.1205 and 340.1210 for category 1 and category 2 quantities of radioactive material. Licensees should be aware that there are additional reporting requirements in 32 Ill. Adm. Code 340.1220 for other events involving radioactive material.

SUBPART D: PHYSICAL PROTECTION IN TRANSIT

Section 337.3010 Additional Requirements for Transfer of Category 1 and Category 2 Quantities of Radioactive Material

A licensee transferring a category 1 or category 2 quantity of radioactive material to a licensee of the NRC or another Agreement State shall meet the license verification provisions listed in this Section instead of those listed in 32 Ill. Adm. Code 330.400.

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- a) Any licensee transferring category 1 or category 2 quantities of radioactive material to a licensee of the NRC or an Agreement State, prior to conducting the transfer, shall verify with NRC's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form and quantity of radioactive material to be transferred and that the licensee is authorized to receive radioactive material at the location requested for delivery. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.
- b) Any licensee transferring category 2 quantities of radioactive material to a licensee of the NRC or an Agreement State, prior to conducting that transfer, shall verify with the NRC's license verification system or the license issuing authority that the transferee's license authorizes the receipt of the type, form and quantity of radioactive material to be transferred. If the verification is conducted by contacting the license issuing authority, the transferor shall document the verification. For transfers within the same organization, the licensee does not need to verify the transfer.
- c) In an emergency in which the licensee cannot reach the license issuing authority and the license verification system is nonfunctional, the licensee may accept a written certification by the transferee that it is authorized by license to receive the type, form and quantity of radioactive material to be transferred and that the licensee is authorized to receive radioactive material at the location requested for delivery. The certification shall include the license number, current revision number, issuing authority, expiration date and authorized address. The licensee shall keep a copy of the certification. The certification shall be confirmed by use of the NRC's license verification system or by contacting the license issuing authority by the end of the next business day.
- d) The transferor shall keep a copy of the verification documentation as a record for 3 years.

Section 337.3020 Applicability of Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material During Transit

- a) For shipments of category 1 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in

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Sections 337.3030(a) and (e), 337.3040, 337.3050(a)(1), (b)(1) and (c) and 337.3060(a), (c), (e), (g) and (h).

- b) For shipments of category 2 quantities of radioactive material, each shipping licensee shall comply with the requirements for physical protection contained in Sections 337.3030(b) through (e), 337.3050(a)(2), (a)(3), (b)(2) and (c), and 337.3060(b), (d), (f), (g) and (h). For those shipments of category 2 quantities of radioactive material that meet the criteria of 10 CFR 71.97(b), the shipping licensee shall also comply with the advance notification provisions of 10 CFR 71.97.
- c) The shipping licensee shall be responsible for meeting the requirements of this Subpart unless the receiving licensee has agreed in writing to arrange for the in-transit physical protection required under this Subpart.
- d) Each licensee that imports or exports category 1 quantities of radioactive material shall comply with the requirements for physical protection during transit contained in Sections 337.3030(a)(2) and (e), 337.3040, 337.3050(a)(1), (b)(1) and (c), and 337.3060(a), (c), (e), (g) and (h) for the domestic portion of the shipment.
- e) Each licensee that imports or exports category 2 quantities of radioactive material shall comply with the requirements for physical protection during transit contained in Sections 337.3050(a)(2), (a)(3) and (b)(2) and 337.3060(b), (d), (f), (g) and (h) for the domestic portion of the shipment.

Section 337.3030 Preplanning and Coordination of Shipment of Category 1 or Category 2 Quantities of Radioactive Material

- a) Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 1 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall:
 - 1) Preplan and coordinate shipment arrival and departure times with the receiving licensee;
 - 2) Preplan and coordinate shipment information with the governor, or the governor's designee, of any state through which the shipment will pass to:

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- A) Discuss the state's intention to provide law enforcement escorts; and
 - B) Identify safe havens; and
- 3) Document the preplanning and coordination activities.
- b) Each licensee that plans to transport, or deliver to a carrier for transport, licensed material that is a category 2 quantity of radioactive material outside the confines of the licensee's facility or other place of use or storage shall coordinate the shipment no-later-than arrival time and the expected shipment arrival with the receiving licensee. The licensee shall document the coordination activities.
 - c) Each licensee who receives a shipment of a category 2 quantity of radioactive material shall confirm receipt of the shipment with the originator. If the shipment has not arrived by the no-later-than arrival time, the receiving licensee shall notify the originator.
 - d) Each licensee who transports or plans to transport a shipment of a category 2 quantity of radioactive material and determines that the shipment will arrive after the no-later-than arrival time provided pursuant to subsection (b), shall promptly notify the receiving licensee of the new no-later-than arrival time.
 - e) The licensee shall retain a copy of the documentation for preplanning and coordination, and any revision thereof, as a record for 3 years.

Section 337.3040 Advance Notification of Shipment of Category 1 Quantities of Radioactive Material

As specified in subsections (a) and (b), each licensee shall provide advance notification to IEMA and the governor of a state, or the governor's designee, of the shipment of licensed material in a category 1 quantity through or across the boundary of the state before the transport, or delivery to a carrier for transport, of the licensed material outside the confines of the licensee's facility or other place of use or storage.

- a) Procedures for Submitting Advance Notification
 - 1) The notification shall be made to IEMA and to the office of each appropriate governor or governor's designee.

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- A) Notifications for the Governor of the State of Illinois and IEMA shall be sent to Illinois Emergency Management Agency, ATTN: Assistant Director, 2200 South Dirksen Parkway, Springfield IL 62703. The notifications for the Governor of the State of Illinois and IEMA may also be made by email or by facsimile. For the correct email or facsimile number, call, prior to sending notification, 217/782-7860 or 800/782-7860.
 - B) The contact information, including telephone and mailing addresses, of governors and governors' designees, is available on NRC's website at <http://nrc-stp.ornl.gov/special/designee.pdf>. A list of the contact information is also available upon request from the Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington DC 20555-0001.
- 2) A notification delivered by mail shall be postmarked at least 7 calendar days before transport of the shipment commences at the shipping facility.
 - 3) A notification delivered by any means other than mail must reach IEMA at least 4 business days before the transport of the shipment commences and must reach the office of a governor or the governor's designee at least 4 business days before transport of a shipment within or through a state.
- b) Information to be Furnished in Advance Notification of Shipment
- Each advance notification of shipment of category 1 quantities of radioactive material shall contain the following information, if available at the time of notification:
- 1) The name, address and telephone number of the shipper, carrier and receiver of the category 1 radioactive material;
 - 2) The license numbers of the shipper and receiver;
 - 3) A description of the radioactive material contained in the shipment, including the radionuclides and quantity;

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- 4) The point of origin of the shipment and the estimated time and date that the shipment will commence;
 - 5) The estimated time and date that the shipment is expected to enter each state along the route;
 - 6) The estimated time and date of arrival of the shipment at the destination; and
 - 7) A point of contact, with a telephone number, for current shipment information.
- c) Revision Notice
- 1) The licensee shall provide any information not previously available at the time of the initial notification as soon as the information becomes available, but not later than commencement of the shipment, to the governor of each state, or the governor's designee, and to IEMA.
 - 2) A licensee shall promptly notify the governor of each state, or the governor's designee, of any changes to the information provided in accordance with subsections (b) and (c)(1). The licensee shall also immediately notify IEMA of the changes.
- d) Cancellation Notice
- Each licensee that cancels a shipment for which advance notification has been sent shall send a cancellation notice to the governor of each state, or to the governor's designee, previously notified and to IEMA. The licensee shall send the cancellation notice before the shipment would have commenced or as soon thereafter as possible. The licensee shall state in the notice that it is a cancellation and identify the advance notification that is being cancelled.
- e) Records
- The licensee shall retain a copy of the advance notification and any revision and cancellation notices as a record for 3 years.
- f) Protection of Information

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State officials, State employees and any other individuals who receive schedule information of the kind specified in subsection (b) shall protect that information against unauthorized disclosure as specified in Section 337.2020(d).

Section 337.3050 Requirements for Physical Protection of Category 1 and Category 2 Quantities of Radioactive Material During Shipment

- a) Shipments by Road
 - 1) Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:
 - A) Ensure that movement control centers are established that maintain position information from a remote location. These control centers shall monitor shipments 24 hours a day, 7 days a week, and have the ability to communicate immediately, in an emergency, with the appropriate law enforcement agencies.
 - B) Ensure that redundant communications are established that allow the transport to contact the escort vehicle, when used, and movement control center at all times. Redundant communications may not be subject to the same interference factors as the primary communication.
 - C) Ensure that shipments are continuously and actively monitored by a telemetric position monitoring system or an alternative tracking system reporting to a movement control center. A movement control center shall provide positive confirmation of the location, status and control over the shipment. The movement control center shall be prepared to promptly implement preplanned procedures in response to deviations from the authorized route or a notification of actual, attempted or suspicious activities related to the theft, loss or diversion of a shipment. These procedures shall include, but are not limited to, the identification of and contact information for the appropriate LLEA along the shipment route.
 - D) Provide an individual to accompany the driver for those highway shipments with a driving time period greater than the maximum number of allowable hours of service in a 24-hour duty day as

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established by the U.S. Department of Transportation's Federal Motor Carrier Safety Administration. The accompanying individual may be another driver.

- E) Develop written normal and contingency procedures to address:
 - i) Notifications to the communication center and law enforcement agencies;
 - ii) Communication protocols that include a strategy for the use of authentication codes and duress codes and provisions for refueling or other stops, detours and locations where communication is expected to be temporarily lost;
 - iii) Loss of communications; and
 - iv) Responses to an actual or attempted theft, sabotage or diversion of a shipment.
 - F) Each licensee who makes arrangements for the shipment of category 1 quantities of radioactive material shall ensure that drivers, accompanying personnel and movement control center personnel have access to the normal and contingency procedures.
- 2) Each licensee that transports category 2 quantities of radioactive material shall maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance.
- 3) Each licensee who delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:
- A) Use carriers that have established package tracking systems. An established package tracking system is a documented, proven and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and/or surveillance, the package tracking system shall allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control;

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- B) Use carriers that maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and
 - C) Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.
- b) Shipments by Rail
- 1) Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 1 quantity of radioactive material shall:
 - A) Ensure that rail shipments are monitored by a telemetric position monitoring system or an alternative tracking system reporting to the licensee, third-party or railroad communications center. The communications center shall provide positive confirmation of the location of the shipment and its status. The communications center shall implement preplanned procedures in response to deviations from the authorized route or to a notification of actual, attempted or suspicious activities related to the theft, sabotage or diversion of a shipment. These procedures shall include, but are not limited to, the identification of and contact information for the appropriate LLEA along the shipment route; and
 - B) Ensure that periodic reports to the communications center are made at preset intervals.
 - 2) Each licensee who transports, or delivers to a carrier for transport, in a single shipment, a category 2 quantity of radioactive material shall:
 - A) Use carriers that have established package tracking systems. An established package tracking system is a documented, proven and reliable system routinely used to transport objects of value. In order for a package tracking system to maintain constant control and/or surveillance, the package tracking system shall allow the shipper or transporter to identify when and where the package was last and when it should arrive at the next point of control;

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- B) Use carriers that maintain constant control and/or surveillance during transit and have the capability for immediate communication to summon appropriate response or assistance; and
 - C) Use carriers that have established tracking systems that require an authorized signature prior to releasing the package for delivery or return.
- c) Investigations
- Each licensee who makes arrangements for the shipment of category 1 quantities of radioactive material shall immediately conduct an investigation upon the discovery that a category 1 shipment is lost or missing. Each licensee who makes arrangements for the shipment of category 2 quantities of radioactive material shall immediately conduct an investigation, in coordination with the receiving licensee, of any shipment that has not arrived by the designated no-later-than arrival time.

Section 337.3060 Reporting of Events

- a) The shipping licensee shall notify the appropriate LLEA and IEMA's 24-hour emergency number at 217/782-7860 or 800/782-7860 within 1 hour after its determination that a shipment of category 1 quantities of radioactive material is lost or missing. The appropriate LLEA would be the law enforcement agency in the area of the shipment's last confirmed location. During the investigation required by Section 337.3050(c), the shipping licensee will provide agreed upon updates on the status of the investigation to the IEMA 24-hour emergency number.
- b) The shipping licensee shall notify IEMA's 24-hour emergency number within 4 hours after its determination that a shipment of category 2 material is lost or missing. If, after 24 hours from its determination that the shipment is lost or missing, the radioactive material has not been located and secured, the licensee shall immediately notify IEMA's 24-hour emergency number.
- c) The shipping licensee shall notify the designated LLEA along the shipment route, as soon as possible after discovery of any actual or attempted theft, sabotage or diversion of a shipment or suspicious activities related to the theft, sabotage or diversion of a shipment of a category 1 quantity of radioactive material.

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Immediately after notifying the LLEA, the licensee shall notify IEMA's 24-hour emergency number.

- d) The shipping licensee shall notify IEMA's 24-hour emergency number, as soon as possible after discovery of any actual or attempted theft, sabotage or diversion of a shipment, or any suspicious activity related to the shipment, of a category 2 quantity of radioactive material.
- e) The shipping licensee shall notify the LLEA and IEMA's 24-hour emergency number as soon as possible after recovery of any lost or missing category 1 material.
- f) The shipping licensee shall notify IEMA's 24-hour emergency number as soon as possible after recovery of any lost or missing category 2 material.
- g) **Written Reports**
Each licensee required to make a notification pursuant to subsections (a) through (d) shall, within 30 days after making that notification, submit a written report to IEMA for incidents involving an actual or attempted theft, sabotage or diversion of radioactive material. A written report is not required for notifications on suspicious activities reported pursuant to subsections (c) and (d). The written report shall include:
 - 1) A description of the licensed material involved, including kind, quantity and chemical and physical form;
 - 2) A description of the circumstances under which the actual or attempted loss, theft or diversion occurred;
 - 3) A statement of disposition, or probable disposition, of the licensed material involved;
 - 4) Actions that have been taken, or will be taken, to recover the material; and
 - 5) Corrective actions taken, or that will be taken, to ensure against a recurrence of a loss, theft or diversion of licensed material.

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- h) The licensee shall also report any additional substantive information on the actual or attempted loss, theft or diversion within 30 days after the licensee learns of the information.

SUBPART E: RECORDS

Section 337.5010 Form of Records

Each record required by this Part shall be legible throughout the retention period specified. The record may be the original or a reproduced copy or a microform, provided that the copy or microform is authenticated by authorized personnel and that the microform is capable of producing a clear copy throughout the required retention period. The record may also be stored in electronic media with the capability for producing legible, accurate and complete records during the required retention period. Records such as letters, drawings and specifications shall include all pertinent information such as stamps, initials and signatures. The licensee shall maintain adequate safeguards against tampering with and loss of records.

Section 337.5020 Record Retention

Licensees shall maintain the records that are required in this Part for the period specified. If a retention period is not otherwise specified, these records shall be retained until IEMA terminates the facility's license pursuant to 32 Ill. Adm. Code 330.325. IEMA may, in writing, approve or require a shorter or longer retention period, depending on whether the records are needed to determine compliance.

SUBPART F: ENFORCEMENT

Section 337.6010 Resolution of Requirements During Transition Period

If this Part conflicts with the licensee's radiation safety program, as identified in its license or legally binding orders, this Part shall apply, unless the statements, representations, conditions and procedures in the license are more restrictive. However, if the licensee exercises its privilege to amend its license, the portion amended must comply with this Part.

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Section 337.APPENDIX A Category 1 and Category 2 Radioactive Materials**Table 1 – Category 1 and Category 2 Threshold**

The terabecquerel (TBq) values are the regulatory standard. The curie (Ci) values specified are obtained by converting from the TBq value. The curie values are provided for practical usefulness only.

Radioactive material	Category 1 (TBq)	Category 1 (Ci)	Category 2 (TBq)	Category 2 (Ci)
Americium-241	60	1,620	0.6	16.2
Americium-241/Be	60	1,620	0.6	16.2
Californium-252	20	540	0.2	5.40
Cobalt-60	30	810	0.3	8.10
Curium-244	50	1,350	0.5	13.5
Cesium-137	100	2,700	1	27.0
Gadolinium-153	1,000	27,000	10	270
Iridium-192	80	2,160	0.8	21.6
Plutonium-238	60	1,620	0.6	16.2
Plutonium-239/Be	60	1,620	0.6	16.2
Promethium-147	40,000	1,080,000	400	10,800
Radium-226	40	1,080	0.4	10.8
Selenium-75	200	5,400	2	54.0
Strontium-90	1,000	27,000	10	270
Thulium-170	20,000	540,000	200	5,400
Ytterbium-169	300	8,100	3	81.0

Note: Calculations Concerning Multiple Sources or Multiple Radionuclides

The "sum of fractions" methodology for evaluating combinations of multiple sources or multiple radionuclides is to be used in determining whether a location meets or exceeds the threshold and is thus subject to the requirements.

- I. If multiple sources of the same radionuclide and/or multiple radionuclides are aggregated at a location, the sum of the ratios of the total activity of each of the radionuclides shall be determined to verify whether the activity at the location is less than the category 1 or category 2 thresholds of Table 1, as appropriate. If the

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calculated sum of the ratios, using the equation below, is greater than or equal to 1.0, then the applicable requirements apply.

- II. First determine the total activity for each radionuclide from Table 1. This is done by adding the activity of each individual source, material in any device, and any loose or bulk material that contains the radionuclide. Then use the equation below to calculate the sum of the ratios by inserting the total activity of the applicable radionuclides from Table 1 in the numerator of the equation and the corresponding threshold activity from Table 1 in the denominator of the equation. Calculations shall be performed in metric values (i.e., TBq) and the numerator and denominator values shall be in the same units.

$$\sum_1^N \left[\frac{R1}{AR1} + \frac{R2}{AR2} + \frac{RN}{ARN} \right] \geq 1.0$$

Where:

R1 = total activity for radionuclide 1

R2 = total activity for radionuclide 2

RN = total activity for radionuclide n

AR1 = activity threshold for radionuclide 1

AR2 = activity threshold for radionuclide 2

ARN = activity threshold for radionuclide n

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- 1) Heading of the Part: General Rules
- 2) Code Citation: 35 Ill. Adm. Code 101
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
101.202	Amendment
101.300	Amendment
101.302	Amendment
101.518	Amendment
101.600	Amendment
101.602	Amendment
101.906	Amendment
101.1000	Amendment
101.1050	Amendment
101.1060	Amendment
101.1070	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) A Complete Description of the Subjects and Issues Involved: Generally, the Board proposes amendments to help it more effectively and efficiently conduct its business, particularly in light of digital technology, including high quality video communications. These amendments are designed to increase the efficiency of Board operations and reduce the costs of conducting its rulemakings and contested cases. Specifically, the Board proposes expanding the number of orders and hearing officer orders that are served by e-mail in lieu of paper, amending the requirement that a person must file a written consent to receive e-mail service, and requiring parties with e-mail capability to serve filings upon Board hearing officers by e-mail. The Board further proposes that State agencies file records of their appealed decisions only through the Board's Clerk's Office Online (COOL), compact disk, or other portable electronic storage device, in lieu of paper filings. For documents filed in paper, the Board proposes amending the requirement that an original and three copies be filed, to requiring only an original and two copies. The Board also proposes amendments that will allow it to hold any Board hearing by videoconference. The Board further proposes amendments that will reduce a rulemaking proponent's expenses when proposing copyrighted documents for incorporation by reference. The definition of "pollution control facility" in the Board's regulations is replaced with a citation to the Illinois Environmental Protection Act's definition of the term. Finally, the Board proposes clarification amendments including

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amendments to its rules on appeal timeframes, hearing officer rulings, hearing notices, and hearing locations.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments must be filed with the Clerk of the Board. Public comments should reference Docket R16-17 and be addressed to:

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

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.ipcb.state.il.us.

Interested persons may request copies of the Board's opinion and order in R16-17 by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us.

For more information, contact hearing officer Daniel Robertson at 312-814-6931 or by e-mail at Daniel.Robertson@illinois.gov.

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any small business, small municipality, or not-for-profit corporation that practices before the Board.
 - 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 a regulatory agenda because the need for it was not anticipated when Agendas were published.

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

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NOTICE OF PROPOSED AMENDMENTS

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

PART 101
GENERAL RULES

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: DEFINITIONS

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

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

Section	
101.300	Computation of Time
101.302	Filing of Documents
101.304	Service of Documents
101.306	Incorporation of Documents from Another Proceeding
101.308	Statutory Decision Deadlines and Waiver of Deadlines

SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION

Section	
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- 101.400 Appearances, Withdrawals, and Substitutions of Attorneys in Adjudicatory Proceedings
- 101.402 Intervention of Parties
- 101.403 Joinder of Parties
- 101.404 Agency as a Party in Interest
- 101.406 Consolidation of Claims
- 101.408 Severance of Claims

SUBPART E: MOTIONS

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

SUBPART F: HEARINGS, EVIDENCE, AND DISCOVERY

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

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101.624	Examination of Adverse, Hostile or Unwilling Witnesses
101.626	Information Produced at Hearing
101.628	Statements from Participants
101.630	Official Notice
101.632	Viewing of Premises

SUBPART G: ORAL ARGUMENT

Section	
101.700	Oral Argument

SUBPART H: SANCTIONS

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

SUBPART I: REVIEW OF FINAL BOARD OPINIONS AND ORDERS

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

SUBPART J: ELECTRONIC FILING AND E-MAIL SERVICE

Section	
101.1000	Electronic Filing and E-Mail Service
101.1010	Electronic Filing Authorization and Signatures
101.1020	Filing Electronic Documents
101.1030	Form of Electronic Documents for Filing
101.1040	Filing Fees
101.1050	Documents Required in Paper or Excluded from Electronic Filing
101.1060	E-Mail Service
101.1070	Consenting to Receipt of E-Mail Service

101.APPENDIX A	Captions
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101.ILLUSTRATION A	Enforcement Case
101.ILLUSTRATION B	Citizen's Enforcement Case
101.ILLUSTRATION C	Variance
101.ILLUSTRATION D	Adjusted Standard Petition
101.ILLUSTRATION E	Joint Petition for an Adjusted Standard
101.ILLUSTRATION F	Permit Appeal
101.ILLUSTRATION G	Underground Storage Tank Appeal
101.ILLUSTRATION H	Pollution Control Facility Siting Appeal
101.ILLUSTRATION I	Administrative Citation
101.ILLUSTRATION J	Administrative Citation Under Section 23.1 of the Public Water Supply Operations Act
101.ILLUSTRATION K	General Rulemaking
101.ILLUSTRATION L	Site-specific Rulemaking
101.APPENDIX B	Appearance Form
101.APPENDIX C	Withdrawal of Appearance Form
101.APPENDIX D	Notice of Filing
101.APPENDIX E	Affidavit or Certificate of Service
101.ILLUSTRATION A	Service by Non-Attorney
101.ILLUSTRATION B	Service by Attorney
101.APPENDIX F	Notice of Withdrawal (Repealed)
101.APPENDIX G	Comparison of Former and Current Rules (Repealed)
101.APPENDIX H	Affidavit or Certificate of E-Mail Service
101.ILLUSTRATION A	E-Mail Service by Non-Attorney
101.ILLUSTRATION B	E-Mail Service by Attorney
101.APPENDIX I	Consent to Receipt of E-Mail Service

AUTHORITY: Implementing Sections 5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.1, 7.2, 26, 27, 28, 29, 31, 32, 33, 35, 36, 37, 38, 40, 40.1, 40.2, 41, and 58.7] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27] and Section 25-101 of the Electronic Commerce Security Act [5 ILCS 175/25-101].

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

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effective December 3, 2010; amended in R12-22 at 36 Ill. Reg. 9211, effective June 7, 2012; amended in R13-9 at 37 Ill. Reg. 1655, effective January 28, 2013; amended in R14-21 at 39 Ill. Reg. 2276, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. 12848, effective September 8, 2015; amended in R16-17 at 40 Ill. Reg. _____, effective _____.

SUBPART B: DEFINITIONS

Section 101.202 Definitions for Board's Procedural Rules

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

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

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

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

"Administrative citation" or "AC" means a citation issued by the Agency or by a unit of local government acting as the Agency's delegate. (See 35 Ill. Adm. Code 108.)

"Administrative citation review" or "administrative citation appeal" means a petition for review of an administrative citation. (See 35 Ill. Adm. Code 108.)

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

"Agency" means the Illinois Environmental Protection Agency as established by

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Section 4 of the Act.

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

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

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

"Article" means *any object, material, device or substance, or whole or partial copy thereof, including any writing, record, document, recording, drawing, sample, specimen, prototype, model, photograph, culture, microorganism, blueprint or map* [415 ILCS 5/7.1].

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

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

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

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

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

"Board meeting" means an open meeting held by the Board pursuant to Section

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5(a) of the Act in which the Board makes its decisions and determinations.

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

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

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

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

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

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

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

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

"Clerk" means the Clerk of the Board.

"Clerk's Office On-Line" or "COOL" means the Board's web-based file management system that allows electronic filing of and access to electronic documents in the records of the Board's adjudicatory and regulatory proceedings. COOL is located on the Board's website at <http://www.ipcb.state.il.us/COOL/external/>.

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

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

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

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

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

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

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

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

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

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

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

"Digital signature" means *a type of electronic signature created by transforming*

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an electronic document using a message digest function and encrypting the resulting transformation with an asymmetric cryptosystem using the signer's private key such that any person having the initial untransformed electronic document, the encrypted transformation, and the signer's corresponding public key can accurately determine whether the transformation was created using the private key that corresponds to the signer's public key and whether the initial electronic document has been altered since the transformation was made. A digital signature is a security device. [5 ILCS 175/5-105]

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

"DNR" means the Illinois Department of Natural Resources.

"DOA" means the Illinois Department of Agriculture.

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

"Electronic" includes *electrical, digital, magnetic, optical, electromagnetic, or any other form of technology that entails capabilities similar to these technologies* [5 ILCS 175/5-105].

"Electronic document" means any notice, information, or filing generated, communicated, received or stored by electronic means to use in an information system or to transmit from one information system to another. (See 5 ILCS 175/5-105.)

"Electronic signature" means *a signature in electronic form attached to or logically associated with an electronic document* [5 ILCS 175/5-105].

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

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

"EPRR Act" means the Electronic Products Recycling and Reuse Act [415 ILCS 150].

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

statements by a person publicly made in a public forum, including pleadings, transcripts, public comments, and public remarks made part of the proceeding's record [5 ILCS 430/5-50(b)(i)];

statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter [5 ILCS 430/5-50(b)(ii)]; and

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

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

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

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

"Final order" means an order of the Board that terminates the proceeding leaving nothing further to litigate or decide and that is subject to judicial review. (See Subpart I of this Part.)

"Frivolous" means a request for relief that the Board does not have the authority to grant, or a complaint that fails to state a cause of action upon which the Board can grant relief.

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

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

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

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

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

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

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

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

"Intervenor" means a person, not originally a party to an adjudicatory proceeding, who voluntarily participates as a party in the proceeding with the leave of the Board. (See Section 101.402 of this Part.)

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

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

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

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

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

"Movant" means the person who files a motion.

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

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

"Notice list" means the list of persons in a regulatory proceeding who will receive all Board opinions and orders and all hearing officer orders. Persons on a notice list generally do not receive copies of motions, public comments, or testimony. (See definition of "service list" in this Section.) (See also 35 Ill. Adm. Code 102.422.)

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

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

"OSFM" means Office of the State Fire Marshal.

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

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

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

"Party" means the person by or against whom an adjudicatory proceeding is

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brought or who is granted party status by the Board through intervention or joinder.

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

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

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

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

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

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

"Pollution control facility" is defined at Section 3.330(a) of the Act for purposes of this Part and 35 Ill. Adm. Code 107. ~~means any waste storage site, sanitary landfill, waste disposal site, waste transfer station, waste treatment facility, or waste incinerator. This includes sewers, sewage treatment plants, and any other facilities owned or operated by sanitary districts organized under the Metropolitan Water Reclamation District Act. The following are not pollution control facilities:~~

~~waste storage sites regulated under 40 CFR 761.42;~~

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

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

~~abandoned quarries used solely for the disposal of concrete, earth materials, gravel, or aggregate debris resulting from road construction activities conducted by a unit of government or construction activities due to the construction and installation of underground pipes, lines, conduit or wires off of the premises of a public utility company which are conducted by a public utility;~~

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

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

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

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

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

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

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

~~located within a home rule unit of local government with a population of at least 30,000 according to the 2000 federal census, that home rule unit of local government has been designated as an Urban Round II Empowerment Zone by the United States Department of Housing and Urban Development, and that home rule unit of local government has enacted an ordinance approving the location of the site or facility and provided funding for the site or facility; and~~

~~in compliance with all applicable zoning requirements;~~

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

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

~~the portion of a site or facility, located within a unit of local government that has enacted local zoning requirements, used to accept, separate, and process uncontaminated broken concrete, with or without protruding~~

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~~metal bars, provided that the uncontaminated broken concrete and metal bars are not speculatively accumulated, are at the site or facility no longer than one year after their acceptance, and are returned to the economic mainstream in the form of raw materials or products;~~

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

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

~~the portion of a site or facility located in a county with a population greater than 3,000,000 that has obtained local siting approval, under Section 39.2 of the Act, for a municipal waste incinerator on or before July 1, 2005 and that is used for wood combustion facilities for energy recovery that accept and burn only wood material, as included in a fuel specification approved by the Agency;~~

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

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

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

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

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

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

~~except in municipalities with more than 1,000,000 inhabitants, the portion of the site or facility used for the composting operation must be located at least one-eighth of a mile from the nearest residence, other than a residence located on the same property as the site or facility;~~

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

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

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

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

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

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

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

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

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

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

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

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

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

~~the portion of a site or facility that is located entirely within a home rule unit having a population no less than 120,000 and no more than 135,000, according to the 2000 federal census, and that meets all of the following requirements:~~

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

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

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

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

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~~the portion of a site or facility that it used to incinerate only pharmaceuticals from residential sources that are collected and transported by law enforcement agencies under Section 17.9A of the Act; and~~

~~until July 1, 2017, the portion of a site or facility:~~

~~that is used exclusively for the transfer of commingled landscape waste and food scrap held at the site or facility for no longer than 24 hours after their receipt;~~

~~that is located entirely within a home rule unit having a population of either not less than 100,000 and not more than 115,000 according to the 2010 federal census or not less than 5,000 and not more than 10,000 according to the 2010 federal census;~~

~~that is permitted, by the Agency, prior to January 1, 2002, for the transfer of landscape waste; and~~

~~for which a permit application is submitted to the Agency by July 1, 2014 to modify an existing permit for the transfer of landscape waste to also include, on a demonstration basis not to exceed 18 months, the transfer of commingled landscape waste and food scrap. [415 ILCS 5/3.330]~~

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

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

"Prehearing conference" means a meeting held in an adjudicatory case to determine the status of the proceedings. A prehearing conference may also be a meeting held in a regulatory proceeding prior to the hearing, the purposes of

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which shall be to maximize understanding of the intent and application of the proposal, if possible, and to attempt to identify and limit the issues of disagreement among participants to promote efficient use of time at hearing [415 ILCS 5/27(d)]. (See 35 Ill. Adm. Code 102.404 and 102.406.)

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

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

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

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

"Public remarks" mean an oral statement that is publicly made at a Board meeting and directed to the Board concerning a proceeding listed on that meeting's agenda. (See Section 101.110(d) of this Subpart.)

"PWSO Act" means the Public Water Supply Operations Act [415 ILCS 45].

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

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

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

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

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proceeding.

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

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

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

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

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

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

"Responsible Operator in Charge" means an individual who is designated as a Responsible Operator in Charge of a community water supply under Section 1 of the PWSO Act.

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

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

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

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

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

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

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

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

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

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

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

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

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

"Third party complaint" means a pleading that a respondent files setting forth a

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claim against a person who is not already a party to the proceeding. (See 35 Ill. Adm. Code 103.206.)

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

"Transcript" means the official recorded testimony from a hearing or public remarks from a Board meeting.

"USEPA" means the United States Environmental Protection Agency.

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

"UST" means underground storage tank.

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

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

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

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

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

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Section 101.300 Computation of Time

- a) **Computation of Time.** Computation of any period of time prescribed in the Act, other applicable law, or this Subpart will begin with the first calendar day following the day on which the act, event or development occurs and will run until the close of business on the last day, or the next business day if the last day is a Saturday, Sunday or national or State legal holiday.
- b) **Date of Filing.** Documents will be considered filed with the Clerk only if they are filed in compliance with Section 101.302 and any other filing requirements specified elsewhere in the Board's procedural rules (see 35 Ill. Adm. Code 101 through 130). Subpart J sets forth when electronic documents submitted to COOL will be considered filed.
 - 1) If a document is submitted to the Clerk for filing in person, by U.S. Mail, by e-mail or facsimile pursuant to Section 101.302(d), or by third-party commercial carrier, the document is considered filed on the date it is received by the Clerk. However, a document received by the Clerk after 4:30 p.m. is considered filed on the next business day. The Clerk will mark the filing date on each filed document.
 - 2) Notwithstanding subsection (b)(1), if the Clerk receives a document by U.S. Mail or third-party commercial carrier after a filing deadline date, the document will be deemed filed on:
 - A) The date the document was provided to the U.S. Postal Service; or
 - B) The date the document was provided to the third-party commercial carrier for delivery to the Clerk within three business days.
 - 3) For purposes of subsection (b)(2), documentation of when the document being filed was provided to the U.S. Postal Service or the third-party commercial carrier consists of the affidavit or certificate required by Section 101.304(d)(2)(A) or (d)(4) and must accompany the document being filed. In addition, for delivery by a third-party commercial carrier, the affidavit or certificate must contain the filing party's representation that the charge for delivery to the Clerk within three business days was prepaid.

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- 4) For purposes of Board decision deadlines, the decision period does not begin until the date marked by the Clerk on the initial filing.
- c) Date of Service. Documents will be considered served upon another party only if they are served in compliance with Section 101.304 and any other service requirements specified elsewhere in the Board's procedural rules. The date of service is determined as follows:
- 1) Personal Service. Personal service of a document is complete on the date the document was delivered, as specified in either the affidavit or certificate of service signed by the person who made personal delivery or the declaration of service signed by the process server who made personal delivery.
 - 2) Service by U.S. Mail or Third-Party Commercial Carrier with Recipient Signature. If a recipient's signature is recorded by the U.S. Postal Service or a third-party commercial carrier upon delivery of a document, service by U.S. Mail or a third-party commercial carrier is complete on the date the document was delivered, as specified in the delivery confirmation signed by the recipient of service.
 - 3) Service by E-Mail or Facsimile. Service of a document by e-mail or facsimile is complete on the date the document was successfully transmitted, as specified in the affidavit or certificate of service, signed by the party to the proceeding who is serving the document. However, a document successfully e-mailed or faxed on a Saturday or Sunday, on a national or State legal holiday, or after 5:00 p.m. on a weekday is deemed served on the next business day.
 - 4) Service by U.S. Mail or Third-Party Commercial Carrier without Recipient Signature. If a recipient's signature is not recorded by the U.S. Postal Service or a third-party commercial carrier upon delivery of a document, service by U.S. Mail or a third-party commercial carrier is presumed complete four days after the date the document was provided to the U.S. Postal Service or the third-party commercial carrier.
 - A) The presumption applies only if an affidavit or certificate of service, signed by the party to the proceeding who is serving the

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document, states the following: the date, the time by when, and the place where the document was provided to the U.S. Postal Service or the third-party commercial carrier; the address appearing on the envelope or package containing the document; and that proper postage or the delivery charge was prepaid.

- B) The presumption can be rebutted by proper proof, which may include delivery tracking information from the website of the U.S. Postal Service or the website of the third-party commercial carrier.
- d) Date of Board Decision and Date of Service of Final Board Decision.
- 1) For purposes of statutory decision deadline proceedings, the date of the Board decision is the date of the Board meeting ~~at which~~where a final ~~Board opinion and order of the Board~~ was adopted by the vote of at least three Board members.
 - 2) For purposes of appealing a final adjudicatory decision of the Board, the date ~~on which~~of the ~~party receives the Board's~~party's certified ~~mailing~~mail receipt of the Board decision is the date of service of the ~~decision~~final opinion and order by the Board upon the appealing party. Or, in the event of a timely filed motion for reconsideration filed pursuant to Section 101.520, the date ~~on which~~of the ~~party receives the Board's~~party's certified ~~mailing~~mail receipt of the Board order ruling upon the motion is the date of service ~~of the order by the Board~~ upon the appealing party.
 - 3) For purposes of appealing a final rulemaking decision of the Board in which a rule is adopted, amended, or repealed, the effective date of the new rule, the amendment, or the repealer under the IAPA~~participant's receipt of the Board decision~~ is presumed to be the date of service of the ~~decision~~final opinion and order by the Board upon the appealing ~~person~~participant. For purposes of appealing a final rulemaking decision in which no rule is adopted, amended, or repealed, the date on which the participant receives the decision from the Board is the date of service of the decision upon the appealing participant. Or, in the event of a timely filed motion for reconsideration filed pursuant to the Board's procedural rules (35 Ill. Adm. Code 102.700 and 102.702), the date ~~on which~~of the ~~participant receives~~participant's receipt of the Board order ruling upon the

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motion is the date of service of the order~~by the Board~~ upon the appealing participant.

- 4) Any person who appears on a regulatory proceeding's notice list or service list on the date of the final decision can rebut the presumption in subsection (d)(3) with proper proof of having received the decision from the Board after the effective date of the new rule, the amendment, or the repealer.

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

Section 101.302 Filing of Documents

- a) This Section contains the Board's general filing requirements. Additional requirements may exist for specific proceedings elsewhere in the Board's procedural rules (see 35 Ill. Adm. Code 101 through 130). The Clerk will refuse for filing any document that does not comply with the minimum requirements of this Section.

- b) All documents to be filed with the Board must be filed with the Clerk.

- 1) Documents may be filed at the following address:

Pollution Control Board, Attn: Clerk
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601-3218

- 2) All documents filed with the Clerk must provide the name and signature of the person seeking to file the document and identify the name of the person on whose behalf the document is being filed. If a paper document is submitted for filing, the original must bear the original pen-and-ink signature of the person seeking to file the document. Signatures for purposes of electronic filings through COOL are addressed in Section 101.1010.
- 3) Each document being filed with the Clerk (e.g., enforcement complaint, petition for review) must be accompanied by a notice of filing (see Appendix D) and documentation of service (see Section 101.304(d)).

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- 4) The date on which a document is considered to have been filed is determined pursuant to Section 101.300(b).
 - 5) Service of a document upon a hearing officer does not constitute filing with the Clerk unless the document is submitted to the hearing officer during the course of a hearing.
- c) Documents may be filed with the Clerk by U.S. Mail, by electronic means in accordance with Subpart J, in person, or by third-party commercial carrier.
 - d) A filing by e-mail or facsimile will only be allowed with the prior approval of the Clerk of the Board or the hearing officer assigned to the proceeding. Any prior approval by the Clerk or hearing officer applies only to the specified filing.
 - e) The initial filings listed in this subsection require filing fees and will only be considered filed when accompanied by the appropriate fee. The fee may be paid in the form of government voucher, money order, or check made payable to the Illinois Pollution Control Board, or electronically through COOL in accordance with Section 101.1040(b)(1), but cannot be paid in cash.
 - 1) Petition for Site-Specific Regulation, \$75;
 - 2) Petition for Variance, \$75;
 - 3) Petition for Review of Agency Permit Decision, UST Decision, or any other appeal filed pursuant to Section 40 of the Act, \$75;
 - 4) Petition to Review Pollution Control Facility Siting Decisions, pursuant to Section 40.1 of the Act, \$75; and
 - 5) Petition for Adjusted Standard, pursuant to Section 28.1 of the Act, \$75.
 - f) For each document filed with the Clerk, the filing party must serve a copy of the document upon the other parties and, if a hearing officer has been assigned, upon the hearing officer in accordance with Section 101.304.
 - g) All documents filed with the Board must contain the relevant proceeding caption and docket number. All documents must be submitted on or formatted to print on

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8½ x 11 inch paper, except as provided in subsection (j). Paper documents must be submitted on recycled paper as defined in Subpart B of this Part, and, if feasible, double sided. All pages in a document must be sequentially numbered. All documents created by word processing programs must be formatted as follows:

- 1) The margins must each be a minimum one inch on the top, bottom, and both sides of the page; and
 - 2) The size of the type in the body of the text must be no less than 12 point font, and in footnotes no less than 10 point font.
- h) Unless the Board, the hearing officer, or ~~the~~its procedural rules provide otherwise, all documents must be filed in paper or through COOL electronically pursuant to this subsection (h).
- 1) Except as provided in subsection (h)(2), (h)(3), ~~or~~(h)(4), or (j):
 - A) Any type of document may be filed in paper or through COOL.
 - B) If a document is filed in paper, the original and ~~two~~three copies of the document (~~three~~four total) are required.
 - C) If a document is filed through COOL in accordance with Subpart J, no paper original or copy of the document is required.
 - 2) ~~The original documents listed in this subsection (h)(2) must be filed in paper. In lieu of filing three paper copies with the original pursuant to subsection (h)(1)(B), a compact disk of the document in text-searchable Adobe PDF may be filed with the original.~~ The following documents must be filed in text-searchable Adobe PDF through COOL or on compact disk or other portable electronic storage device~~in paper~~:
 - A) The ~~original~~ Agency record required by 35 Ill. Adm. Code 105.212 (permit decision or other final decision), 105.302 (CAAPP permit application), 105.410 (leaking UST decision), or 125.208 (recommendation on tax certification) (see 35 Ill. Adm. Code 105.116);

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- B) The ~~original~~ OSFM record required by 35 Ill. Adm. Code 105.508 (UST Fund eligibility and deductibility) (see 35 Ill. Adm. Code 105.116);
- C) The ~~original~~ local siting authority record required by 35 Ill. Adm. Code 107.302 (pollution control facility siting) (see 35 Ill. Adm. Code 107.304); and
- D) A petition filed under 35 Ill. Adm. Code 104 (regulatory relief mechanisms) or 106 (proceedings pursuant to specific rules or statutory provisions) (see 35 Ill. Adm. Code 104.106 and 106.106)~~An original oversized exhibit (see subsection (j))~~.
- 3) A document containing information claimed or determined to be a trade secret, or other non-disclosable information pursuant to 35 Ill. Adm. Code 130, is prohibited from being filed electronically and must instead be filed only in paper. The version of the document that is redacted pursuant to 35 Ill. Adm. Code 130 may be filed through COOL.
- 4) When filing a rulemaking proposal, ~~if the proponent must file three paper originals of~~ any document ~~that is~~ protected by copyright law (17 USC 101 et seq.) ~~is and~~ proposed pursuant to Section 5-75 of the IAPA [5 ILCS 100/5-75] to be incorporated by reference, the copyrighted document is prohibited from being filed electronically, but the remainder of the rulemaking proposal may be filed through COOL. In addition, the rulemaking proponent must comply with subsection (h)(4)(A) or (h)(4)(B); provided, however:
- A) File a paper original of the copyrighted document. The rulemaking proposal also must include:
- i) The copyright owner's written authorization for the Board to make, at no charge to the Board, up to no more than a total of two paper copies of the copyrighted document if the Board is required by State law to furnish a copy to JCAR, a court, or a member of the public during or after the rulemaking;

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or formatted, the original oversized exhibit still must be filed with the Clerk's Office. In accordance with 2 Ill. Adm. Code 2175.300, the original oversized exhibit may be returned to the person who filed it.

- k) Page Limitation. No motion, brief in support of motion, or brief may exceed 50 pages, and no amicus curiae brief may exceed 20 pages, without prior approval of the Board or hearing officer. These limits do not include appendices containing relevant material.

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

SUBPART E: MOTIONS

Section 101.518 Motions for Interlocutory Appeal from Hearing Officer Orders

Interlocutory appeals from a ruling of the hearing officer may be taken to the Board by—The Board may consider an interlocutory appeal upon the filing of a written motion within 14 days after receipt of the hearing officer's written order. However, if the hearing officer's ruling is rendered on the record at hearing, any motion for interlocutory appeal must be filed within 14 days after the Board receives the hearing transcript setting forth the ruling. Filing a motion for interlocutory appeal will not postpone a scheduled hearing, stay the effect of the hearing officer's ruling, or otherwise stay the proceeding. Failure of a party to timely file a motion for interlocutory appeal constitutes a waiver of any objection to the hearing officer's ruling.

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

SUBPART F: HEARINGS, EVIDENCE, AND DISCOVERY

Section 101.600 Hearings

- a) All hearings are open to the public and are held in compliance with the Americans with Disabilities Act of 1990 (42 USC 12101 et seq.). The hearings will be generally held at locations in the county in which the source or facility is located unless otherwise ordered by the hearing officer, in accordance with any geographic requirements imposed by applicable law and consistent with the Board's resources. All hearings are subject to cancellation without notice. Interested persons may contact the Clerk's Office or the hearing officer for information about the hearing. Parties, participants, and members of the public must conduct themselves with decorum at the hearing.

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- b) Any Board hearing may be held by videoconference. Upon its own motion or the motion of any party, the Board or the hearing officer may order that a hearing be held by videoconference. In deciding whether a hearing should be held by videoconference, factors that the Board or the hearing officer will consider include cost-effectiveness, efficiency, facility accommodations, witness availability, and public interest.

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

Section 101.602 Notice of Board Hearings

- a) The hearing officer will give the parties at least 21 days written notice of a hearing.
- ba) The Clerk will provide notice of all hearings, except for administrative citation hearings, in a newspaper of general circulation in the county in which the facility or pollution source is located, or where the activity in question occurred. Unless otherwise required by applicable law, when a hearing is to be held to satisfy the public hearing requirement of the Clean Air Act (42 USC 7401 et seq.) for State Implementation Plan revisions, the Clerk will give notice of the hearing by publication in the Illinois Register in lieu of newspaper notice. Notice must be published at least 21 days ~~before~~prior to the hearing. If the proceeding involves federal rules ~~that~~which the State has been given delegated authority to administer, notice must be published at least 30 days ~~before~~prior to the hearing.
- cb) *Whenever a proceeding before the Board may affect the right of the public individually or collectively to the use of community sewer or water facilities provided by a municipally owned or publicly regulated company, the Board shall at least 30 days prior to the scheduled date for the first hearing in the proceeding, give notice of the date, time, place, and purpose of the hearing by public advertisement in a newspaper of general circulation in the area of the State concerned [415 ILCS 5/33(c)].*

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

SUBPART I: REVIEW OF FINAL BOARD OPINIONS AND ORDERS

Section 101.906 Judicial Review of Board Orders

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- a) Pursuant to Sections 29 and 41 of the Act [415 ILCS 5/29 and 41] and Supreme Court Rule 335, judicial review of final Board orders is available from the appellate court. However, pursuant to Section 11-60 of the Property Tax Code [35 ILCS 200/11-60], judicial review of final Board orders in tax certification proceedings is available from the circuit court.
- b) For purposes of judicial review, ~~a final Board order is~~ orders are appealable as of the date of service of the final order by the Board upon the appealing person (see Section 101.300(d)) ~~party~~.
- c) The procedure for stay of any final Board order during appeal will be as provided in Rule 335 of the Rules of the Supreme Court of Illinois (Ill. S. Ct. Rule 335).

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

SUBPART J: ELECTRONIC FILING AND E-MAIL SERVICE

Section 101.1000 Electronic Filing and E-Mail Service

- a) The Board provides the opportunity to file and access documents electronically through its Clerk's Office On-Line (COOL). COOL is located on the Board's website (www.ipcb.state.il.us). The Board has taken steps designed to ensure the integrity and security of COOL in accordance with State policies developed under the Electronic Commerce Security Act [5 ILCS 175].
- b) To file an electronic document with the Board, a person must upload the document on COOL. Electronic filing is not accomplished by sending a document to the e-mail address of the Clerk or hearing officer.
- c) Except as provided in Section 101.302(h)(2), (h)(3), ~~and (h)(4)~~, and (j) of this Part and Section 101.1050 of this Subpart, all documents may be filed through COOL. If a person files an electronic document in accordance with this Subpart, the person is not required to file a paper original or copy of that document.
- d) ~~Nothing in this Subpart requires a person to file a document electronically.~~ Generally, the Clerk's Office will convert paper-filed documents into electronic documents and place them on COOL.

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- e) All documents filed with the Board may be served by e-mail except for enforcement complaints, administrative citations, and EMSA statements of deficiency. (See Section 101.304(c) of this Part and Section 101.1060 of this Subpart.) ~~Nothing in this Subpart requires a person to serve a document by e-mail or to accept service of a document by e-mail.~~

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

Section 101.1050 Documents Required in Paper or Excluded from Electronic Filing

- a) ~~The following documents must be filed in paper pursuant to Section 101.302(h)(2) of this Part:~~
- 1) ~~The original Agency record required by 35 Ill. Adm. Code 105.212 (permit decision or other final decision), 105.302 (CAAPP permit application), 105.410 (leaking UST decision), or 125.208 (recommendation on tax certification);~~
 - 2) ~~The original OSFM record required by 35 Ill. Adm. Code 105.508 (UST Fund eligibility and deductibility);~~
 - 3) ~~The original local siting authority record required by 35 Ill. Adm. Code 107.302 (pollution control facility siting); and~~
 - 4) ~~An original oversized exhibit (see Section 101.302(j) of this Part).~~
- ab) A document containing information claimed or determined to be a trade secret, or other non-disclosable information pursuant to 35 Ill. Adm. Code 130, is prohibited from being filed electronically and must instead be filed only in paper pursuant to Section 101.302(h)(3) of this Part. The version of the document that is redacted pursuant to 35 Ill. Adm. Code 130 may be filed through COOL.
- be) If a rulemaking proposal contains a document that is protected by copyright law (17 USC 101 et seq.) and proposed pursuant to Section 5-75 of the IAPA [5 ILCS 100/5-75] to be incorporated by reference, that copyrighted document is prohibited from being filed electronically and must instead be filed only in paper pursuant to Section 101.302(h)(4) of this Part. The remainder of the rulemaking proposal may be filed through COOL.

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

Section 101.1060 E-Mail Service

- a) Except as provided in subsections (b) and (c), a person required to serve a document may serve the document by e-mail, in lieu of serving a paper document, if the recipient has consented to e-mail service in the proceeding and has not revoked the consent. (See Section 101.1070.) To serve a document by e-mail, it is not necessary to electronically file the document or to obtain a State of Illinois digital signature certificate.
- b) Service of enforcement complaints and EMSA statements of deficiency on a respondent must be made personally, by U.S. Mail with a recipient's signature recorded, or by a third-party commercial carrier with a recipient's signature recorded. (See Section 101.304(c)(2).)
- c) Service of administrative citations must be made as required under 35 Ill. Adm. Code 108.
- d) A person required to serve a document on the hearing officer ~~must~~ may serve the hearing officer by sending the document to the hearing officer's e-mail address in lieu of serving a paper document upon the hearing officer if the person has the capability of serving the document by e-mail.
- e) When a document is served by e-mail, documentation of service must be filed with the Clerk and served on all persons entitled to service in that proceeding. A sample form of affidavit or certificate of e-mail service is available in Appendix H. An affidavit or certificate of e-mail service must include the following:
 - 1) The e-mail address of the recipient and the person authorizing the filing;
 - 2) The number of pages in the e-mail transmission;
 - 3) A statement that the document was served by e-mail; and
 - 4) The date of the e-mail transmission and the time by when it took place.

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- f) If any computer malfunction precludes the e-mail service of a document, the person authorizing the filing must promptly serve the document in paper pursuant to Section 101.304(c).
- g) Except for final adjudicatory orders of the Board, which the Clerk's Office serves in paper by certified mail, the Clerk's Office ~~will~~ may serve Board orders and hearing officer orders by e-mail, in lieu of serving paper documents, if the recipient has consented to e-mail service in the proceeding and has not revoked the consent. (See Section 101.1070.) The Clerk will record the date and time of e-mail service, consistent with subsection (e) of this Section.

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

Section 101.1070 Consenting to Receipt of E-Mail Service

- a) In any proceeding, a person ~~consents~~ may consent to e-mail service of documents in lieu of receiving paper documents by:
- 1) Filing ~~filing~~ a "Consent to Receipt of E-Mail Service" ~~with the Clerk's Office. (see A sample form of consent is available in Appendix I); of this Part.~~
 - 2) Providing the hearing officer with an e-mail address during a hearing or conference;
 - 3) Filing an attorney's appearance containing an e-mail address; or
 - 4) Appearing on a notice list or service list and providing the Clerk's Office with an e-mail address.
- b) At any time during a proceeding, consent ~~Consent~~ to e-mail service may be provided as set forth in subsection (a) filed with the Clerk's Office at any time during the proceeding. To accept e-mail service, it is not necessary to obtain a State of Illinois digital signature certificate.
- c) A person's consent to receiving e-mail service may be revoked by that person at any time during the proceeding upon the person's filing of a notice of the revocation with the Clerk's Office.

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- d) Upon a change in the e-mail address of a recipient of e-mail service, the recipient must ~~notify~~file a notice of the e-mail address change with the Clerk's Office of the e-mail address change for each pending proceeding in which the person has consented to e-mail service.

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

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Regulatory and Informational Hearings and Proceedings
- 2) Code Citation: 35 Ill. Adm. Code 102
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
102.114	New Section
102.304	Amendment
102.412	Amendment
102.416	Amendment
102.422	Amendment
102.424	Amendment
102.706	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) A Complete Description of the Subjects and Issues Involved: Generally, the Board proposes amendments to help it more effectively and efficiently conduct its business, particularly in light of digital technology, including high quality video communications. These amendments are designed to increase the efficiency of Board operations and reduce the costs of conducting its rulemakings and contested cases. Specifically, the Board proposes amendments to account for its hearings to be conducted by videoconference, and, where applicable, for hearing notices to be published in the *Illinois Register* in lieu of newspaper notice. The Board also proposes amendments consistent with proposed amendments in 35 Ill. Adm. Code 101.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No

POLLUTION CONTROL BOARD

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- 11) Statement of Statewide Policy Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments should reference Docket R16-17 and be addressed to:

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

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.ipcb.state.il.us.

Interested persons may request copies of the Board's opinion and order in R16-17 by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us.

For more information, contact hearing officer Daniel Robertson at 312/814-6931 or e-mail at Daniel.Robertson@illinois.gov.

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any small business, small municipality, or not-for-profit corporation that practices before the Board
 - 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 a regulatory agenda because the need for it was not anticipated when Agendas were published.

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NOTICE OF PROPOSED AMENDMENTS

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

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NOTICE OF PROPOSED AMENDMENTS

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

PART 102

REGULATORY AND INFORMATIONAL HEARINGS AND PROCEEDINGS

SUBPART A: GENERAL PROVISIONS

Section	
102.100	Applicability
102.102	Severability
102.104	Definitions
102.106	Types of Regulatory Proposals
102.108	Public Comments
102.110	Waiver of Requirements
102.112	Other Proceedings
102.114	Hearings

SUBPART B: REGULATIONS OF GENERAL APPLICABILITY,
RESOURCE CONSERVATION AND RECOVERY ACT (RCRA)
AMENDMENTS, AND SITE-SPECIFIC REGULATIONS

Section	
102.200	Proposal for Regulations of General Applicability
102.202	Proposal Contents for Regulations of General Applicability
102.204	Proposal of RCRA Amendments
102.206	Notice of Site-Specific RCRA Proposals
102.208	Proposal for Site-Specific Regulations
102.210	Proposal Contents for Site-Specific Regulations
102.211	Proposal to Update Incorporations by Reference
102.212	Dismissal

SUBPART C: CLEAN AIR ACT AMENDMENTS (CAAA)
FAST TRACK RULEMAKING

Section	
102.300	Applicability
102.302	Agency Proposal

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- 102.304 Hearings
102.306 Prefiled Testimony

SUBPART D: SERVICE AND FILING OF DOCUMENTS, MOTIONS,
PRODUCTION OF INFORMATION, SUBPOENAS, PREHEARING
CONFERENCES, AND HEARINGS

Section

- 102.400 Service and Filing of Documents
102.402 Motions, Production of Information, and Subpoenas
102.404 Initiation and Scheduling of Prehearing Conferences
102.406 Purpose of Prehearing Conference
102.408 Prehearing Order
102.410 Authorization of Hearing
102.412 Scheduling of Hearings
102.414 Hearings on the Economic Impact of New Proposals
102.416 Notice of Hearing
102.418 Record
102.420 Authority of the Hearing Officer
102.422 Notice and Service Lists
102.424 Prehearing [Filings](#)~~Submission~~ of Testimony, [Questions](#), [Responses](#), and Exhibits
102.426 Admissible Information
102.428 Presentation of Testimony and Order of Hearing
102.430 Questioning of Witnesses

SUBPART E: CERTIFICATION OF REQUIRED RULES

Section

- 102.500 Agency Certification
102.502 Challenge to Agency Certification
102.504 Board Determination

SUBPART F: BOARD ACTION

Section

- 102.600 Revision of Proposed Regulations
102.602 Adoption of Regulations
102.604 First Notice of Proposed Regulations
102.606 Second Notice of Proposed Regulations

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102.608	Notice of Board Final Action
102.610	Adoption of Identical-in-Substance Regulation
102.612	Adoption of Emergency Regulations
102.614	Adoption of Peremptory Regulations

SUBPART G: MOTIONS FOR RECONSIDERATION AND APPEAL

Section	
102.700	Filing of Motions for Reconsideration
102.702	Disposition of Motions for Reconsideration
102.704	Correction of Publication Errors
102.706	Appeal

SUBPART H: OUTSTANDING RESOURCE WATER DESIGNATION

Section	
102.800	Applicability
102.810	Petition
102.820	Petition Contents
102.830	Board Action

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

AUTHORITY: Implementing Sections 5, 7.2, 13(c), 13.3, 17.5, 22.4(a), 22.4(d), 27, 28, 28.2, 28.6, 29, and 41 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.2, 13(c), 13.3, 17.5, 22.4(a), 22.4(d), 27, 28, 28.2, 28.6, 29, and 41] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27].

SOURCE: Originally adopted as Chapter 1: Procedural Rules, Part II: Regulatory and Other Nonadjudicative Hearings and Proceedings, in R70-4, 1 PCB 43, October 8, 1970; codified at 6 Ill. Reg. 8357; amended in R84-10 at 9 Ill. Reg. 1398, effective January 16, 1985; Part repealed, new Part adopted in R88-5(B) at 14 Ill. Reg. 9210, effective May 24, 1990; amended in R90-16 at 14 Ill. Reg. 20472, effective December 11, 1990; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 587, effective January 1, 2001; amended in R01-13 at 26 Ill. Reg. 3498, effective February 22, 2002; amended in R04-24 at 29 Ill. Reg. 8776, effective June 8, 2005; amended in R10-18 at 34 Ill. Reg. 12193, effective August 9, 2010; amended in R14-21 at 39 Ill. Reg. 2333, effective January 27, 2015; amended in R16-17 at 40 Ill. Reg. _____, effective _____.

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SUBPART A: GENERAL PROVISIONS

Section 102.114 Hearings

Hearings will be conducted pursuant to 35 Ill. Adm. Code 101. Subpart F, including any hearing held by videoconference (see 35 Ill. Adm. Code 101.600(b)).

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

SUBPART C: CLEAN AIR ACT AMENDMENTS (CAAA)
FAST TRACK RULEMAKING**Section 102.304 Hearings**

- a) Within 14 days after the receipt of a rule, the Board will file the proposed rule for first notice and schedule all hearings. Additionally, the Board will send notice ~~to the appropriate newspaper~~ of the scheduled hearing to the appropriate publication. The hearing notice will be published ~~by the newspaper~~ at least 30 days ~~before~~ prior to the date of the hearing. When the Board can cause timely publication of the hearing notice in the Illinois Register, the Board will do so in lieu of newspaper notice.
- b) The first hearing will be held within 55 days after receipt of the rule and is reserved for the Agency's testimony and questions of the Agency's witnesses.
- c) Within 7 days after the first hearing, any person may request a second hearing. The request may be made on the record at the first hearing or in writing. If done in writing it must be filed with the Board and served upon the service list.
- d) A second hearing will be held to hear comments on Department of Commerce and Economic Opportunity's economic impact study of the proposed rules. *At least 20 days before the hearing, the Board shall notify the public of the hearing and make the economic impact study, or the Department of Commerce and Economic Opportunity's explanation for not producing an economic impact study, available to the public. Such public hearing may be held simultaneously or as part of any Board hearing considering such new rules* [415 ILCS 5/27(b)]. See also Section 102.414 ~~of this Part~~. The second hearing must also permit the *presentation of testimony, documents, and comments by affected entities and all other interested persons.* [415 ILCS 5/28.5(g)]

POLLUTION CONTROL BOARD

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- e) *The third hearing shall be scheduled to commence within 14 days after the first day of the second hearing and shall be devoted solely to any Agency response to the material submitted at the second hearing and to any response by other parties [415 ILCS 5/28.5(g)]. In order to cancel the third hearing, the Agency must state on the record at hearing that it and the affected entities are in agreement or notify the Board and the service list in writing.*
- f) In order to meet statutory deadlines, hearing dates may be chosen by the assigned Board member and hearing officer without consultation with the participants. CAAA hearings need only be held in one affected area of the State.

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

SUBPART D: SERVICE AND FILING OF DOCUMENTS, MOTIONS,
PRODUCTION OF INFORMATION, SUBPOENAS, PREHEARING
CONFERENCES, AND HEARINGS

Section 102.412 Scheduling of Hearings

- a) Except as otherwise provided by applicable law, *no substantive regulation shall be adopted, amended, or repealed until after a public hearing within the area of the State concerned.* In the case of site-specific rules, a public hearing will be held in the affected ~~area~~county. Except as otherwise provided by applicable law, *in the case of state-wide regulations, hearings shall be held in at least two areas.* [415 ILCS 5/28(a)]
- b) If the proponent or any participant wishes to request a hearing beyond the number of hearings specified by the hearing officer, that person must demonstrate, in a motion to the hearing officer, that failing to hold an additional hearing would result in material prejudice to the movant. The motion may be oral, if made at hearing, or written. The movant must show that he exercised due diligence in his participation in the proceeding and why an additional hearing, as opposed to the submission of written comments pursuant to Section 102.108 ~~of this Part~~, is necessary.
- e) ~~If a hearing is scheduled in a rulemaking proposed pursuant to Section 7.2 of the Act [415 ILCS 5/7.2], the hearing may be held by videoconference.~~

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

Section 102.416 Notice of Hearing

- a) The hearing officer will set a time and place for hearing. The Clerk will give notice ~~of the date~~ of the hearing as follows or as otherwise required by applicable law:
- 1) By notice in the Board's Environmental Register and on the Board's website;
 - 2) *At least 20 days prior to the scheduled date of the hearing the Board shall give notice of such hearing by public advertisement in a newspaper of general circulation in the area of the State concerned. The notice will include, the date, time, place and purpose of such hearing [415 ILCS 5/28(a)]; and*
 - 3) Where required by federal law, including air pollution and RCRA proposals, newspaper notice will be published at least 30 days ~~before~~ ~~the~~ the hearing date.
- b) In accordance with Section 28(a) of the Act or as otherwise required by applicable law, the Clerk will give notice to the proponent and to all persons who are on the notice list in accordance with Section 102.422 of this Part.
- c) Unless otherwise required by applicable law, when a hearing is to be held to satisfy the public hearing requirement of the Clean Air Act (42 USC 7401 et seq.) for State Implementation Plan revisions, the Clerk will give notice of the hearing by publication in the Illinois Register in lieu of newspaper notice.
- ~~d~~e) Hearings that are continued on the hearing record for a period of 45 days or less do not require notice that complies with subsections (a), ~~and~~ (b) or (c) of this Section.

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

Section 102.422 Notice and Service Lists

- a) The ~~Clerk's Office~~ ~~hearing officer~~ will maintain a notice list for each regulatory

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proceeding. The notice list will consist of those persons who have furnished their names and addresses to ~~the hearing officer or~~ the Clerk's ~~Office~~ concerning the proposal. ~~The Clerk will serve a copy~~ Notice of all Board ~~orders~~ actions and hearing officer orders ~~upon they will be given to all~~ persons ~~appearing~~ included on the notice list.

- b) The hearing officer may establish a service list for any regulatory proceeding, in addition to the notice list. ~~Unless ordered otherwise by the~~ The hearing officer, ~~may direct~~ participants ~~must~~ serve copies of all ~~their respective filings~~ documents upon the persons ~~appearing~~ listed on the service list. In deciding whether to establish a service list, ~~factors that~~ the hearing officer will consider ~~include~~ factors including the complexity of the proceeding and the number of participants. For purposes of fast-track rulemakings under Section 28.5 of the Act, participants of record will be the individuals on the service list.
- c) The Board will not accept general requests to appear on all notice lists. Interested persons must submit their names ~~and addresses~~ for each proceeding in accordance with subsection (a) of this Section.

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

Section 102.424 Prehearing Filings Submission of Testimony, Questions, Responses, and Exhibits

- a) The proponent must ~~file~~ submit all written testimony and any related exhibits 21 days ~~before~~ prior to the hearing at which the witness testifies, unless the hearing officer directs otherwise to prevent material prejudice or undue delay.
- b) The hearing officer may require the prehearing ~~filings~~ submission of testimony, questions, responses, ~~answers,~~ and any related exhibits by the proponent or participants other than the proponent if the hearing officer determines that ~~the~~ such a procedure will provide for a more efficient hearing.
- c) All prehearing testimony, questions, ~~answers,~~ responses, and ~~any related~~ exhibits must be filed with the Clerk in accordance with 35 Ill. Adm. Code 101.302(h). ~~Persons filing these prehearing documents must serve them in accordance with 35 Ill. Adm. Code 101.304(c) upon the~~ The hearing officer, the Agency, ~~and, if a participant,~~ the Attorney General's Office, General and DNR, ~~must each be served with all prehearing testimony, questions, answers, responses, and exhibits in~~

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~~accordance with 35 Ill. Adm. Code 101.304(e). All prehearing testimony, questions, answers, responses, and exhibits must also be served in accordance with 35 Ill. Adm. Code 101.304(e) upon~~ the proponent, and each participant appearing on any service list, unless otherwise specified by the hearing officer. The service must be initiated on or before the date that the prehearing documents are filed with the Clerk.

- d) All prehearing testimony, questions, ~~answers,~~ responses, and any related exhibits must be ~~served and submitted in the form required by 35 Ill. Adm. Code 101. Subpart C and~~ labeled with the docket number of the proceeding, the name of the witness corresponding to ~~submitting~~ the material ~~or exhibit~~, and the title of the material ~~or exhibit~~.
- e) The proponent and each participant who has filed testimony, questions, ~~answers,~~ responses, or any related exhibits before hearing in paper only must bring ~~the number of copies designated by the hearing officer of that material and exhibits to~~ the hearing a compact disk or other portable electronic storage device containing their respective prehearing documents in text-searchable Adobe PDF for the record.
- f) Testimony, questions, ~~and answers,~~ responses that are timely filed before the, ~~and exhibits submitted prior to~~ hearing will be entered into the record as if read, unless the hearing officer determines that it will aid public understanding to have the material ~~or exhibit~~ read at the hearing. All persons testifying will be sworn and ~~will be~~ subject to cross-examination. Modifications to prehearing documents ~~previously submitted material and exhibits~~ may be allowed by the hearing officer at the hearing ~~if provided that~~ the modifications are either nonsubstantive ~~non-substantive~~ in nature or would not materially prejudice another person's participation at the hearing. Objections to hearing officer rulings allowing or disallowing the modifications are waived unless raised at the hearing.
- g) When prehearing filings ~~submission~~ of testimony, questions, ~~answers,~~ responses, and any related ~~or~~ exhibits is required pursuant to subsection (a) or (b) ~~of this Section,~~ any material ~~or exhibit~~ that is not timely filed ~~in a timely manner~~ will be allowed at the hearing only if a time permits, and the hearing officer determines that allowing the material ~~only when its submission~~ will not materially prejudice the proponent or any other participant. Any of these documents that is not allowed at the hearing because it was not timely filed before the hearing can be filed after the hearing as a public comment.

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- h) For a videoconference hearing under Section 102.114, in addition to the other requirements of this Section, all written testimony, questions, responses, and any related exhibits as well as any other document to be offered as a hearing exhibit, must be received by the Clerk's Office at least 24 hours before the scheduled start of the hearing. Any of these documents that is not filed at least 24 hours before the scheduled start of the videoconference hearing will not be allowed at the hearing, but can be filed after the hearing as a public comment.

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

SUBPART G: MOTIONS FOR RECONSIDERATION AND APPEAL

Section 102.706 Appeal

Any final Board order may be appealed to the appellate court within 35 days after the service of that order (see 35 Ill. Adm. Code 101.300(d)), pursuant to Sections 29 and 41 of the Act [415 ILCS 5/29 and 41].

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

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- 1) Heading of the Part: Enforcement
- 2) Code Citation: 35 Ill. Adm. Code 103
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
103.108	New Section
103.410	Amendment
103.414	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) A Complete Description of the Subjects and Issues Involved: Generally, the Board proposes amendments to help it more effectively and efficiently conduct its business, particularly in light of digital technology, including high quality video communications. These amendments are designed to increase the efficiency of Board operations and reduce the costs of conducting its rulemakings and contested cases. Specifically, the Board proposes amendments to allow it to conduct hearings by videoconference, consistent with proposed amendments to 35 Ill. Adm. Code 101.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of 45 days after the date of publication in the *Illinois Register*. Public comments should reference Docket R16-17 and be addressed to:

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

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.ipcb.state.il.us.

Interested persons may request copies of the Board's opinion and order in R16-17 by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us.

For more information, contact hearing officer Daniel Robertson at 312/814-6931 or e-mail at Daniel.Robertson@illinois.gov.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any small business, small municipality, or not for profit corporation that practices before the Board
 - 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 a regulatory agenda because the Department did not anticipate this rulemaking at the time the agendas were filed.

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

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NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: POLLUTION CONTROL BOARDPART 103
ENFORCEMENT

SUBPART A: GENERAL PROVISIONS

Section	
103.100	Applicability
103.102	Severability
103.104	Definitions
103.106	General
103.108	Hearings

SUBPART B: COMPLAINT, REQUEST FOR INFORMAL AGENCY
INVESTIGATION, SERVICE, AND AUTHORIZATION OF HEARING

Section	
103.200	Who May File
103.202	Parties
103.204	Notice, Complaint, and Answer
103.206	Adding Parties; Filing Counter-, Cross-, or Third-Party Complaints; Filing New or Modified Claims
103.208	Request for Informal Agency Investigation
103.210	Notice of Complaint
103.212	Hearing on Complaint

SUBPART C: SETTLEMENT PROCEDURE

Section	
103.300	Request for Relief from Hearing Requirement in State Enforcement Proceeding
103.301	Request for Relief from Hearing Requirement in Citizen's Enforcement Proceeding
103.302	Contents of Proposed Stipulation and Settlement Agreement
103.304	Hearing on Proposed Stipulation and Settlement Agreement
103.306	Board Order on Proposed Stipulation and Settlement Agreement

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SUBPART D: PROCEEDINGS INVOLVING RCRA PERMITS

Section	
103.400	Purpose, Scope, and Applicability
103.402	Interim Order
103.404	Joinder of the Agency
103.406	Draft Permit or Statement
103.408	Stipulated Draft Remedy
103.410	Contents of Public Notice
103.412	Public Comment
103.414	Hearing
103.416	Contents of Board Order

SUBPART E: IMPOSITION OF PENALTIES

Section	
103.500	Default
103.502	Civil Penalties
103.504	Civil Penalties Method of Payment

SUBPART F: ENFORCING BOARD ORDERS

Section	
103.600	Civil Action

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

AUTHORITY: Implementing Sections 5, 7.2, 13(c), 13.3, 17.5, 22.4(a), 22.4(d), 22.7(d), 27, 28, 28.2, 29, 30, 31, 41, and 42 of the Environmental Protection Act (Act) [415 ILCS 5/5, 7.2, 13(c), 13.3, 17.5, 22.4(a), 22.4(d), 22.7(d), 27, 28, 28.2, 29, 30, 31, 41, and 42] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27].

SOURCE: Originally adopted as Chapter 1: Procedural Rules, Part III, Enforcement Proceedings, in R70-4, at 1 PCB 43, October 8, 1970; amended in R80-2, at 39 PCB 456, at 4 Ill. Reg. 39, p. 285, effective September 12, 1980; amended in R80-18, at 44 PCB 125, at 5 Ill. Reg. 14146, effective December 3, 1981; codified at 6 Ill. Reg. 8357; amended in R84-10 at 9 Ill. Reg. 1383, effective January 16, 1985; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 425, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8793, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2349, effective January 27, 2015; amended in R15-20 at

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

39 Ill. Reg. 12898, effective September 8, 2015; amended in R16-17 at 40 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 103.108 Hearings

Hearings will be conducted pursuant to 35 Ill. Adm. Code 101.Subpart F, including any hearing held by videoconference (see 35 Ill. Adm. Code 101.600(b)).

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

SUBPART D: PROCEEDINGS INVOLVING RCRA PERMITS

Section 103.410 Contents of Public Notice

- a) In addition to servicing all parties, the Agency must serve a copy of any partial draft permit on USEPA in accordance with 35 Ill. Adm. Code 101.304(c).
- b) In addition to the requirements of the Act and Section 103.210 of this Part, the Agency must, at a minimum, give notice of the filing of a partial draft permit to the following persons:
 - 1) Federal agencies as designated by USEPA;
 - 2) Illinois Department of Transportation;
 - 3) Illinois Department of Natural Resources;
 - 4) Illinois Department of Public Health;
 - 5) The Governor of any other state adjacent to the county in which the facility is located; and
 - 6) Elected officials of any counties, in other states, adjacent to the county in which the facility is located, and elected officials in any municipality, in another state, if it is the ~~elosest~~ population center that is closest to the facility.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- c) ~~The~~In addition to the methods of notice by publication of Section 103.208 of this Part, the Agency must give notice by broadcast over at least one radio station in the area of the facility containing the information required by subsections (d)(2), (d)(4) and (d)(6) through (d)(8).
- d) A notice of a partial draft permit must include the following information:
- 1) The addresses of the Board offices and the Board website;
 - 2) Name and address of the respondent and, if different, of the facility subject to the enforcement proceeding;
 - 3) A brief description of the business conducted at the facility and the activity that is the subject of the enforcement proceeding;
 - 4) A statement of the violations the Board has found or has proposed to find;
 - 5) A statement that the Agency has filed a partial draft permit;
 - 6) Name, address, e-mail address, and telephone number of the Clerk of the Board, from whom interested persons may obtain further information, including copies of the partial draft permit or stipulated remedy;
 - 7) A notice of a hearing, the address of the Board, a statement that a hearing will be held and that the record will remain open for 45 days after the filing of the partial draft or stipulated remedy for written comments;
 - 8) A statement that the record in the proceeding is available to be inspected at the Board office and may also be available through the Clerk's Office On-Line (COOL), located on the Board website, except those portions of the record that are claimed or determined to be trade secrets or other non-disclosable information, and that procedures are available whereby disclosure may be sought by the public in accordance with 35 Ill. Adm. Code 130;
 - 9) A statement that enforcement proceedings are considered pursuant to 415 ILCS 5/30; and
 - 10) Any additional information considered necessary or proper.

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

Section 103.414 Hearing

- a) The hearing officer, after appropriate consultation with the parties, will set a time and place for the hearing to be held not less than 30 days after the filing of the partial draft permit or stipulated remedy.
- b) The hearing will be held, whenever possible, at a location convenient to~~in the county in which the facility is located,~~ in the population center that is~~in the county~~ closest to the facility.
- c) The Clerk in consultation with the hearing officer will give notice of the hearing to the persons entitled to notice in Sections 103.210 and 103.410 of this Part, and to any other persons who have commented, requested to comment or requested notice, and to any persons on a mailing list provided by the Agency.
- d) Notice will be mailed not less than 30 days before the hearing.

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

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- 1) Heading of the Part: Regulatory Relief Mechanisms
- 2) Code Citation: 35 Ill. Adm. Code 104
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
104.106	New Section
104.236	Amendment
104.422	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) A Complete Description of the Subjects and Issues Involved: Generally, the Board proposes amendments to help it more effectively and efficiently conduct its business, particularly in light of digital technology, including high quality video communications. These amendments are designed to increase the efficiency of Board operations and reduce the costs of conducting its rulemakings and contested cases. Specifically, the Board proposes amendments to allow it to conduct hearings by videoconference, consistent with proposed amendments to 35 Ill. Adm. Code 101. The Board also proposes an amendment requiring petitioners to file an index listing all documents comprising a filed petition.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

of 45 days after the date of publication in the *Illinois Register*. Public comments should reference Docket R16-17 and be addressed to:

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

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.ipcb.state.il.us.

Interested persons may request copies of the Board's opinion and order in R16-17 by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us.

For more information, contact hearing officer Daniel Robertson at 312/814-6931 or e-mail at Daniel.Robertson@illinois.gov.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any small business, small municipality, or not for profit corporation that practices before the Board
 - 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 a regulatory agenda because the need for it was not anticipated when Agendas were published.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: POLLUTION CONTROL BOARDPART 104
REGULATORY RELIEF MECHANISMS

SUBPART A: GENERAL PROVISIONS

Section	
104.100	Applicability
104.102	Severability
104.104	Definitions
104.106	Petitions and Hearings

SUBPART B: VARIANCES

Section	
104.200	General
104.202	Filing Requirements
104.204	Petition Content Requirements
104.206	Resource Conservation and Recovery Act (RCRA) Variance Petition Contents
104.208	Consistency with Federal Law
104.210	Petition for Extension of Variance
104.212	Motion for Modification of Internal Variance Compliance Dates
104.214	Notice of Petition
104.216	Agency Investigation and Recommendation
104.218	Agency Recommendation to RCRA Variance
104.220	Response to Agency Recommendation
104.222	Stipulations
104.224	Objections to Petition, Written Comments and Request for Hearing
104.226	Amended Petition and Amended Recommendation
104.228	Insufficient Petition
104.230	Dismissal of Petition
104.232	Calculation of Decision Deadline
104.234	Hearing
104.236	Hearing Procedures
104.238	Standard of Review
104.240	Certificate of Acceptance

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104.242	Term of Variance
104.244	Variance Conditions
104.246	Performance Bonds
104.248	Objection to Conditions

SUBPART C: PROVISIONAL VARIANCES

Section	
104.300	Applicability
104.302	Agency Action
104.304	Initiating a Request
104.306	Filing and Notice
104.308	Term
104.310	Simultaneous Variance Prohibition (Repealed)

SUBPART D: ADJUSTED STANDARDS

Section	
104.400	General
104.402	Initiation of Proceeding
104.404	Request to Agency to Join as Co-Petitioner
104.406	Petition Content Requirements
104.408	Petition Notice Requirements
104.410	Proof of Petition Notice Requirements
104.412	Effect of Filing a Petition: Stay
104.414	Dismissal of Petition
104.416	Agency Recommendation and Petitioner Response
104.418	Amended Petition, Amended Recommendation, and Amended Response
104.420	Request for Public Hearing
104.422	Public Hearing
104.424	Hearing Notice
104.426	Burden of Proof
104.428	Board Action

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

AUTHORITY: Subparts B and C: Implementing Sections 5, 35, 36, 37 and 38 of the Environmental Protection Act (Act) [415 ILCS 5/5, 35, 36, 37, and 38] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27]. Subpart D: Implementing Sections 5,

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14.2(c), 22.4, 27, 28, 28.1, 28.5 and 39.5 of the Act [415 ILCS 5/5, 14.2(c), 22.4, 27, 28, 28.1, 28.5 and 39.5] and authorized by Sections 26 and 27 of the Act [415 ILCS 5/26 and 27].

SOURCE: Subpart B: Originally adopted as Chapter I: Procedural Rules, Part IV: Variances, in R70-4, at 1 PCB 43, October 8, 1970; amended in R77-16, 29 PCB 503, at 2 Ill. Reg. 16, p. 3, effective May 1974; amended in R79-9, 35 PCB 433, at 3 Ill. Reg. 51, p. 128, effective December 7, 1979; amended in R80-12, 40 PCB 451, at 5 Ill. Reg. 2763, effective March 2, 1981; codified at 6 Ill. Reg. 8357; amended in R84-10, 62 PCB 87, at 9 Ill. Reg. 1409, effective January 16, 1985; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 613, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8803, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2357, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. 12905, effective September 8, 2015; amended in R16-17 at 40 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 104.106 Petitions and Hearings

- a) Each petition must contain an index that lists the documents comprising the petition, including any exhibits, attachments, and supporting documents. All pages of the petition must be sequentially numbered with the letter "P" placed before the number of each page. The index must show the page numbers upon which each document comprising the petition starts and ends.
- b) Hearings will be conducted pursuant to 35 Ill. Adm. Code 101.Subpart F, including any hearing held by videoconference (see 35 Ill. Adm. Code 101.600(b)).

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

SUBPART B: VARIANCES

Section 104.236 Hearing Procedures

Hearings will be conducted pursuant to 35 Ill. Adm. Code 101.Subpart F, except that:

- a) ~~All hearings are to be held in the county where the petitioner's facility or pollution source is located unless otherwise ordered by the hearing officer (see 35 Ill. Adm. Code 101.600);~~

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- ~~a)~~ Hearings may be canceled pursuant to a motion filed in accordance with 35 Ill. Adm. Code 101.510 at the discretion of the hearing officer. ~~;~~ ~~and~~
- ~~b)~~ If all parties and participants who have requested a hearing pursuant to this Subpart have withdrawn their requests for a hearing, the hearing will not be held unless the Board in its discretion deems it advisable.
- ~~c)~~ The hearing on an RCRA variance petition will be held, whenever possible, at a location convenient to the population center that is closest to the facility.
- d) The hearing officer ~~will~~shall give notice of RCRA hearings to the following persons:
- 1) Any person in the county in which the installation or property for which variance is sought is located who has in writing requested notice of variance petitions and the State's attorney of the county;
 - 2) The Chairman of the county board of the county;
 - 3) Each member of the General Assembly from the legislative district in which that installation or property is located;
 - 4) Federal agencies as designated by USEPA;
 - 5) Illinois Department of Transportation;
 - 6) Department of Natural Resources;
 - 7) Illinois Department of Public Health;
 - 8) The Governor of any other state adjacent to the county in which the facility or pollution source is located;
 - 9) Elected officials of any counties, in other states, adjacent to the county in which the facility or pollution source is located, and elected officials in any municipality, in another state, if it is the ~~closest~~ population center that is closest to the facility or pollution source; and

POLLUTION CONTROL BOARD

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- 10) USEPA's Region V Director of Waste, Pesticides and Toxics Division.

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

SUBPART D: ADJUSTED STANDARDS

Section 104.422 Public Hearing

- a) A public hearing will be held and the Board will assign a hearing officer to an adjusted standard proceeding when:
- 1) The petitioner requests a hearing be held; or
 - 2) The Board receives a hearing request by any person pursuant to Section 104.420 of this Part, not later than 21 days after the date of the publication of the petition notice in accordance with Section 104.408 of this Part; or
 - 3) The Board *in its discretion determines that a hearing would be advisable* [415 ILCS 5/28.1]; or
 - 4) The adjusted standard is sought pursuant to 35 Ill. Adm. Code 212.126 (CAA).
- b) The hearing officer will set a time and place for the hearing. The hearing officer will ~~make an attempt to consult with the petitioner and the Agency before prior to the scheduling of a hearing.~~ ~~Hearings are to be held in the county likely to be affected by the petitioner's activity that is the subject of the proposed adjusted standard.~~

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

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NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Appeals of Final Decisions of State Agencies
- 2) Code Citation: 35 Ill. Adm. Code 105
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
105.110	Amendment
105.116	Amendment
105.510	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) A Complete Description of the Subjects and Issues Involved: Generally, the Board proposes amendments to help it more effectively and efficiently conduct its business, particularly in light of digital technology, including high quality video communications. These amendments are designed to increase the efficiency of Board operations and reduce the costs of conducting its rulemakings and contested cases. Specifically, the Board proposes amendments to allow it to conduct hearings by videoconference, consistent with proposed amendments to 35 Ill. Adm. Code 101. The Board further proposes amendments requiring State agencies to file records of final agency decisions electronically.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period

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of at least 45 days after the date of publication in the *Illinois Register*. Public comments should reference Docket R16-17 and be addressed to:

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

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.ipcb.state.il.us.

Interested persons may request copies of the Board's opinion and order in R16-17 by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us.

For more information, contact hearing officer Daniel Robertson at 312/814-6931 or e-mail at Daniel.Robertson@illinois.gov.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any small business, small municipality, or not-for-profit corporation that practices before the Board
 - 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 a regulatory agenda because the Department did not anticipate this rulemaking at the time the agendas were filed.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

PART 105

APPEALS OF FINAL DECISIONS OF STATE AGENCIES

SUBPART A: GENERAL PROVISIONS

Section	
105.100	Applicability
105.102	Severability
105.104	Definitions
105.106	Computation of Time, Filing and Service Requirements
105.108	Dismissal of Petition
105.110	Hearings Hearing Process
105.112	Burden of Proof
105.114	Calculation of Decision Deadline
105.116	Record Filing
105.118	Sanctions for Untimely Filing of the Record

SUBPART B: APPEAL OF AGENCY PERMIT DECISIONS AND
OTHER FINAL DECISIONS OF THE AGENCY

Section	
105.200	Applicability
105.202	Parties
105.204	Who May File a Petition for Review
105.206	Time to File the Petition or Request for Extension
105.208	Extension of Time to File a Petition for Review
105.210	Petition Content Requirements
105.212	Agency Record
105.214	Board Hearing

SUBPART C: CAAPP PERMIT APPEALS

Section	
105.300	Applicability
105.302	General Requirements

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105.304 Petition Content Requirements

SUBPART D: APPEAL OF AGENCY LEAKING UNDERGROUND
STORAGE TANK (LUST) DECISIONS

Section

105.400 Parties
105.402 Who May File a Petition for Review
105.404 Time for Filing the Petition
105.406 Extension of Time to File a Petition for Review
105.408 Petition Content Requirements
105.410 Agency Record
105.412 Board Hearing

SUBPART E: APPEAL OF OSFM LUST DECISIONS

Section

105.500 Applicability
105.502 General Overview
105.504 General Requirements
105.506 Petition Content Requirements
105.508 OSFM Record and Appearance
105.510 Location of Hearing

105.APPENDIX A Agency LUST Final Decisions that are Reviewable
105.APPENDIX B Comparison of Former and Current Rules (Repealed)

AUTHORITY: Authorized by Sections 26 and 27 of the Environmental Protection Act (Act) [415 ILCS 5/26 and 27] and implementing Sections 5, 39, 39.5, 40, 40.1, 40.2, and 57 of the Act [415 ILCS 5/5, 39, 39.5, 40, 40.1, 40.2 and 57].

SOURCE: Filed with Secretary of State January 1, 1978; amended 4 Ill. Reg. 52, page 41, effective December 11, 1980; codified 6 Ill. Reg. 8357; amended in R93-24 at 18 Ill. Reg. 4244, effective March 8, 1994; amended in R94-11 at 18 Ill. Reg. 16594, effective November 1, 1994; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 406, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8811, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2369, effective January 27, 2015; amended in R16-17 at 40 Ill. Reg. _____, effective _____.

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NOTICE OF PROPOSED AMENDMENTS

SUBPART A: GENERAL PROVISIONS

Section 105.110 ~~Hearings~~ Hearing Process

Hearings will be conducted~~Unless this Part provides otherwise, proceedings held pursuant to this Part will be in accordance with the rules set forth in~~ 35 Ill. Adm. Code 101.Subpart F, including any hearing held by videoconference (see 35 Ill. Adm. Code 101.600(b)).

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

Section 105.116 Record Filing

- a) The State agency must file with the Board the entire record of its decision within 30 days after the filing of the petition for review, unless this Part provides otherwise, or the Board or hearing officer orders a different filing date. If the State agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. The State agency must file the ~~original~~ record in text-searchable Adobe PDF through COOL or on compact disk or other portable electronic storage device~~paper~~ pursuant to 35 Ill. Adm. Code 101.302(h)(2). ~~(See 35 Ill. Adm. Code 101.1050(a).)~~
- b) The record must ~~contain the originals of all documents,~~ be arranged in chronological sequence, and ~~be~~ sequentially numbered with the letter "R" placed before the number of each page. The record must be certified by the State agency. The certification must be entitled "Certificate of Record on Appeal". The Certificate must contain an index that lists the documents comprising the record and shows the page numbers upon which each document starts and ends. The Certificate of Record must be served on all parties by the State agency.

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

SUBPART E: APPEAL OF OSFM LUST DECISIONS

Section 105.510 Location of Hearing

The hearing will be held in either Springfield or Chicago or in such other location as the hearing officer or the Board may designate to prevent material prejudice or undue delay. Upon the proceeding being set for hearing, the Clerk will cause notice of the hearing to be published. Public notice will be published at least 21 days before the hearing by public advertisement in a

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NOTICE OF PROPOSED AMENDMENTS

newspaper of general circulation in the county in which the LUST site in question is located.
Nothing in this Section precludes holding the hearing by videoconference pursuant to 35 Ill. Adm. Code 101.600(b).

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

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NOTICE OF PROPOSED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
106.106	New Section
106.410	Amendment
106.510	Amendment
106.710	Amendment
106.912	Amendment
106.1155	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) A Complete Description of the Subjects and Issues Involved: Generally, the Board proposes amendments to help it more effectively and efficiently conduct its business, particularly in light of digital technology, including high quality video communications. These amendments are designed to increase the efficiency of Board operations and reduce the costs of conducting its rulemakings and contested cases. Specifically, the Board proposes amendments to allow it to conduct hearings by videoconference, consistent with proposed amendments to 35 Ill. Adm. Code 101. The Board further proposes amendments requiring a petitioner to file an index of all documents filed as part of a petition.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any proposed rulemakings amendments pending on this Part? No
- 11) Statement of Statewide Policy Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].

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- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments should reference Docket R16-17 and be addressed to:

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

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.ipcb.state.il.us.

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For more information, contact hearing officer Daniel Robertson at 312/814-6931 or e-mail at Daniel.Robertson@illinois.gov.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Any small business, small municipality, or not for profit corporation that practices before the Board
 - 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 a regulatory agenda because the need for it was not anticipated when Agendas were published.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

PART 106

PROCEEDINGS PURSUANT TO SPECIFIC RULES OR STATUTORY PROVISIONS

SUBPART A: GENERAL PROVISIONS

Section	
106.100	Applicability
106.102	Severability
106.104	Definitions
106.106	Petitions and Hearings

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

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

SUBPART C: WATER WELL SETBACK EXCEPTION PROCEDURES

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

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

SUBPART E: MAXIMUM ACHIEVABLE CONTROL
TECHNOLOGY DETERMINATIONS

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

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

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

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

Section

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

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

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

SUBPART I: AUTHORIZATIONS FOR CERTAIN LANDSCAPE WASTE AND
COMPOST APPLICATIONS AND ON-FARM COMPOSTING FACILITIES

Section	
106.900	General

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

106.902	Initiation of Proceeding
106.904	Petition Content Requirements
106.906	Petition Notice Requirements
106.908	Proof of Petition Notice Requirements
106.910	Response and Reply
106.912	Hearing
106.914	Burden of Proof

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

Section	
106.1000	General (Repealed)
106.1002	Definitions (Repealed)
106.1004	Initiation of Proceeding (Repealed)
106.1006	Petition Content Requirements (Repealed)
106.1008	Response and Reply (Repealed)
106.1010	Burden of Proof (Repealed)
106.1012	Board Decision (Repealed)

SUBPART K: ALTERNATIVE THERMAL EFFLUENT LIMITATIONS PURSUANT TO
SECTION 316(a) OF THE CLEAN WATER ACT AND 35 ILL. ADM. CODE 304.141(c)

Section	
106.1100	Purpose
106.1105	General
106.1110	Definitions
106.1115	Early Screening
106.1120	Detailed Plan of Study
106.1125	Initiation of Proceeding
106.1130	Contents of Petition
106.1135	Petition Notice Requirements
106.1140	Proof of Petition Notice Requirements
106.1145	Recommendation and Response
106.1150	Request for Public Hearing
106.1155	Notice and Conduct of Hearing
106.1160	Burden of Proof
106.1165	Evidentiary Matters
106.1170	Opinion and Order

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 106.1175 Post-Hearing Procedures
106.1180 Renewal of Alternative Thermal Effluent Limitations

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

AUTHORITY: Implementing and authorized by Sections 5, 14.2(c), 21(q), 22.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5 and 52.3 of the Environmental Protection Act (the Act) [415 ILCS 5/5, 14.2(c), 21(q), 21.622.4, 26, 27, 28, 28.1, 28.5, 35, 36, 37, 38, 39.5 and 52.3], and Section 5 of the Regulation of Phosphorus in Detergents Act [415 ILCS 92/5].

SOURCE: Filed with Secretary of State January 1, 1978; amended at 4 Ill. Reg. 2, p. 186, effective December 27, 1979; codified at 6 Ill. Reg. 8357; amended in R85-22 at 10 Ill. Reg. 992, effective February 2, 1986; amended in R86-46 at 11 Ill. Reg. 13457, effective August 4, 1987; amended in R82-1 at 12 Ill. Reg. 12484, effective July 13, 1988; amended in R88-10 at 12 Ill. Reg. 12817, effective July 21, 1988; amended in R88-5(A) at 13 Ill. Reg. 12094, effective July 10, 1989; amended in R88-5(B) at 14 Ill. Reg. 9442, effective June 5, 1990; amended in R93-24 at 18 Ill. Reg. 4230, effective March 8, 1994; amended in R93-30 at 18 Ill. Reg. 11579, effective July 11, 1994; amended in R99-9 at 23 Ill. Reg. 2697, effective February 16, 1999; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 550, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8817, effective June 8, 2005; amended in R10-19 at 34 Ill. Reg. 11486, effective July 23, 2010; amended in R12-21 at 36 Ill. Reg. 9236, effective June 7, 2012; amended in R12-11 at 36 Ill. Reg. 16581, effective November 5, 2012; amended in R13-20 at 38 Ill. Reg. 6086, effective February 26, 2014; amended in R14-21 at 39 Ill. Reg. 2375, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. 12914, effective September 8, 2015; amended in R16-17 at 40 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 106.106 Petitions and Hearings

- a) Each petition must contain an index that lists the documents comprising the petition, including any exhibits, attachments, and supporting documents. All pages of the petition must be sequentially numbered with the letter "P" placed before the number of each page. The index must show the page numbers upon which each document comprising the petition starts and ends.
- b) Hearings will be conducted pursuant to 35 Ill. Adm. Code 101.Subpart F, including any hearing held by videoconference (see 35 Ill. Adm. Code 101.600(b)).

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

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

Section 106.410 Hearing

The Board will hold at least one public hearing ~~in the county where the CAAPP source is located~~. The Clerk will give notice of the petition and hearing in accordance with 35 Ill. Adm. Code 101.602. The proceeding must be conducted in accordance with 35 Ill. Adm. Code 101.Subpart F.

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

SUBPART E: MAXIMUM ACHIEVABLE CONTROL
TECHNOLOGY DETERMINATIONS

Section 106.510 Hearing

The Board will hold at least one public hearing ~~in the county where the CAAPP source is located~~. The Clerk of the Board will give notice of the petition and any hearing in accordance with 35 Ill. Adm. Code 101.602. The proceeding will be conducted in accordance with 35 Ill. Adm. Code 101.Subpart F.

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

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

Section 106.710 Notice of Hearing

- a) The Clerk will assign a docket number to each statement of deficiency filed. Any hearing will be held not later than 60 days after the respondent files the answer, subject to any extensions ordered under subsection (c) of this Section.
- b) The Chairman of the Board will designate a hearing officer and the Clerk will notify the parties of the designation. The hearing officer may be a Member of the Board if otherwise qualified.

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NOTICE OF PROPOSED AMENDMENTS

- c) The hearing officer, after reasonable efforts to consult with the parties, will set a time and place for hearing. The Board or the hearing officer may extend the time for hearing if all parties agree or there are extreme and unanticipated or uncontrollable circumstances that warrant a delay. The Board or the hearing officer may delay the hearing more than once. In each event, the Board or the hearing officer will not delay the hearing for more than 30 days.
- d) The hearing will be held pursuant to 35 Ill. Adm. Code 101.Subpart F ~~in the county in which the pilot project is located, or in another county that the hearing officer designates for cause.~~
- e) The hearing officer or the Clerk will give notice of the hearing, at least 30 days before the hearing, to the parties under Section 106.708(b) of this Subpart, and to the public by public advertisement in a newspaper of general circulation in the county in which the pilot project is located.
- f) The Agency must give notice of each statement of deficiency and hearing under Section 106.708(b) of this Part at least 10 days before the hearing to:
- 1) All stakeholders named or listed in the EMSA; and
 - 2) Any person who submitted written comments on the respondent's EMSA or participated in the public hearing on the respondent's EMSA by signing an attendance sheet or signature card under the procedures set forth in 35 Ill. Adm. Code 187.404, if less than 100 persons attended the public hearing on the respondent's EMSA as indicated by signatures on the attendance sheet or signature cards.
- g) Failure to comply with this Section is not a defense to an involuntary termination proceeding under this Subpart, but the hearing officer may postpone the hearing upon the motion of any person prejudiced by a failure to comply with this Section.

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

SUBPART I: AUTHORIZATIONS FOR CERTAIN LANDSCAPE WASTE AND
COMPOST APPLICATIONS AND ON-FARM COMPOSTING FACILITIES

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 106.912 Hearing

- a) Any person can request that a public hearing be held in an authorization proceeding. The requests must be filed not later than 21 days after the date of the publication of the petition notice in accordance with Section 106.906. Requests for hearing should make reference to the Board docket number assigned to the proceeding. A copy of each timely hearing request will be mailed to the petitioner and Agency by the Clerk of the Board. Participation by the public at the hearing must be in accordance with 35 Ill. Adm. Code 101.110 and 101.628. The Board may also, in its discretion, hold a public hearing when it determines a public hearing is advisable.
- b) When all parties and participants who have requested a hearing pursuant to this Subpart have withdrawn their requests for a hearing, the hearing will not be held unless the Board, in its discretion, deems it advisable.
- c) The hearing officer will set a time and place for the hearing. The hearing officer will make an attempt to consult with the petitioner and the Agency ~~before~~^{prior to} the scheduling of a hearing. ~~Hearings are to be held in the county likely to be affected by the petitioner's activity that is the subject of the proposed authorization proceeding.~~

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

SUBPART K: ALTERNATIVE THERMAL EFFLUENT LIMITATIONS PURSUANT TO SECTION 316(a) OF THE CLEAN WATER ACT AND 35 ILL. ADM. CODE 304.141(c)**Section 106.1155 Notice and Conduct of Hearing**

- a) The Board shall hold a public hearing on the petition and alternative thermal effluent limitation demonstration when one is requested in accordance with Section 106.1150, when requested by the petitioner, or if the Board, in its discretion, determines that a hearing would be advisable.
- b) The hearing officer will schedule the hearing ~~to be held in the county likely to be affected by the petitioner's activity.~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- c) The Clerk will give notice of the hearing in accordance with 35 Ill. Adm. Code 101. The proceedings will be conducted in accordance with 35 Ill. Adm. Code 101. Subpart F.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Petition to Review Pollution Control Facility Siting Decisions
- 2) Code Citation: 35 Ill. Adm. Code 107
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
107.100	Amendment
107.302	Amendment
107.304	Amendment
107.400	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) A Complete Description of the Subjects and Issues Involved: Generally, the Board proposes amendments to help it more effectively and efficiently conduct its business, particularly in light of digital technology, including high quality video communications. These amendments are designed to increase the efficiency of Board operations and reduce the costs of conducting its rulemakings and contested cases. Specifically, the Board proposes amendments to allow the it to conduct hearings by videoconference, consistent with proposed amendments to 35 Ill. Adm. Code 101. The Board further proposes clarifying the definition of "pollution control facility" consistent with its definition in the Illinois Environmental Protection Act. The Board also proposes requiring a siting authority to file its record electronically.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].

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NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the Illinois Register. Public comments should reference Docket R16-17 and be addressed to:

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

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.ipcb.state.il.us.

Interested persons may request copies of the Board's opinion and order in R16-17 by calling the Clerk's office at 312/814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us.

For more information, contact hearing officer Daniel Robertson at 312/814-6931 or e-mail at Daniel.Robertson@illinois.gov.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any small business, small municipality, or not-for-profit corporation that practices before the Board
 - 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 a regulatory agenda because the need for it was not anticipated when Agendas were published.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER 1: POLLUTION CONTROL BOARD

PART 107

PETITION TO REVIEW POLLUTION CONTROL FACILITY SITING DECISIONS

SUBPART A: GENERAL PROVISIONS

Section	
107.100	Applicability
107.102	Severability
107.104	Definitions
107.106	Description

SUBPART B: PETITION FOR REVIEW

Section	
107.200	Who May File Petition
107.202	Parties
107.204	Time for Filing Petition
107.206	Filing and Service Requirements
107.208	Petition Content Requirements

SUBPART C: FILING OF LOCAL RECORD

Section	
107.300	Record
107.302	Filing of the Record
107.304	Record Contents
107.306	Preparing of the Record
107.308	Certification of Record

SUBPART D: HEARING

Section	
107.400	General
107.402	Authority and Duties of Hearing Officer
107.404	Public Participation

SUBPART E: BOARD REVIEW AND DECISION

Section	
107.500	Preliminary Board Determination/Set for Hearing

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

107.502	Dismissal of Petition
107.504	Decision Deadline
107.506	Burden of Proof

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

AUTHORITY: Authorized by Sections 26 and 27 of the Environmental Protection Act (Act) [415 ILCS 5/26 and 27] and implementing Sections 39.2, and 40.1 of the Act [415 ILCS 5/39.2 and 40.1].

SOURCE: Filed with Secretary of State January 1, 1978; amended at 4 Ill. Reg. 2, p. 186, effective December 27, 1979; codified at 6 Ill. Reg. 8357; amended in R85-22 at 10 Ill. Reg. 992, effective February 2, 1986; amended in R86-46 at 11 Ill. Reg. 13457, effective August 4, 1987; amended in R82-1 at 12 Ill. Reg. 12484, effective July 13, 1988; amended in R88-10 at 12 Ill. Reg. 12817, effective July 21, 1988; amended in R88-5(A) at 13 Ill. Reg. 12094, effective July 10, 1989; amended in R88-5(B) at 14 Ill. Reg. 9442, effective June 5, 1990; amended in R93-24 at 18 Ill. Reg. 4230, effective March 8, 1994; amended in R93-30 at 18 Ill. Reg. 11579, effective July 11, 1994; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 539, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8828, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2391, effective January 27, 2015; amended in R16-17 at 40 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 107.100 Applicability

- a) This Part applies to adjudicatory proceedings before the Board concerning petitions to review a pollution control facility siting decision made by local government pursuant to Sections 39.2 and 40.1 of the Act [\[415 ILCS 5/39.2 and 40.1\]](#). ["Pollution control facility" is defined at Section 3.330 of the Act \[415 ILCS 5/3.330\] for purposes of this Part.](#)
- b) This Part must be read in conjunction with 35 Ill. Adm. Code 101, which contains procedures generally applicable to all of the Board's adjudicatory proceedings. In the event of a conflict between the requirements of 35 Ill. Adm. Code 101 and those of this Part, the provisions of this Part apply.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART C: FILING OF LOCAL RECORD

Section 107.302 Filing of the Record

The siting authority must file the record of its proceedings with the Board as directed by Board or hearing officer order. Failure to file the entire record on the date directed by the Board or hearing officer may subject the respondent to sanctions as may be ordered by the Board in accordance with 35 Ill. Adm. Code 101.Subpart H. The siting authority must file the ~~original~~ record in text-searchable Adobe PDF through COOL or on compact disk or other portable electronic storage device~~paper~~ pursuant to 35 Ill. Adm. Code 101.302(h)(2). ~~(See 35 Ill. Adm. Code 101.1050(a).)~~

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

Section 107.304 Record Contents

- a) The record must contain all information or evidence presented to the local siting authority or relied upon by the local siting authority during its hearing process including:
- 1) The siting application;
 - 2) Any and all transcripts of local hearings;
 - 3) All briefs and other arguments and statements of parties and participants;
 - 4) All exhibits relied upon by the local siting authority in making its decision;
 - 5) All written public comments relevant to the local government proceeding;
 - 6) Minutes of all relevant open meetings of the siting authority;
 - 7) Notices of hearings or all relevant meetings of the siting authority;
 - 8) The written decision of the siting authority made pursuant to Section 39.2 of the Act;
 - 9) Certificate of Record as described in Section 107.308 of this Part; and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 10) *If, prior to making a final local siting decision, a county board or governing body of a municipality has negotiated and entered into a host agreement with the local siting applicant, the terms and conditions of the host agreement, whether written or oral, shall be disclosed and made a part of the hearing record for that local siting proceeding. In the case of an oral agreement, the disclosure shall be made in the form of a written summary jointly prepared and submitted by the county board or governing body of the municipality and the siting applicant and shall describe the terms and conditions of the oral agreement. [415 ILCS 5/39.2(e)]*
- b) The record must ~~contain the originals of all documents,~~ be arranged in chronological sequence, and ~~be~~ sequentially numbered with the letter "C" placed before the number of each page.

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

SUBPART D: HEARING

Section 107.400 General

Hearings, including any hearing held by videoconference (see 35 Ill. Adm. Code 101.600(b)), and discovery will be conducted pursuant to in accordance with the provisions set forth in the Board's general procedural rules found at 35 Ill. Adm. Code 101.Subpart F.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Administrative Citations
- 2) Code Citation: 35 Ill. Adm. Code 108
- 3) Section Number: 108.300 Proposed Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) A Complete Description of the Subjects and Issues Involved: Generally, the Board proposes amendments to help it more effectively and efficiently conduct its business, particularly in light of digital technology, including high quality video communications. These amendments are designed to increase the efficiency of Board operations and reduce the costs of conducting its rulemakings and contested cases. Specifically, the Board proposes amendments to allow it to conduct hearings by videoconference, consistent with proposed amendments to 35 Ill. Adm. Code 101.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments should reference Docket R16-17 and be addressed to:

Clerk's Office

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Illinois Pollution Control Board
JRTC
100 W. Randolph St., Suite 11-500
Chicago IL 60601

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.ipcb.state.il.us.

Interested persons may request copies of the Board's opinion and order in R16-17 by calling the Clerk's office at 312-814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us.

For more information, contact hearing officer Daniel Robertson at 312/814-6931 or e-mail at Daniel.Robertson@illinois.gov.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any small business, small municipality, or not-for-profit corporation that practices before the Board
 - 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 a regulatory agenda because the rulemakings were not anticipated when the Agendas were published.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

PART 108
ADMINISTRATIVE CITATIONS

SUBPART A: GENERAL PROVISIONS

Section	
108.100	Applicability
108.102	Severability
108.104	Definitions

SUBPART B: ISSUANCE OF THE CITATION AND PETITION TO CONTEST

Section	
108.200	Administrative Citation under the Act
108.201	Administrative Citation under the PWSO Act
108.202	Administrative Citation under the EPRR Act
108.204	Filing Requirements for Petition to Contest
108.206	Petition Contents
108.208	AC Recipient's Voluntary Withdrawal

SUBPART C: HEARINGS

Section	
108.300	Authorization of Hearing

SUBPART D: BOARD DECISIONS

Section	
108.400	Burden of Proof
108.402	Dismissal
108.404	Default
108.406	Non-Contested Citations

SUBPART E: ASSESSMENT OF PENALTIES AND COSTS

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Section	
108.500	Penalties and Costs
108.502	Claimed Costs of Agency or Delegated Unit
108.504	Board Costs
108.506	Response to Claimed Costs and Reply

AUTHORITY: Authorized by Sections 26 and 27 of the Environmental Protection Act [415 ILCS 5/26 and 27] and implementing Sections 21(o), 21(p), 22.51, 22.51a, 31.1, 42(b)(4), 42(b)(4-5), and 55(k) of the Act [415 ILCS 5/21(o), 21(p), 22.51, 22.51a, 31.1, 42(b)(4), 42(b)(4-5), and 55(k)] and Sections 1.1(b)(3) and 23.1 of the Public Water Supply Operations Act [415 ILCS 45/1.1(b)(3) and 23.1] and Sections 20 and 80 of the Electronic Products Recycling and Reuse Act [415 ILCS 150/20 and 80].

SOURCE: Adopted in R00-20 at 25 Ill. Reg. 397, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8833, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2397, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. 12921, effective September 8, 2015; amended in R16-17 at 40 Ill. Reg. _____, effective _____.

SUBPART C: HEARINGS

Section 108.300 Authorization of Hearing

- a) The hearing date will be set within 60 days after the filing of the petition to contest unless the hearing officer orders otherwise to prevent material prejudice.
- b) The hearing officer will give the parties at least 21 days written notice of the hearing.
- c) The hearing will be held in accordance with 35 Ill. Adm. Code 101.Subpart F.
- d) Hearings will be conducted pursuant to 35 Ill. Adm. Code 101.Subpart F, including any hearing held by videoconference (see 35 Ill. Adm. Code 101.600(b))~~The hearing will be held at a time and location consistent with the Board's resources as designated by the hearing officer.~~

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Tax Certifications
- 2) Code Citation: 35 Ill. Adm. Code 125
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
125.208	Amendment
125.210	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 10 and 27 of the Illinois Environmental Protection Act [415 ILCS 5/10 and 27]
- 5) A Complete Description of the Subjects and Issues Involved: Generally, the Board proposes amendments to help it more effectively and efficiently conduct its business, particularly in light of digital technology, including high quality video communications. These amendments are designed to increase the efficiency of Board operations and reduce the costs of conducting its rulemakings and contested cases. Specifically, the Board proposes amendments to allow it to conduct hearings by videoconference, consistent with proposed amendments to 35 Ill. Adm. Code 101. The Board also proposes amendments requiring the Illinois Environmental Protection Agency to electronically file tax certification records with the Board.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

of at least 45 days after the date of publication in the *Illinois Register*. Public comments should reference Docket R16-17 and be addressed to:

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

Public comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at www.ipcb.state.il.us.

Interested persons may request copies of the Board's opinion and order in R16-17 by calling the Clerk's office at 312/814-3620, or may download copies from the Board's Web site at www.ipcb.state.il.us.

For more information, contact hearing officer Daniel Robertson at 312/814-6931 or e-mail at Daniel.Robertson@illinois.gov.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Any small business, small municipality, or not-for-profit corporation that practices before the Board.
 - 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 a regulatory agenda because the rulemakings were not anticipated when the Agendas were published.

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: POLLUTION CONTROL BOARDPART 125
TAX CERTIFICATIONS

SUBPART A: GENERAL PROVISIONS

Section

125.100	Applicability
125.102	Severability
125.104	Definitions

SUBPART B: TAX CERTIFICATION OF POLLUTION CONTROL FACILITIES
AND LOW SULFUR DIOXIDE EMISSION COAL FUELED DEVICES

Section

125.200	General
125.202	Tax Certification Application
125.204	Agency Recommendation
125.206	Petition to Contest
125.208	Agency Record
125.210	Public Hearing
125.212	Hearing Notice
125.214	Burden of Proof
125.216	Board Action

AUTHORITY: Implementing and authorized by Sections 11-5, 11-10, 11-20, 11-25, 11-30, 11-35, 11-40, 11-50, and 11-55 of the Property Tax Code [35 ILCS 200/11-5, 11-10, 11-20, 11-25, 11-30, 11-35, 11-40, 11-50, and 11-55] and Sections 26 and 27 of the Environmental Protection Act (the Act) [415 ILCS 5/26 and 27].

SOURCE: Adopted in R00-20 at 25 Ill. Reg. 642, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8838, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2402, effective January 27, 2015; amended in R16-17 at 40 Ill. Reg. _____, effective _____.

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Section 125.208 Agency Record

The Agency must file with the Board the entire record on which it based its recommendation within 30 days after the applicant files a petition to contest under Section 125.206 of this Subpart or as the Board or hearing officer orders. If the Agency wishes to seek additional time to file the record, it must file a request for extension before the date on which the record is due to be filed. The Agency must file the ~~original~~ record in text-searchable Adobe PDF through COOL or on compact disk or other portable electronic storage device~~paper~~ pursuant to 35 Ill. Adm. Code 101.302(h)(2). ~~(See 35 Ill. Adm. Code 101.1050(a).)~~ The record must comply with 35 Ill. Adm. Code 105.116(b).

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

Section 125.210 Public Hearing

- a) The Board will hold a public hearing in a tax certification proceeding if:
- 1) The applicant files a petition to contest in accordance with Section 125.206 of this Subpart, unless the Board disposes of the petition on a motion for summary judgment brought pursuant to 35 Ill. Adm. Code 101.516;
 - 2) The applicant or holder timely requests a hearing after the Board provides notice pursuant to Section 125.216(c) of this Subpart; or
 - 3) The Board, in its discretion, determines that a hearing would be advisable.
- b) If a hearing is to be held, the hearing officer will set a time and place for the hearing. The hearing officer will ~~make an~~ attempt to consult with the applicant and the Agency before scheduling a hearing. Hearings will be conducted pursuant to 35 Ill. Adm. Code 101.Subpart F, including any hearing held by videoconference (see 35 Ill. Adm. Code 101.600(b))~~Hearings will be held in the county where the facility or portion thereof or the device for which the applicant seeks tax certification is located, unless the hearing officer orders otherwise.~~

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

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- 1) Heading of the Part: Air Quality Standards
- 2) Code Citation: 35 Ill. Adm. Code 243
- 3) Section Numbers: Proposed Actions:
243.105 Amendment
243.108 Amendment
243.120 Amendment
243.125 Amendment
243.Table A Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 10, and 27.
- 5) A Complete Description of the Subjects and Issues Involved: The following briefly describes the subjects and issues involved in this rulemaking. A comprehensive description is contained in the Board's opinion and order of December 17, 2015, proposing amendments in docket R16-2 for public comment, which opinion and order is available from the address below. As is explained in that opinion, the Board will receive public comment on the proposed amendments for 45 days from the date they appear in the *Illinois Register* before proceeding to adopt amendments based on this proposal.

The R16-2 proceeding relates to the Illinois ambient air quality requirements in 35 Ill. Adm. Code 243 of the Illinois air pollution control rules. These amendments would update the Illinois ambient air quality requirements to correspond with amendments to the federal National Ambient Air Quality Standards (NAAQSs) that the United States Environmental Protection Agency (USEPA) adopted during the period January 1, 2015 through June 30, 2015, including later amendments adopted on August 26, 2015, October 26, 2015, and November 19, 2015. The Federal NAAQS are codified at 40 C.F.R. 50. During this period, USEPA amended its NAAQSs as follows:

March 6, 2015 (80 Fed. Reg. 12264)	USEPA adopted an implementation rule for the 2008 ozone National Ambient Air Quality Standard (NAAQS). One segment of the implementation rule revised the sunset and anti-backsliding provisions of the 1997 ozone NAAQS.
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June 5, 2015 (80 Fed. Reg. 32114)	USEPA designated one new reference method (FRM) for fine particulates (PM _{2.5}), one new equivalent method (FEM) for PM _{2.5} , one new FEM for coarse particulates (PM _{10-2.5}), and two new FEMs for ozone (O ₃) in ambient air.
June 18, 2015	USEPA issued an updated version of its List of Designated Reference and Equivalent Methods (List of Designated Methods). The update included the one new FRM and four new FEMs included in the June 5, 2015 Federal Register notice.
August 26, 2015 (at 80 Fed. Reg. 51802)	USEPA designated one new FEM for fine particulate matter (PM _{2.5}) and one for ozone in ambient air.
October 26, 2015 (at 80 Fed. Reg. 65292)	USEPA adopted a new primary and secondary NAAQS for O ₃ in ambient air, lowering the NAAQS to 70 parts per billion (ppb) from the 2008 primary and secondary NAAQS for ozone, which was 75 ppb. USEPA included amendments relating to implementation of the 2015 NAAQS.
November 19, 2015 (at 80 Fed. Reg. 72432)	USEPA designated one new FRM for carbon monoxide and one new FEM for ozone in ambient air.

Tables appear in the Board's opinion and order of December 17, 2015 in docket R16-2 that list limited 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 December 17, 2015 opinion and order in docket R16-2.

Section 10(H) of the Environmental Protection Act [415 ILCS 5/10(H)] 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).

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- 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: 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) (2014)].
- 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 R16-2 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

The Board will conduct one public hearing on the proposed amendments because they will ultimately result in submission to the United States Environmental Protection Agency of an amendment to the state implementation plan (SIP). Section 110(a)(2) of the Federal Clean Air Act (42 U.S.C. § 7410(a)(2) (2013)) requires reasonable notice and hearing before a state undertakes an amendment to the SIP. The public hearing will occur videoconference at the following time and between the following locations:

1:30 p.m., Thursday, February 18, 2016
James R. Thompson Center
Illinois Pollution Control Board Hearing Room
100 West Randolph Street, Room 11-512
Chicago

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and
Sangamo Building
Illinois Pollution Control Board Hearing Room
1021 North Grand Avenue East (north entrance)
Springfield

Please direct inquiries to the following person and reference docket R16-2:

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

312/814-6924
email: 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 emit pollutants that could potentially affect ambient air quality in any area of Illinois. 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) (2014)].
- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including emissions monitoring, annual reports, 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) (2014)].
- 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

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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) (2014)].

- 14) Regulatory Agenda on which this rulemaking was summarized: July 5, 2015, 39 Ill Reg. 9013

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

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TITLE 35: ENVIRONMENTAL PROTECTION
 SUBTITLE B: AIR POLLUTION
 CHAPTER I: POLLUTION CONTROL BOARD
 SUBCHAPTER 1: AIR QUALITY STANDARDS AND EPISODES

PART 243
 AIR QUALITY STANDARDS

SUBPART A: GENERAL PROVISIONS

Section

243.101	Definitions
243.102	Scope
243.103	Applicability
243.104	Nondegradation (Repealed)
243.105	Air Quality Monitoring Data Influenced by Exceptional Events
243.106	Monitoring (Repealed)
243.107	Reference Conditions
243.108	Incorporations by Reference

SUBPART B: STANDARDS AND MEASUREMENT METHODS

Section

243.120	PM ₁₀ and PM _{2.5}
243.121	Particulates (Repealed)
243.122	Sulfur Oxides (Sulfur Dioxide)
243.123	Carbon Monoxide
243.124	Nitrogen Oxides (Nitrogen Dioxide as Indicator)
243.125	Ozone
243.126	Lead

243.APPENDIX A	Rule into Section Table (Repealed)
243.APPENDIX B	Section into Rule Table (Repealed)
243.APPENDIX C	Past Compliance Dates (Repealed)
243.TABLE A	Schedule for of Exceptional Event Flagging and Documentation Submission for Data Influenced by Exceptional Events for Use in Initial Area Designations for New or Revised NAAQS

AUTHORITY: Implementing Sections 7.2 and 10 and authorized by Section 27 of the

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Environmental Protection Act [415 ILCS 5/7.2, 10, and 27].

SOURCE: Adopted as Chapter 2: Air Pollution, Part III: Air Quality Standards, in R71-23, filed and effective April 14, 1972; amended in R80-11, at 6 Ill. Reg. 5804, effective April 22, 1982; amended in R82-12, at 7 Ill. Reg. 9906, effective August 18, 1983; codified at 7 Ill. Reg. 13630; amended in R91-35 at 16 Ill. Reg. 8185, effective May 15, 1992; amended in R09-19 at 35 Ill. Reg. 18857, effective October 25, 2011; amended in R13-11 at 37 Ill. Reg. 12882, effective July 29, 2013; amended in R14-6 at 37 Ill. Reg. 19848, effective November 27, 2013; amended in R14-16 at 38 Ill. Reg. 12900, effective June 9, 2014; amended in R15-4 at 39 Ill. Reg. 5434, effective March 24, 2015; amended in R16-2 at 40 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 243.105 Air Quality Monitoring Data Influenced by Exceptional Events

- a) Requirements,
 - 1) The Agency may request USEPA to exclude from use in determinations data showing an exceedance of an NAAQS that is directly due to an exceptional event. The Agency must demonstrate to USEPA that the event caused a specific air pollution concentration at a particular air quality monitoring location.
 - 2) A demonstration to justify data exclusion may include any reliable and accurate data, but must demonstrate a clear causal relationship between the measured exceedance of an NAAQS and the event in accordance with subsection (c)(3)(D) ~~of this Section~~.
- b) Determinations by USEPA. USEPA has stated the criteria for making a determination to exclude data as follow:
 - 1) Exceptional Events. USEPA has stated that it will exclude data from use in determinations of exceedance of an NAAQS ~~when~~ where the Agency has demonstrated that an exceptional event caused a specific air pollution concentration in excess of one or more NAAQS at a particular air quality monitoring location, and the Agency otherwise satisfies the requirements of 40 CFR 50.14.

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- 2) Fireworks Displays. USEPA has stated that it will exclude data from use in determinations of exceedance of an NAAQS ~~when~~where the Agency has demonstrated that emissions from fireworks displays caused a specific air pollution concentration in excess of one or more NAAQS at a particular air quality monitoring location, and the State otherwise satisfies the requirements of 40 CFR 50.14. USEPA has stated that these data will be treated in the same manner as exceptional events under this Section, provided the Agency has demonstrated that the use of fireworks is significantly integral to traditional national, ethnic, or other cultural events, including, but not limited to, July Fourth celebrations, ~~that~~which satisfy the requirements of 40 CFR 50.14.
- 3) Prescribed Fires. USEPA has stated that it will exclude data from use in determinations of exceedance of an NAAQS ~~when~~where the Agency has demonstrated that emissions from prescribed fires caused a specific air pollution concentration in excess of one or more NAAQS at a particular air quality monitoring location, and the Agency otherwise satisfies the requirements of 40 CFR 50.14, provided that the emissions are from prescribed fires that USEPA determines meets the definition of "exceptional event" in Section 243.101, and provided that the Agency has certified to USEPA that the State has adopted and is implementing a Smoke Management Program (SMP) or the State has ensured that the burner employed basic smoke management practices. If an exceptional event occurs using the basic smoke management practices approach, the Agency must undertake a review of the State's approach to ensure public health is being protected and must include consideration of development of an SMP.

BOARD NOTE: In each of corresponding 40 CFR 50.14(b)(1), (b)(2), and (b)(3), USEPA stated "EPA shall exclude data from use in determinations of exceedances and NAAQS violations." In the first person, "shall" is used more to express present intent or to commit to future action. The Board has changed "EPA shall" to "USEPA has stated that it will." Further, the Board has relied on the defined term "exceedance of an NAAQS".

- c) Schedules and Procedures:
 - 1) Public ~~Notification~~notification. The Agency or, ~~when~~where the Agency has delegated authority pursuant to Section 4(g) or (r) of the Act, the

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Agency's delegatee, must notify the public promptly whenever an event occurs or is reasonably anticipated to occur that may result in the exceedance of an NAAQS.

- 2) Flagging of Data.
 - A) The Agency must notify USEPA of the State's intent to exclude one or more measured exceedances of an NAAQS as being due to an exceptional event by placing a flag in the appropriate field for the data record of concern that has been submitted to the federal air quality system (AQS) database.
 - B) Flags placed on data in accordance with this Section must be deemed informational only, and the data must not be excluded from determinations with respect to an exceedance of an NAAQS unless and until USEPA notifies the Agency of USEPA concurrence following the Agency's submittal of a demonstration pursuant to subsection (c)(3) ~~of this Section~~ by placing a concurrence flag in the appropriate field for the data record in the AQS database.
 - C) Flags placed on data as being due to an exceptional event, together with an initial description of the event, must be submitted to USEPA not later than July 1 of the calendar year following the year in which the flagged measurement occurred, except as allowed under subsection ~~(c)(2)(F)(e)(2)(D) or (e)(2)(E) of this Section~~.
 - D) This subsection (c)(2)(D) corresponds with 40 CFR 50.14(c)(2)(iv), which USEPA has removed and marked "reserved".has expired by its own terms. This statement maintains structural consistency with the federal regulations.
 - E) This subsection (c)(2)(E) corresponds with 40 CFR 50.14(c)(2)(v), which USEPA has removed and marked "reserved".has expired by its own terms. This statement maintains structural consistency with the federal regulations.

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- F) Table A of this Part identifies the data submission process for a new or revised NAAQS. USEPA will apply this process to those data that will or may influence the initial designation of areas for any new or revised NAAQS.
- F) ~~USEPA has stated that when USEPA sets a NAAQS for a new pollutant or revises the NAAQS for an existing pollutant, USEPA may revise or set a new schedule for flagging exceptional event data, providing initial data descriptions, and providing detailed data documentation in AQS for the initial designations of areas for those NAAQS. Table A for this Part provides the existing schedule for submission of flags with initial descriptions in AQS and detailed documentation. These schedules apply for those data that will or may influence the initial designation of areas for those NAAQS. USEPA has stated that it will revise the table upon which Table A is based as necessary to accommodate revised data submission schedules for new or revised NAAQS.~~
- 3) Submission of Demonstrations~~demonstrations~~.
- A) Except as allowed under subsection (c)(2)(F), when~~When~~ the Agency has flagged data as being due to an exceptional event and is requesting exclusion of the affected measurement data, the Agency must, after notice and opportunity for public comment, submit a demonstration to USEPA to justify data exclusion not later than the sooner of three years following the end of the calendar quarter in which the flagged concentration was recorded or 12 months prior to the date that a regulatory decision must be made by USEPA. The Agency must submit to USEPA the public comments it received, along with its demonstration.
- B) This subsection (c)(3)(B) corresponds with 40 CFR 50.14(b)(3)(ii), which USEPA has removed and marked "reserved".~~pertains only to a reporting period and opportunity to demonstrate exceptions that has passed.~~ This statement maintains structural consistency with the federal regulations.
- C) This subsection (c)(3)(CB) corresponds with 40 CFR 50.14(b)(3)(ii), which USEPA has removed and marked

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~~"reserved" .pertains only to a reporting period and opportunity to demonstrate exceptional events that has passed in a provision that has expired by its own terms.~~ This statement maintains structural consistency with the federal regulations.

- D) The demonstration to justify data exclusion must provide the following evidence:
- i) That the event satisfies the definition of "exceptional event" set forth in Section 243.101;
 - ii) That there is a clear causal relationship between the measurement under consideration and the event that is claimed to have affected the air quality in the area;
 - iii) That the event is associated with a measured concentration in excess of normal historical fluctuations, including background; and
 - iv) That there would have been no exceedance or violation but for the event.
- E) With the submission of the demonstration, the Agency must document that the public comment process was followed.

BOARD NOTE: Derived from 40 CFR 50.14 ~~(2015)~~(2012).

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

Section 243.108 Incorporations by Reference

The following materials are incorporated by reference. These incorporations do not include any later amendments or editions:

Government Printing Office (GPO), 732 Capitol Street NW, Washington, DC 20401 (telephone: 202-512-1800 or 866-512-1800; website: www.gpo.gov).
The following documents incorporated by reference are available from this source:

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Appendix A-1 to 40 CFR 50 [\(2015\)](#)~~(2013)~~ (Reference Measurement Principle and Calibration Procedure for the Measurement of Sulfur Dioxide in the Atmosphere (Ultraviolet Fluorescence Method)), referenced in Section 243.122.

Appendix A-2 to 40 CFR 50 [\(2015\)](#)~~(2013)~~ (Reference Method for the Determination of Sulfur Dioxide in the Atmosphere (Pararosaniline Method)), referenced in Section 243.122.

Appendix B to 40 CFR 50 [\(2015\)](#)~~(2013)~~ (Reference Method for the Determination of Suspended Particulate Matter in the Atmosphere (High-Volume Method)), referenced in appendix G to 40 CFR 50 (see below).

Appendix C to 40 CFR 50 [\(2015\)](#)~~(2013)~~ (Reference Measurement Principle and Calibration Procedure for the Measurement of Carbon Monoxide in the Atmosphere (Non-Dispersive Infrared Photometry)), referenced in Section 243.123.

Appendix D to 40 CFR 50 [\(2015\)](#), as amended at [80 Fed. Reg. 65453 \(Oct. 26, 2015\)](#)~~(2013)~~ (Reference Measurement Principle and Calibration Procedure for the Measurement of Ozone in the Atmosphere), referenced in Section 243.125.

Appendix F to 40 CFR 50 [\(2015\)](#)~~(2013)~~ (Reference Measurement Principle and Calibration Procedure for the Measurement of Nitrogen Dioxide in the Atmosphere (Gas Phase Chemiluminescence)), referenced in Section 243.124.

Appendix G to 40 CFR 50 [\(2015\)](#)~~(2013)~~, as amended at [78 Fed. Reg. 40000 \(July 3, 2013\)](#) (Reference Method for the Determination of Lead in Suspended Particulate Matter Collected from Ambient Air), referenced in Section 243.126.

Appendix H to 40 CFR 50 [\(2015\)](#)~~(2013)~~ (Interpretation of the 1-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone), referenced in Section 243.125.

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Appendix I to 40 CFR 50 ~~(2015)(2013)~~ (Interpretation of the 8-Hour Primary and Secondary National Ambient Air Quality Standards for Ozone), referenced in Section 243.125.

Appendix J to 40 CFR 50 ~~(2015)(2013)~~ (Reference Method for the Determination of Particulate Matter as PM₁₀ in the Atmosphere), referenced in Section 243.120.

Appendix K to 40 CFR 50 ~~(2015)(2013)~~ (Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Particulate Matter), referenced in Section 243.120.

Appendix L to 40 CFR 50 ~~(2015)(2013)~~ (Reference Method for the Determination of Fine Particulate Matter as PM_{2.5} in the Atmosphere), referenced in Section 243.120.

Appendix N to 40 CFR 50 ~~(2015)(2013)~~, ~~as amended at 78 Fed. Reg. 47191 (August 5, 2013)~~ (Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Particulate Matter), referenced in Section 243.120.

Appendix O to 40 CFR 50 ~~(2015)(2013)~~ (Reference Method for the Determination of Coarse Particulate Matter as PM_{10-2.5} in the Atmosphere), referenced in appendix Q to 40 CFR 50 and for use in federally required monitoring by the NCore system pursuant to 40 CFR 58.

Appendix P to 40 CFR 50 ~~(2015)(2013)~~ (Interpretation of the Primary and Secondary National Ambient Air Quality Standards for Ozone), referenced in Section 243.125.

Appendix Q to 40 CFR 50 ~~(2015)(2013)~~ (Reference Method for the Determination of Lead in Particulate Matter as PM₁₀ Collected from Ambient Air), referenced in appendix R to 40 CFR 50.

Appendix R to 40 CFR 50 ~~(2015)(2013)~~ (Interpretation of the National Ambient Air Quality Standards for Lead), referenced in Section 243.126.

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Appendix S to 40 CFR 50 ~~(2015)(2013)~~ (Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Nitrogen (Nitrogen Dioxide)), referenced in Section 243.124.

Appendix T to 40 CFR 50 ~~(2015)(2013)~~ (Interpretation of the Primary National Ambient Air Quality Standards for Oxides of Sulfur (Sulfur Dioxide)), referenced in Section 243.122.

[Appendix U to 40 CFR 50 \(2015\), as added at 80 Fed. Reg. 65453 \(Oct. 26, 2015\) \(Interpretation of the Primary National Ambient Air Quality Standards for Ozone\), referenced in Section 243.125.](#)

Clean Air Act, 42 USC 7401 et seq. ~~(2013)(2011)~~(for definitions of terms only), referenced in Section 243.102.

BOARD NOTE: Segments of the Code of Federal Regulations and the United States Code are available for free download as PDF documents from the GPO FDsys website: <http://www.gpo.gov/fdsys/>.

USEPA, National Exposure Research Laboratory, Human Exposure & Atmospheric Sciences Division (MD-D205-03), Research Triangle Park, NC 27711. The following documents incorporated by reference are available from this source:

"List of Designated Reference and Equivalent Methods" [\(June 18, 2015\)\(December 18, 2014\)](#) (referred to as the "List of Designated Methods" and referenced in Sections 243.101, 243.120, 243.122, 243.123, 243.124, 243.125, and 243.126).

This incorporation by reference ~~includes the following~~~~does not include~~ USEPA methods ~~approval~~~~approvals~~ that occurred after [June 18, 2015](#)~~December 18, 2014~~.

[80 Fed. Reg. 51802 \(Aug. 26, 2015\).](#)

BOARD NOTE: The List of Designated Methods is available for free download as a PDF document from the USEPA, Technology Transfer, Ambient Monitoring Technology Information Center website: <http://www.epa.gov/ttn/amtic/criteria.html>.

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

SUBPART B: STANDARDS AND MEASUREMENT METHODS

Section 243.120 PM₁₀ and PM_{2.5}

- a) 1987 Primary and Secondary 24-Hour NAAQS for PM₁₀.
- 1) The level of the 1987 primary and secondary 24-hour NAAQS for PM₁₀ is 150 µg/m³, 24-hour average concentration. The 1987 primary and secondary NAAQS for PM₁₀ is attained when the expected number of days per calendar year with a 24-hour average concentration above 150 µg/m³, as determined in accordance with appendix K to 40 CFR 50, incorporated by reference in Section 243.108, is equal to or less than one.
 - 2) This subsection (a)(2) corresponds with 40 CFR ~~50.6(b)51.6(b)~~, a provision marked "reserved" by USEPA. This statement maintains structural consistency with the corresponding federal regulation.
 - 3) For the purpose of determining attainment of the 1987 primary and secondary 24-hour NAAQS for PM₁₀, particulate matter must be measured in the ambient air as PM₁₀ by a method that fulfills either of the following requirements:
 - A) An FRM based on appendix J to 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in List of Designated Methods, incorporated by reference in Section 243.108; or
 - B) An FEM designated by USEPA and listed in [the](#) List of Designated Methods, incorporated by reference in Section 243.108.

BOARD NOTE: This subsection (a) is derived from 40 CFR 50.6 ~~(2015)(2013)~~. USEPA adopted 1997 primary NAAQS for PM₁₀ at 62 Fed. Reg. 38652 (July 18, 1997). As a result of a judicial vacatur, USEPA later removed the transitional provision relative to the 1987 NAAQS at 65 Fed. Reg. 80776 (Dec. 22, 2000) and the 1997 NAAQS at 69 Fed. Reg. 45595 (July 30, 2004). Thus, the 1987 primary and secondary NAAQS for PM₁₀ are included in this subsection (a).

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- b) 1997 Primary and Secondary Annual Average and 24-Hour NAAQS for PM_{2.5}.
- 1) The 1997 primary and secondary annual average NAAQS for PM_{2.5} is 15.0 µg/m³, annual arithmetic mean concentration, and the 1997 primary and secondary 24-hour NAAQS for PM_{2.5} is 65 µg/m³, 24-hour average concentration, measured in the ambient air as PM_{2.5} by a method that fulfills either of the following requirements:
 - A) An FRM based on appendix L of 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108; or
 - B) An FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.
 - 2) The 1997 primary and secondary annual average NAAQS for PM_{2.5} is met when the annual arithmetic mean concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 15.0 µg/m³.
 - 3) The 1997 primary and secondary 24-hour NAAQS for PM_{2.5} is met when the 98th percentile 24-hour concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 65 µg/m³.

BOARD NOTE: This subsection (b) is derived from 40 CFR 50.7 ~~(2015)(2013)~~. The 2006 primary and secondary annual average and 24-hour NAAQS for PM_{2.5} differs from the 1997 standards in that the 24-hour average concentration required by the 2006 standard is substantially lower (more stringent) than that for the 1997 standard. The Board has retained the 1997 standard in this subsection (b) because USEPA has retained the 1997 standard in 40 CFR 50.6.

- c) 2006 Primary and Secondary Annual Average and 24-Hour NAAQS for PM_{2.5}.
- 1) The 2006 primary and secondary annual average NAAQS for PM_{2.5} is 15.0 µg/m³, annual arithmetic mean concentration, and the 2006 primary and secondary 24-hour NAAQS for PM_{2.5} is 35 µg/m³, 24-hour average

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concentration, measured in the ambient air as PM_{2.5} by a method that fulfills either of the following requirements:

- A) An FRM based on appendix L of 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108; or
 - B) An FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.
- 2) The 2006 primary and secondary annual average NAAQS for PM_{2.5} is met when the annual arithmetic mean concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 15.0 µg/m³.
 - 3) The 2006 primary and secondary 24-hour NAAQS for PM_{2.5} is met when the 98th percentile 24-hour concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 35 µg/m³.

BOARD NOTE: This subsection (c) is derived from 40 CFR 50.13 [\(2015\)\(2013\)](#).

- d) 2012 Primary Annual Average and 24-Hour NAAQS for PM_{2.5}
 - 1) The 2012 primary annual average NAAQS for PM_{2.5} is 12.0 µg/m³ annual arithmetic mean concentration, and the 2012 primary 24-hour NAAQS for PM_{2.5} is 35 µg/m³ 24-hour average concentration, measured in the ambient air as PM_{2.5} by a method that fulfills either of the following requirements:
 - A) An FRM based on appendix L of 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in List of Designated Methods, incorporated by reference in Section 243.108; or
 - B) An FEM designated by USEPA and listed in List of Designated Methods, incorporated by reference in Section 243.108.

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- 2) The 2012 primary annual NAAQS for PM_{2.5} is met when the annual arithmetic mean concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 12.0 µg/m³.
- 3) The 2012 primary 24-hour NAAQS for PM_{2.5} is met when the 98th percentile 24-hour concentration, as determined in accordance with appendix N of 40 CFR 50, incorporated by reference in Section 243.108, is less than or equal to 35 µg/m³.

BOARD NOTE: This subsection (d) is derived from 40 CFR ~~50.1850-13 (2015)~~(2013).

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

Section 243.125 Ozone

- a) ~~1997 Primary and Secondary Eight-Hour NAAQS for Ozone.~~
 - 1) ~~The 1997 hour primary and secondary eight hour NAAQS for ozone, measured by an FRM based on appendix D to 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108, is 0.08 ppm, daily maximum eight hour average.~~
 - 2) ~~The 1997 primary and secondary eight hour NAAQS for ozone is met at an ambient air quality monitoring site when the average of the annual fourth-highest daily maximum eight hour average ozone concentration is less than or equal to 0.08 ppm, as determined in accordance with appendix I to 40 CFR 50, incorporated by reference in Section 243.108.~~
 - 3) ~~USEPA has stated in corresponding 40 CFR 50.10(c) that the 1997 primary and secondary eight hour NAAQS for ozone set forth in subsection (b)(1) of this Section will no longer apply to an area for transportation conformity purposes one year after the effective date of USEPA designation of that area pursuant to 42 USC 7407 for the 2008 primary and secondary eight hour NAAQS set forth for ozone in subsection (c)(1) of this Section. The 1997 primary and secondary eight-hour NAAQS for ozone set forth in this subsection (b) will remain applicable to all areas for all other purposes notwithstanding the 2008~~

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~~primary and secondary eight-hour NAAQS for ozone set forth in subsection (c) of this Section or the USEPA designation of areas for that 2008 primary and secondary eight-hour NAAQS for ozone.~~

~~BOARD NOTE: USEPA has codified area designations and classifications with respect to the 2008 primary and secondary NAAQS for ozone in 40 CFR 81.314. When USEPA has taken action and the conditions of subsection (b)(3) have been fulfilled, or USEPA has removed 40 CFR 50.10, the Board will remove obsolete 1997 primary and secondary one-hour or eight-hour NAAQS for ozone from this subsection (a).~~

~~BOARD NOTE: This subsection (a) is derived from 40 CFR 50.10 (2012).~~

~~a~~b) 2008 Primary and Secondary Eight-Hour NAAQS for Ozone.

- 1) The 2008 primary and secondary eight-hour NAAQS for ozone is 0.075 ppm, daily maximum eight-hour average, measured by an FRM based on appendix D to 40 CFR 50, incorporated by reference in Section 243.108, and designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108, or an FEM designated by USEPA and listed in the List of Designated Methods, incorporated by reference in Section 243.108.
- 2) The 2008 primary and secondary eight-hour NAAQS for ozone ambient air quality standards are met at an ambient air quality monitoring site when the three-year average of the annual fourth-highest daily maximum eight-hour average ozone concentration is less than or equal to 0.075 ppm, as determined in accordance with appendix P to 40 CFR 50, incorporated by reference in Section 243.108.

~~BOARD NOTE: This subsection (b) is derived from 40 CFR 50.15 (2015)(2012).~~

b) 2015 Primary and Secondary Eight-Hour NAAQS for Ozone.

- 1) The level of the eight-hour primary NAAQS for ozone is 0.070 ppm, daily maximum eight-hour average, measured by a reference method based on appendix D to 40 CFR 50, incorporated by reference in Section 243.108, or an equivalent method designated by USEPA and listed in the List of

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Designated Methods or a Federal Register notice incorporated by reference in Section 243.108.

- 2) The eight-hour primary NAAQS for ozone is met at an ambient air quality monitoring site when the three-year average of the annual fourth-highest daily maximum eight-hour average ozone concentration is less than or equal to 0.070 ppm, as determined in accordance with appendix U to 40 CFR 50, incorporated by reference in Section 243.108.
- 3) The level of the secondary NAAQS for ozone is 0.070 ppm, daily maximum eight-hour average ozone concentration, measured by a reference method based on appendix D to 40 CFR 50, incorporated by reference in Section 243.108, and designated in accordance with 35 Ill. Adm. Code 53 or an equivalent method designated by USEPA and listed in the List of Designated Methods or a Federal Register notice incorporated by reference in Section 243.108.
- 4) The eight-hour secondary NAAQS for ozone is met at an ambient air quality monitoring site when the three-year average of the annual fourth-highest daily maximum eight-hour average ozone concentration is less than or equal to 0.070 ppm, as determined in accordance with appendix U to 40 CFR 50, incorporated by reference in Section 243.108.

BOARD NOTE: This subsection (b) is derived from 40 CFR 50.19 (2015).

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

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Section 243. TABLE A Schedule of Exceptional Event Flagging and Documentation Submission for Data Influence by Exceptional Events for Use in Initial Area Designations for New or Revised NAAQS

<u>Exceptional events/regulatory action</u>	<u>Exceptional events deadline schedule^d</u>
<u>Flagging and initial event description deadline for data years one, two, and three.^a</u>	<u>If State initial designation recommendations for a new or revised NAAQS are due August through January, then the flagging and initial event description deadline will be the July 1 prior to the recommendation deadline. If State recommendations for a new or revised NAAQS are due February through July, then the flagging and initial event description deadline will be the January 1 prior to the recommendation deadline.</u>
<u>Exceptional events demonstration submittal deadline for data years one, two, and three.^a</u>	<u>No later than the date that State recommendations are due to USEPA.</u>
<u>Flagging, initial event description and exceptional events demonstration submittal deadline for data year four^b and, where applicable, data year five.^c</u>	<u>By the last day of the month that is one year and seven months after promulgation of a new or revised NAAQS, unless either option a or b applies.</u>
a.	<u>Where data years one, two, and three are those years expected to be considered in State recommendations.</u>
	<ul style="list-style-type: none"> <li data-bbox="777 1325 1398 1465">a. <u>If USEPA follows a three-year designation schedule, the deadline is two years and seven months after promulgation of a new or revised NAAQS.</u> <li data-bbox="777 1507 1398 1717">b. <u>If USEPA notifies the State that it intends to complete the initial area designations process according to a schedule between two and three years, the deadline is five months prior to the date specified for final designations decisions in that USEPA notification.</u>

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- b. Where data year four is the additional year of data that USEPA may consider when it makes final area designations for a new or revised NAAQS under the standard designations schedule.
- c. Where data year five is the additional year of data that USEPA may consider when it makes final area designations for a new or revised NAAQS under an extended designations schedule.
- d. The date by which air agencies must certify their ambient air quality monitoring data in AQS is annually on May 1 of the year following the year of data collection, as specified in 40 CFR 58.15(a)(2). In some cases, however, the State may choose to certify a prior year's data in advance of May 1 of the following year, particularly if USEPA has indicated its intent to promulgate final designations in the first eight months of the calendar year. Data flagging, initial event description and exceptional events demonstration deadlines for "early certified" data will follow the deadlines for "year four" and "year five" data.

NAAQS (Level) Regulatory Citations	Air quality data collected for calendar year	Event flagging & initial description deadline	Detailed documentation submission deadline
2006 24-hour PM _{2.5} (35 µg/m ³) Section 243.120(e)(1) 40-CFR 50.13(a) 71 Fed. Reg. 61144 (Oct. 17, 2006)	2004-2006	October 1, 2007	April 15, 2008
2008 eight-hour ozone (0.075 ppm) Section 243.125(e)(1) 40-CFR 50.15(a) 73 Fed. Reg. 16436 (Mar. 27, 2008)	2005-2007 2008 2009	June 18, 2009 June 18, 2009 60-days after the end of the calendar quarter in which the event occurred or February 5, 2010, whichever date occurred first	June 18, 2009 June 18, 2009 60 days after the end of the calendar quarter in which the event occurred or February 5, 2010, whichever date occurred first
2010 one-hour nitrogen oxides (as NO ₂) (100 ppb) Section 243.124(b)	2008 2009 2010	July 1, 2010 July 1, 2010 April 1, 2011	January 22, 2011 January 22, 2011 July 1, 2010

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40 CFR 50.11(b) 75 Fed. Reg. 6474 (Feb. 9, 2010)			
2010 one-hour sulfur oxides (as SO₂) (75 ppb) Section 243.122(e)(1) 40 CFR 17(a) 75 Fed. Reg. 35520 (June 22, 2010)	2008 2009 2010 2011	October 1, 2010 October 1, 2010 June 1, 2011 60 days after the end of the calendar quarter in which the event occurred or March 31, 2012, whichever date occurred first	June 1, 2011 June 1, 2011 June 1, 2011 60 days after the end of the calendar quarter in which the event occurred or March 31, 2012, whichever date occurred first
2012 annual PM_{2.5} (12 µg/m³) Section 243.120(d)(1) 40 CFR 50.18(a) 78 Fed. Reg. 3086 (Jan. 15, 2013)	2010 and —2011 2012 2013	July 1, 2013 July 1, 2013 July 1, 2014	December 12, 2013 December 12, 2013 August 1, 2014

BOARD NOTE: Derived from table 1 to 40 CFR 50.14(c). ~~USEPA noted that the information in this table of revised deadlines only applies to data that USEPA will use to establish the initial area designations for new or revised NAAQS. USEPA stated that the general schedule in this table applies for all other purposes, most notably, for data that USEPA will use for redesignations to attainment. Corresponding table 1 to 40 CFR 50.14(e)(2) includes a footnote "a" which indicates that the tabulated deadlines for event flagging and initial description for 2012 and 2013 data under the 2012 primary annual average NAAQS for PM_{2.5} are the same as those prescribed by 40 CFR 50.14 (corresponding with Section 243.105). The Board omitted those footnotes as unnecessary in the Illinois rules. Corresponding federal table 1 states that the 2012 primary annual average NAAQS for PM_{2.5} was "Promulgated December 14, 2012". Although the Administrator of USEPA signed adopted rule on that date, publication did not occur until January 15, 2013. See 78 Fed. Reg. 3086, 3276 (Jan. 15, 2013). The Board has used the Federal Register citation and date.~~

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

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- 1) Heading of the Part: Regulations Under Illinois Securities Law of 1953
- 2) Code Citation: 14 Ill. Adm. Code 130
- 3) Section Number: 130.874 Proposed Action:
New Section
- 4) Statutory Authority: Implementing and authorized by the Illinois Securities Law of 1953 [815 ILCS 5]
- 5) Complete Description of the Subjects and Issues Involved: This rulemaking mandates the preparation of a Business Continuity and Succession Plan for protection of investors in case of death of key personnel, loss of a place of business or records, or other disruption of the investment advisor's business activities.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: This rule is based on the model rule for business continuity planning as adopted by the North American Securities Administrators Association (NASAA) of which Illinois is a member.
- 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 amendment does not require expenditures by units of local government.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Texts of the proposed amendments are posted on Secretary of State's web site, <http://www.cyberdriveillinois.com/departments/index/register/home.html>, as part of the *Illinois Register*. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

Tanya Solov, Director
Illinois Secretary of State, Department of Securities

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69 West Washington St., Suite 1220
Chicago IL 60602

tsolov@ilsos.net

mail to: Awilliams3@ilsos.net

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: Investment Advisors
 - B) Reporting, bookkeeping or other procedures required for compliance: Preparation of a Business Continuity and Succession Plan
 - C) Types of professional skills necessary for compliance: No additional skills over and above those already required of an investment professional
- 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:

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TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATEPART 130
REGULATIONS UNDER ILLINOIS SECURITIES LAW OF 1953

SUBPART A: RULES OF GENERAL APPLICATION

Section	
130.100	Business Hours of the Securities Department
130.101	Computation of Time
130.110	Payment of Fees
130.120	Place of Filing
130.130	Date of Filing
130.135	Registration of Securities under Section 5 or 7 of the Act Utilizing the SRD
130.140	Requirements as to Proper Form
130.141	Additional Information
130.142	Additional Exhibits (Repealed)
130.143	Information Unknown or Not Reasonably Available
130.144	Requirements as to Paper, Printing, and Language
130.145	Number of Copies – Signatures
130.190	Provisions for Granting of Variance from Rules

SUBPART B: DEFINITIONS

Section	
130.200	Definitions of Terms Used in the Act and the Rules
130.201	Definition of the Term "Investment Contract", as Used in Section 2.1 of the Act
130.202	Definition of the Term "Fractional Undivided Interest", as Used in Section 2.1 of the Act with Reference to Oil and/or Gas Leases, Rights or Royalties
130.205	Definition of the Term "Issuer" as Used in Section 2.2 of the Act as Applied to Fractional Interests in Oil, Gas and Other Mineral Leases, Rights or Royalties
130.210	Definition of Acts Not Constituting a "Sale" or "Offer" as Used in Section 2.5 or 2.5a of the Act
130.211	Definition of Acts Not Constituting an "Offer" of Securities under Section 5, 6, 7 or 8 of the Act
130.212	Definition of Acts Not Constituting an "Offer" Under Section 2.5a of the Act (Testing the Waters)

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- 130.215 Definition of "Commission From an Underwriter or Dealer Not in Excess of the Usual and Customary Distributors' or Sellers' Commissions", as Used in Section 2.6 of the Act for Certain Transactions
- 130.216 Definition of "Participates" and "Participation", as Used in Section 2.6 of the Act in Relation to Certain Transactions
- 130.220 Definition of "Regularly Engaged in Securities Sales Activities", as Used in Section 2.9 of the Act
- 130.221 Exclusion of Certain Persons from the Definition of Investment Adviser in Section 2.11 of the Act
- 130.225 Definition of "Investment Fund Shares", as Used in Section 2.15 of the Act in Relation to Certain Issuers
- 130.233 Definition of the Phrase "Promissory Note or Draft, Bill of Exchange or Bankers' Acceptance" as Used in Section 3(L) of the Act
- 130.234 Definition, For Certain Purposes, of the Terms "Employee Security-Purchase Plan", "Employee Profit-Sharing Trust or Plan", "Employee Pension Trust or Plan", as Used in Section 3.N and Section 3.O of the Act (Repealed)
- 130.235 Definition, For Certain Purposes, of the Terms "Employee Profit-Sharing Trust or Plan", "Employee Pension Trust or Plan", as Used in Section 3.O of the Act (Repealed)
- 130.241 Definition of the Term "Institutional Investor" under Sections 4C and 4D of the Act
- 130.242 Definition of the Term "Financial Institution" under Section 4.C of the Act
- 130.244 Definition of "Issuer Required to File Reports Pursuant to the Provisions of Section 13 or Section 15(d) of the Federal 1934 Act" with Respect to Certain Foreign Private Issuers and "Reports Required to be Filed at Regular Intervals Pursuant to the Provisions of Section 13 or Section 15(d)" as Used in Section 4(F)(1) of the Act
- 130.245 Definition of the Terms "Balance Sheet" and "Income Statement", as Used in Section 4.F of the Act
- 130.246 Definition of the Terms "Residents of this State", "Aggregate Sales Price" and "Sales Made in Reliance Upon the Exemption" Under Section 4.G of the Act and "General Advertising or General Solicitation" Under Sections 4.G, 4.H, 4.M and 4.R of the Act
- 130.247 Definition of the Term "Public" as Used in Section 4(G)(4) of the Act
- 130.248 Definition of the Terms "Offers for Sale" and "Solicitations of Offers to Buy", as Used in Section 4.L of the Act
- 130.250 Definition, For Certain Purposes, of the Terms "Commissions, Remuneration or Discounts", as Used in Section 4 and Section 5 of the Act
- 130.251 Definition of the Term "Maximum Aggregate Price", as Used in Section 5 of the

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- Act
- 130.270 Definition of Certain Persons Not Considered to Be Dealers Under Section 2.7 of the Act
- 130.280 Definition of the Term "Branch Office" of a Registered Dealer, as Used in Section 8 of the Act
- 130.281 Definition of the Term "Branch Office" of a Registered Investment Adviser, as Used in Section 8 of the Act
- 130.282 Definition, For Certain Purposes, of the Term "Officers", as Used in Section 2.9 and Section 8.B.(6) of the Act
- 130.285 Definition, for Certain Purposes, of the Terms "Inequitable", "Tend to Work a Fraud or Deceit", "Inequitable Practice in the Sale of Securities", and "Fraudulent Business Practices", as Used in Section 8 and Section 11 of the Act
- 130.291 Definition of the Terms "Fraudulent" and "Work or Tend to Work a Fraud or Deceit" as Used in Sections 11.E and 12.F of the Act for Purposes of the Payment of Completion Costs in Connection with the Offer or Sale of Securities involving an Oil, Gas or Other Mineral Lease, Right or Royalty

SUBPART C: FEDERAL COVERED SECURITIES AND TRANSACTIONS

- Section
- 130.293 Issuers of Covered Securities Required to File Notifications and Pay Fees and the Refusal to File Notifications or Pay Fees
- 130.370 Automated Quotation System Deemed to Have Substantially Equivalent Standards for Designation as Required By One or More Exchanges Set Forth in Section 3(G) of the Act (Repealed)

SUBPART D: EXEMPT TRANSACTIONS

- Section
- 130.420 Uniform Limited Offering Exemption Pursuant to Section 4.D of the Act
- 130.436 Procedures for Applying for Trading Authorization Pursuant to Section 4(F)(2) of the Act
- 130.440 Procedures for Filing Reports of Sale under Section 4.G of the Act
- 130.441 Calculation of Number of Persons Under Section 4.G or 4.M of the Act
- 130.442 Report of Sale of Securities pursuant to Section 4.G of the Act
- 130.490 Procedures for Filing Reports of Sale under Section 4.P of the Act
- 130.491 Report of Sale of Securities Pursuant to Section 4(P) of the Act
- 130.492 Exemption from Registration for Certain Canadian Broker-Dealers and Agents and for Transactions Effected by Certain Canadian Broker-Dealers

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SUBPART E: REGISTRATION OF SECURITIES

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130.501	Title of Securities
130.502	Financial Statement Requirements
130.503	Disclaimer of Control
130.505	Formal Requirements as to Consents
130.506	Consents Required in Special Cases
130.507	Application to Dispense with Consent
130.508	Consent to Use of Material Incorporated by Reference
130.510	Procedures for Registration of Securities by Coordination under Section 5.A of the Act
130.520	Procedures for Registration of Securities by Qualification under Section 5.B of the Act
130.525	Procedures for Registration of Securities by Qualification under Section 5.B(7) of the Act, Small Company Offering Registration ("SCOR") on Form U-7
130.530	Renewal of Registration of Securities Under Section 5.E of the Act
130.531	Computation of Fees
130.532	Registration of Additional Securities Pursuant to Section 5(C)(2) of the Act
130.533	Formal Requirements for Amendments Under Section 5 of the Act
130.534	Powers to Amend or Withdraw Registration Statement
130.535	Signatures of Amendments
130.536	Delaying Amendments
130.538	Withdrawal of Registration Statement, Amendment or Exhibit Filed Under the Federal 1933 Act
130.540	Procedure with Respect to Abandoning Registration Statements, Applications for Trading Authorizations and Post-Effective Amendments
130.550	Additional Fees Under Section 5 of the Act
130.570	Legibility of Prospectuses
130.571	Presentation of Information in Prospectuses
130.572	Summaries or Outlines of Documents
130.573	Preparation of Application for Registration
130.574	Incorporation of Certain Information by Reference
130.575	Form of and Limitation Upon Incorporation by Reference
130.576	Statement Required in Prospectuses
130.577	Prospectuses Supplementing Preliminary Material Supplied Previously
130.578	Application of Amendments to this Part Governing Contents of Prospectuses
130.581	Statement as to Stabilizing Required in Prospectuses Filed Under Section 5.B of

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- the Act
- 130.582 Contents of Prospectus When Two or More Registrations Are in Effect Under Section 5.B of the Act
- 130.590 Identifying Statements
- 130.591 Requirements as to Appraisals
- 130.592 Omission of Substantially Identical Documents
- 130.593 Incorporation of Exhibits by Reference

SUBPART F: FACE AMOUNT CERTIFICATE CONTRACTS

- Section
- 130.600 Preamble
- 130.610 Procedures for Registration of Face Amount Certificate Contracts by Coordination under Section 6.A of the Act
- 130.630 Renewal of Registration of Face Amount Certificate Contracts Under Section 6.F of the Act
- 130.650 Additional Fees Under Section 6 of the Act

SUBPART G: INVESTMENT FUND SHARES

- Section
- 130.700 Preamble
- 130.701 Title of Investment Fund Shares Registered Under Section 5 or 7 of the Act
- 130.710 Procedures for Registration of Investment Fund Shares by Coordination under Section 7.A of the Act
- 130.715 Amendatory Statement for the Registration of Additional Class or Classes or the Reporting of a Change in Organization or Operations Pursuant to Section 7(D) of the Act
- 130.730 Renewal of Registration of Investment Fund Shares Under Section 7(G) of the Act
- 130.750 Additional Fees Under Section 7 of the Act
- 130.771 Acts Which "Work or Tend to Work a Fraud or Deceit", in Connection with Offers, Sales or Dispositions of Investment Fund Shares

SUBPART H: REGISTRATION OF DEALERS, SALESPERSONS, ~~AND~~ INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

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- 130.805 Exemptions From Registration as an Investment Adviser Under Section 8.A of the

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- 130.806 Acts Not Requiring a Notification Filing of a Federal Covered Investment Adviser or Registration as an Investment Adviser or Investment Adviser Representative Under Section 8 of the Act
- 130.810 Procedures for Registration as a Dealer Under Section 8.B of the Act
- 130.811 Procedures for Perfecting an Investment Adviser Exemption under Section 2.11(6) of the Act (Repealed)
- 130.820 Procedures for Renewal and Withdrawal from Registration as a Dealer
- 130.821 Reporting of Dealer Branch Office Locations and Required Fees
- 130.822 Examinations Deemed Satisfactory for Purposes of Determining Sufficient Knowledge of Each Principal Under Section 8.B(9)(a) of the Act Prior to Registration as a Dealer
- 130.823 Procedure for Requesting Waiver of Dealer, Salesperson, Investment Adviser, Investment Adviser Representative, or Principal Examination Requirements
- 130.824 Financial Statements to be Filed by a Registered Dealer
- 130.825 Records Required of Dealers and Customer Fees
- 130.826 Registered Dealer Net Capital Requirements
- 130.827 Confirmations
- 130.828 Notice of Materially Adverse Financial Condition Required to Be Filed With the Securities Department By a Registered Dealer
- 130.829 Investor Protection Requirement of a Dealer Registered Under Section 8 of the Act
- 130.832 Examinations Deemed Satisfactory for Purposes of Determining Sufficient Knowledge Under Section 8.C(7) of the Act for Registration as a Salesperson
- 130.836 Hardship Exemption
- 130.837 Transition to Electronic Filing
- 130.838 Procedures for Federal Covered Investment Adviser Notification Filing and Fees Under Section 8.C-5 of the Act
- 130.839 Procedures for Registration as an Investment Adviser Representative Under Section 8.D-5 of the Act
- 130.840 Procedures for Registration as an Investment Adviser Under Section 8.D of the Act
- 130.841 Reporting of Investment Adviser Branch Office ~~Locations~~[Location\(s\)](#) and Required Fees
- 130.842 Examinations and Education Programs Deemed Satisfactory for Purposes of Determining Sufficient Knowledge for Each Principal Under Section 8.D.(9) of the Act Prior to Registration as an Investment Adviser
- 130.843 Examination and Education Program Requirements for Registration as an Investment ~~Adviser~~[Adviser](#) Representative Under Section 8.D-5 of the Act

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- 130.844 Statement of Financial Condition to Be Filed By a Registered Investment Adviser Which Retains Custody of Client's Cash or Securities or Accepts Pre-Payment of Fees in Excess of \$500.00 Per Client and Six (6) or More Months in Advance and Interim Financial Statements
- 130.845 Records Required of Investment Advisers
- 130.846 Written Disclosure Statements of a Registered Investment Adviser
- 130.847 Financial and Disciplinary Information That Investment Advisers Must Disclose to Clients
- 130.848 Advertisements by Investment Advisers
- 130.849 Consumer Information Privacy Provisions
- 130.850 Account Transactions
- 130.851 Commission, Profit or Other Compensation
- 130.852 Compensation
- 130.853 Account Transactions
- 130.854 Use of the Term "Investment Counsel"
- 130.855 Use of Senior Certifications and Professional Designations
- 130.860 Additional Fees Under Section 8 of the Act
- 130.872 Procedure with Respect to Abandoned Dealer Applications
- 130.873 Procedure with Respect to Abandoned Investment Adviser Applications
- [130.874 Business Continuity and Succession Planning](#)

SUBPART J: SERVICE OF PROCESS

Section

- 130.1001 Service of Process upon the Secretary of State

SUBPART K: PROCEDURES FOR ADMINISTRATIVE HEARINGS

Section

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- 130.1102 Notice of Hearing
- 130.1103 Institution of a Contested Case by the Securities Department
- 130.1104 Requirement to File an Answer
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130.1115	Discovery
130.1116	Examination of Witnesses
130.1117	Subpoenas
130.1118	Pre-Hearing Conferences
130.1119	Record of a Pre-Hearing Conference
130.1120	Hearings
130.1121	Record of Proceedings
130.1122	Record of Hearing
130.1123	Orders
130.1124	Burden of Proof
130.1125	Stipulations
130.1126	Open Hearings
130.1127	Corrections to the Transcript
130.1128	Imposition of Fines
130.1129	Application for Hearing to Present Newly Discovered Evidence
130.1130	Failure to Comply With Order or Rules
130.1131	Application to Vacate an Order Issued Due to Default
130.1132	Disqualification of a Hearing Officer

SUBPART O: EVIDENTIARY MATTERS AND NON-BINDING STATEMENTS

Section	
130.1520	Request for Non-Binding Statements

SUBPART P: SAVINGS PROVISIONS

Section	
130.1661	Investors Syndicate of America, Inc.
130.1662	State Bond and Mortgage Company

SUBPART Q: PUBLIC INFORMATION

Section	
130.1701	Inspection of Applications

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130.1702 Inspection of Dealer, Salesperson and Investment Adviser Records
130.1703 Non-Public Distribution of Information

130.APPENDIX A Uniform Consent to Service of Process
130.APPENDIX B Uniform Application to Register Securities
130.APPENDIX C Uniform Application for Broker-Dealer Registration
130.APPENDIX D Subordinated Loan Agreement for Equity Capital

AUTHORITY: Implementing and authorized by the Illinois Securities Law of 1953 [815 ILCS 5].

SOURCE: Filed February 23, 1977, effective March 5, 1977; amended at 5 Ill. Reg. 9139, effective August 27, 1981; amended at 6 Ill. Reg. 6455, effective May 19, 1982; codified at 6 Ill. Reg. 12674; emergency amendment at 7 Ill. Reg. 17427, effective December 31, 1983, for a maximum of 150 days; emergency expired May 31, 1984; emergency amendment at 8 Ill. Reg. 1476, effective January 18, 1984, for a maximum of 150 days; emergency expired June 17, 1984; emergency repealer at 8 Ill. Reg. 3803, effective March 14, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13419, effective July 12, 1984; amended at 8 Ill. Reg. 13840, effective July 19, 1984; emergency amendment at 8 Ill. Reg. 13889, effective July 20, 1984, for a maximum of 150 days; emergency expired December 17, 1984; amended at 9 Ill. Reg. 208, effective December 20, 1984; emergency amendment at 10 Ill. Reg. 393, effective January 1, 1986, for a maximum of 150 days; emergency expired May 30, 1986; amended at 10 Ill. Reg. 10753, effective June 3, 1986; recodified at 10 Ill. Reg. 19554; emergency amendment at 13 Ill. Reg. 11017, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 14 Ill. Reg. 884, effective December 30, 1989; amended at 14 Ill. Reg. 5188, effective March 26, 1990; emergency amendment at 15 Ill. Reg. 14303, effective November 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 6000, effective March 27, 1992; amended at 20 Ill. Reg. 14185, effective October 21, 1996; amended at 21 Ill. Reg. 7523, effective May 23, 1997; amended at 21 Ill. Reg. 7770, effective May 23, 1997; amended at 21 Ill. Reg. 8415, effective June 20, 1997; emergency amendment at 21 Ill. Reg. 9828, effective July 8, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 15892, effective December 1, 1997; amended at 22 Ill. Reg. 1933, effective January 1, 1998; emergency amendment at 24 Ill. Reg. 341, effective December 31, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 7401, effective May 1, 2000; emergency amendment at 25 Ill. Reg. 973, effective January 1, 2001, for a maximum of 150 days; emergency expired May 30, 2001; amended at 25 Ill. Reg. 8817, effective July 6, 2001; amended at 26 Ill. Reg. 14843, effective September 30, 2002; amended at 27 Ill. Reg. 9490, effective June 9, 2003; emergency amendment at 29 Ill. Reg. 15087, effective September 23, 2005, for a maximum of 150 days; emergency expired February 19, 2006; emergency amendment at 30 Ill. Reg. 13009, effective July 11, 2006, for a maximum

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of 150 days; amended at 30 Ill. Reg. 18211, effective October 31, 2006; amended at 33 Ill. Reg. 12817, effective September 8, 2009; amended at 34 Ill. Reg. 17783, effective November 3, 2010; emergency amendment at 35 Ill. Reg. 4781, effective March 10, 2011, for a maximum of 150 days; amended at 35 Ill. Reg. 12810, effective July 14, 2011; amended at 36 Ill. Reg. 2852, effective February 8, 2012; amended at 40 Ill. Reg. _____, effective _____.

SUBPART H: REGISTRATION OF DEALERS, SALESPERSONS, INVESTMENT ADVISERS AND INVESTMENT ADVISER REPRESENTATIVES

Section 130.874 Business Continuity and Succession Planning

Every investment adviser shall establish, implement and maintain written procedures relating to a Business Continuity and Succession Plan. The plan shall be based upon the facts and circumstances of the investment adviser's business model, including the size of the firm, types of services provided, and number of locations of the investment adviser. The plan shall provide for at least the following:

- a) The protection, backup and recovery of books and records.
- b) Alternate means of communication with customers, key personnel, employees, vendors, service providers (including third-party custodians) and regulators, including, but not limited to, providing notice of a significant business interruption or the death or unavailability of key personnel or other disruptions or cessation of business activities.
- c) Office relocation in the event of temporary or permanent loss of a principal place of business.
- d) Assignment of duties to qualified responsible persons in the event of the death or unavailability of key personnel.
- e) Otherwise minimizing service disruptions and client harm that could result from a significant business interruption.

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

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

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1600.202	Amendment
1600.203	Amendment
1600.270	Amendment
1600.275	New Section
1600.510	New Section
- 4) Statutory Authority: 40 ILCS 5/15-177
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking seeks to amend Sections 1600.202, 1600.203, and add a new Section 1600.275 to define statutory terms and set forth administrative procedures to implement Sections 15-139 and 15-139.5 of the Illinois Pension Code, concerning post-retirement employment and employer contributions for employing "affected annuitants." Section 1600.270 expressly provides an appeal mechanism. The proposed rulemaking adds a new Section 1600.510 to provide for employer appeals to the Director of Member Services and, subsequently, to the Executive Committee. Executive Committee determinations constitute a final administrative decision that the employer may appeal to the Circuit Court of Champaign County under the Administrative Review Law [735 ILCS 5/3-101 et seq.].
- 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.

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- 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:

Albert J. Lee, Associate General Counsel
State Universities Retirement System
1901 Fox Drive
Champaign IL 61820

217/378-8861

- 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: Spring 2015

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

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

SUBPART A: GENERAL

Section

1600.100	Definitions
1600.110	Freedom of Information Act
1600.120	Open Meetings Act
1600.130	Procurement
1600.140	Compliance with the Internal Revenue Code
1600.145	Compliance with Final 415 Treasury Regulations
1600.150	Group Trust Provisions

SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

Section

1600.202	Return to Employment
1600.203	Independent Contractors
1600.205	Earnings Subject to Withholding and Crediting
1600.210	Crediting Interest on Participant Contributions and Other Reserves
1600.220	Election to Make Contributions Covering Leave of Absence at Less Than 50% Pay
1600.230	Election to Pay Contributions Based upon Employment that Preceded Certification as a Participant
1600.240	Election to Make Contributions Covering Periods of Military Leave Protected under USERRA
1600.241	Survivor Benefits for Members Who Die While on Military Leave Protected under USERRA
1600.250	Sick Leave Accrual Schedule
1600.260	Part-time/Concurrent Service Adjustment
1600.270	Employer Contributions for Benefit Increases Resulting from Earnings Increases Exceeding 6%
1600.275	Employer Contributions for Employing Affected Annuitants

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SUBPART C: SURVIVORS AND BENEFICIARIES

Section

- 1600.300 Effective Beneficiary Designations
- 1600.305 Full-Time Student Survivors Insurance Beneficiaries
- 1600.310 Dependency of Beneficiaries
- 1600.320 Disability Claims ~~Procedure~~[Procedures](#) (Renumbered)

SUBPART D: BENEFIT CALCULATION AND PAYMENT

Section

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

SUBPART E: DISABILITY CLAIMS AND ADMINISTRATIVE REVIEW

Section

- 1600.500 Administrative Staff Determinations and Rules for Appeal – Nature and Requirements of Formal Hearings
- [1600.510 Employer-Related Determinations and Rules for Appeal](#)
- 1600.550 Disability Claims Procedure

SUBPART F: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section

- 1600.600 Definitions
- 1600.605 Requirements for a Valid Qualified Illinois Domestic Relations Order
- 1600.610 Invalid Orders
- 1600.615 Filing a QILDRO with the System
- 1600.620 Modified QILDROs
- 1600.625 Benefits Affected by a QILDRO
- 1600.630 Effect of a Valid QILDRO
- 1600.635 QILDROs Against Persons Who Became Members Prior to July 1, 1999

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1600.640	Alternate Payee's Address
1600.645	Electing Form of Payment
1600.650	Automatic Annual Increases
1600.655	Expiration of a QILDRO
1600.660	Reciprocal Systems QILDRO Policy Statement
1600.665	Providing Benefit Information for Divorce Purposes

SUBPART G: BOARD TRUSTEE ELECTION

Section

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

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

SOURCE: Amended September 2, 1977; amended at 2 Ill. Reg. 31, p.53, effective July 30, 1978; amended at 7 Ill. Reg. 8139, effective June 29, 1983; codified at 8 Ill. Reg. 19683; amended at 11 Ill. Reg. 15656, effective September 9, 1987; amended at 13 Ill. Reg. 18939, effective November 21, 1989; amended at 14 Ill. Reg. 6789, effective April 20, 1990; emergency amendment at 21 Ill. Reg. 4864, effective March 26, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6095, effective May 2, 1997; amended at 21 Ill. Reg. 11962, effective August 13, 1997; amended at 21 Ill. Reg. 12653, effective August 28, 1997; amended at 22 Ill. Reg. 4116, effective February 9, 1998; amended at 23 Ill. Reg. 13667, effective November 1, 1999; amended at 25 Ill. Reg. 10206, effective July 30, 2001; amended at 28 Ill. Reg. 2292, effective January 23, 2004; expedited correction at 28 Ill. Reg. 7575, effective January 23, 2004; amended at 29 Ill. Reg. 2729, effective March 1, 2005; amended at 29 Ill. Reg. 11819, effective July 12, 2005; amended at 29 Ill. Reg. 14060, effective September 1, 2005; amended at 29 Ill. Reg. 14351, effective September 6, 2005; amended at 30 Ill. Reg. 6170, effective March 21, 2006; amended at 30 Ill. Reg. 7778, effective April 5, 2006; amended at 30 Ill. Reg. 9911, effective

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May 9, 2006; amended at 30 Ill. Reg. 17509, effective October 19, 2006; amended at 31 Ill. Reg. 4267, effective February 22, 2007; amended at 31 Ill. Reg. 4927, effective March 12, 2007; recodified at 31 Ill. Reg. 10194; amended at 32 Ill. Reg. 16515, effective September 25, 2008; emergency amendment at 33 Ill. Reg. 6525, effective April 27, 2009, for a maximum of 150 days; emergency expired September 23, 2009; amended at 33 Ill. Reg. 10757, effective July 1, 2009; amended at 33 Ill. Reg. 16755, effective November 23, 2009; amended at 34 Ill. Reg. 9523, effective June 25, 2010; amended at 35 Ill. Reg. 10952, effective June 22, 2011; amended at 36 Ill. Reg. 3938, effective February 22, 2012; amended at 37 Ill. Reg. 1309, effective January 15, 2013; amended at 37 Ill. Reg. 3866, effective March 15, 2013; amended at 37 Ill. Reg. 10698, effective June 26, 2013; amended at 37 Ill. Reg. 15517, effective September 12, 2013; amended at 38 Ill. Reg. 5659, effective February 11, 2014; emergency amendment at 38 Ill. Reg. 11376, effective May 9, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 16375, effective July 17, 2014; amended at 38 Ill. Reg. 17457, effective July 30, 2014; amended at 39 Ill. Reg. 8317, effective June 1, 2015; amended at 40 Ill. Reg. _____, effective _____.

SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

Section 1600.202 Return to Employment

Purpose. This Section defines terms used in Section 15-139 of the Code [40 ILCS 5/15-139] concerning annuitants who return to employment.

- a) ~~For the purposes of Section 15-139 of the Code:~~1) "Annuitant", for purposes of Section 15-139 of the Code, means a person who is receiving a retirement annuity or who has received a lump-sum retirement benefit from SURS, or, if the retirement annuity payment or payments have not yet been paid due to SURS processing, a person whose retirement annuity payment period has commenced. However:
- 1A) a person who has received a lump-sum retirement benefit is not an annuitant for purposes of Section 15-139(b) of the Code; and
- 2B) a person who is receiving or who has received retirement benefits under the Self-Managed Plan is not an annuitant.
- b2) "Compensation", for purposes of Section 15-139(b) of the Code, means any remuneration paid by an employer that is reportable by the employer as "wages, tips, or other compensation" on Internal Revenue Service Form W-2, unless the remuneration is received for serving as a member of the Illinois Educational

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~~Labor Relations Board. "Retirement annuity payment period" means the annuity payment period beginning on the date specified by the participant submitting a written application, which date shall not be prior to termination of employment or more than one year before the application is received by the Board; however, if the participant is not an employee of an employer participating in this System or in a participating system as defined in Article 20 of the Code on April 1 of the calendar year next following the calendar year in which the participant attains age 70½, the annuity payment period shall begin on that date regardless of whether an application has been filed [40 ILCS 5/15-135(b)].~~

- ~~3) "Employee" means an employee as defined by Section 15-107 of the Code.~~
- c4) "Employment", for purposes of Section 15-139(a) of the Code, means a relationship with any "employer" (as defined by Section 15-106 of the Code) that would qualify the annuitant as an employee under common law, except for service as a member of the Illinois Educational Labor Relations Board.
- d5) "Highest Annual Earnings"
- 1) for purposes of Section 15-139(b) of the Code, means the greater of the following: "Compensation" means any remuneration paid by an employer that is reportable by the employer as "wages, tips, or other compensation" on Internal Revenue Service Form W-2, unless the remuneration is received for serving as a member of the Illinois Educational Labor Relations Board.
- A) The highest aggregate earnings (as defined under Section 15-111 of the Code) paid in any 12 calendar month period, including and immediately preceding the month of termination, or any prior 12 calendar month period ending with the same calendar month. The 12 calendar month period shall begin on the first day of a month and end on the last day of a month, even if earnings were paid for only a portion of the month. For example, if an annuitant's final termination from employment occurred on May 15, 2014, the relevant period would begin on June 1 and end on May 31.

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- B) The highest aggregate earnings (as defined under Section 15-111 of the Code) paid in any academic year (as defined under Section 15-126.1 of the Code) prior to retirement.
- 2) In the case of an annuitant receiving reciprocal benefits under Article 20 of the Code, "highest annual earnings" shall include earnings credits accrued with any participating system, as defined by Section 20-108 of the Code. The highest annual earnings shall not include any remuneration that is assumed as earnings for any purpose under Article 15 of the Code.
- eb) "Reemployed", for purposes of Section 15-139(c) of the Code, For purposes of Section 15-139(e) of the Code only, "reemployed" means the annuitant has established a relationship with any employer that would otherwise qualify the annuitant as an employee under Section 15-107 of the Code, not withstanding Section 15-107(a)(2) of the Code under applicable law; except, the employment must be on a permanent and continuous basis or in a position in which the annuitant is expected to serve for at least 9 months.
- fe) It shall be the duty of the employer and employee to notify SURS in a timely manner of any employment that could result in the cancellation or reduction of the retirement annuity under Section 15-139 of the Code.

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

Section 1600.203 Independent Contractors

Any individual claiming to be an independent contractor exempt from participation in SURS as an employee under Section 15-107 of the Code or from the provision governing annuitants who return to employment or receive compensation from any employer as set forth in ~~Sections~~Section 15-139, 15-139.1 and 15-139.5 of the Code must file Form SS-8 (Determination of Employee Work Status for Purposes of Federal Employment Taxes and Income Tax Withholding) with the IRS seeking confirmation of independent contractor status. An IRS Form SS-8 independent contractor determination must be filed with SURS before an individual can be considered to be exempt from SURS participation as an employee or reemployed employee. The individual shall file with SURS a copy of the IRS formal determination or information letter received in response to the Form SS-8, which may then be used in further consideration of the individual's independent contractor status.

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

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Section 1600.270 Employer Contributions for Benefit Increases Resulting from Earnings Increases Exceeding 6%

Purpose. This Section implements Section 15-155(g), (h), (i), (j) and (k) of the Code. This Section shall not apply to benefits from other retirement systems or pension funds payable under the Retirement Systems Reciprocal Act (Article 20 of the Code).

- a) Calculation of the Employer Cost. This calculation is made when a monthly benefit is calculated from the participant's final rate of earnings (FRE). The "present value of the increase in benefits" described in Section 15-155(g), called the "Employer Cost", will be calculated as follows:
 - 1) The earnings, as defined in Section 15-111 of the Code, for every academic year in the FRE period, as defined in Section 15-112 of the Code, are adjusted on a full-time equivalent basis.
 - A) 48 Month FREs and Partial Academic Years. When the final rate of earnings for a participant is the average annual earnings during the 48 consecutive calendar month period ending with the last day of final termination of employment, any partial academic year at the beginning of the final rate of earnings period will be disregarded.
 - B) Full-Time Equivalent (FTE) Basis
 - i) SURS will adjust earnings from an employer in a manner consistent with the percent time employed reported by the employer.
 - ii) The FTE earnings of an academic year shall equal the total earnings in the academic year divided by the average percent time of employment.
 - C) Earnings credited during periods of service purchased under Sections 15-113.1 through 15-113.7 of the Code shall be determined on a FTE basis.

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- D) For the purpose of Section 15-155(g), earnings do not include payments made under a collective bargaining agreement for unused sick leave or payments made for unused vacation.
- 2) The FTE earnings of each academic year in the FRE period are limited to 106% of the previous academic year's FTE earnings to yield the "Capped FTE Earnings" of each academic year.
 - 3) The Capped FTE Earnings of each academic year are multiplied by their respective average percent times of employment to yield the "Capped Earnings" for each academic year. The Capped Earnings shall be used to determine the "Capped FRE".
 - 4) The "Benefit Increase" shall equal the difference between the FRE and the Capped FRE, multiplied by the number of years of service, and further multiplied by 2.2%.
 - 5) The Employer Cost equals the actuarial present value of the Benefit Increase. This actuarial present value calculation will be made by using actuarial tables provided by SURS' actuary from time to time. The actuarial table used will correspond with the type of monthly benefit that is provided to the participant. A single-life annuity table will be used when a traditional benefit package participant has no eligible survivor at the time of retirement. If the participant had employment with more than one employer during the final rate of earnings period, the Employer Cost is calculated for each employer using only the earnings with that employer. However, no Employer Cost will be assessed among multiple, concurrent employers if the increase in total earnings for the concurrent academic year in the FRE period does not exceed 6% over the total earnings of the previous academic year.
- b) Employer Billing
- 1) *Billing. Whenever it determines that a payment is or may be required under Section 15-155(g), SURS will calculate the amount of the payment and bill the employer for the amount. The bill will specify the calculations used to determine the amount due.*

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- 2) Request for Recalculation. *If the employer disputes the amount of the bill, it may, within 30 days after receipt of the bill, apply to SURS in writing for a recalculation. The application must specify the grounds of the dispute and, if the employer asserts the calculation is subject to Section 15-155(h) or (i), must include an affidavit setting forth and attesting to all facts within the employer's knowledge that are pertinent to the applicability of Section 15-155(h) or (i). Upon receiving a timely application for recalculation, SURS will review the application and, if appropriate, recalculate the amount due.*
 - 3) Payment. *The employer contributions required under Section 15-155(g) may be paid in the form of a lump sum within 90 days after the receipt of the bill. If the employer contributions are not paid within 90 days after receipt of the bill, then interest will be charged at a rate equal to SURS' prescribed rate of interest compounded annually from the 91st day after the receipt of the bill. Payments must be concluded within 3 years after the employer's receipt of the bill. [40 ILCS 5/15-155(g)]*
 - 4) [Appeals of the Recalculation. The employer may appeal a recalculation pursuant to Section 1600.510.](#)
- c) Exclusions for Earnings Increases Paid on or after June 1, 2005, but before July 1, 2011, under Section 15-155(h)
- 1) Grandfathering. *When assessing payment for any amount due under Section 15-155(g), SURS will exclude earnings increases paid to participants required under contracts or collective bargaining agreements entered into, amended, or renewed before June 1, 2005. [40 ILCS 5/15-155(h)] Such contracts are "grandfathered". For the purposes of Section 15-155(h):*
 - A) A contract or collective bargaining agreement is "entered into, amended or renewed" on the earliest of the following:
 - i) the date the governing body of the employer voted to accept the contract or collective bargaining agreement;
 - ii) the date the contract or collective bargaining agreement was executed in final form by the parties; or

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- iii) the date the parties to the contract or collective bargaining agreement reached a tentative agreement regarding the terms of the contract or collective bargaining agreement, provided that the tentative agreement is subsequently approved by the governing body of the employer on or after June 1, 2005, without any changes to the terms that have the effects described under subsection (c)(1)(B)(i) or (ii).
- B) A contract or collective bargaining agreement will not exclude earnings increases paid under the contract or agreement if the contract or agreement is amended or renegotiated after June 1, 2005 to have the effect of:
- i) increasing the earnings usable for the FRE (except when the increase is the result of a salary reopener provision that was part of the contract or collective bargaining agreement prior to June 1, 2005); or
 - ii) extending the expiration date of the contract (in which case the earnings will be excluded only through the original expiration date of the contract).
- C) Miscellaneous
- i) A contract exception made by an employer for an individual shall disqualify that individual's earnings increases from grandfathering but shall not invalidate the grandfathering for any other persons.
 - ii) A memorandum of understanding between the employer and the collective bargaining unit to increase the credit hours available shall not invalidate the contract, but any earnings increases because of the increased credit hours shall not be excluded from the calculation under subsection (a), unless Section 15-155(h) or (i) applies.
 - iii) When a member has given notice to the employer of intent to retire pursuant to the terms of a grandfathered contract or

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collective bargaining agreement, earnings provided under the contract or collective bargaining agreement shall be excluded so long as the earnings are provided to the member within four years after the expiration date of the contract or collective bargaining agreement.

- iv) Notwithstanding the other provisions of this subsection (c)(1), earnings paid under a grandfathered contract on or after July 1, 2011 shall not be excluded from earnings under subsection (a).
- 2) **Earnings 10 Years Prior to Retirement Eligibility.** *When assessing payment for any amount due under Section 15-155(g), SURS will exclude earnings increases paid to a participant at a time when the participant is 10 or more years from retirement eligibility under Section 15-135 of the Code. [40 ILCS 5/15-155(h)] Earnings increases paid in academic years preceding and including the academic year during which the participant was 10 years from attaining earliest retirement eligibility shall be excluded.*
- 3) **Overloads and Overtime**
- A) *Earnings increases resulting from overload work, including a contract for summer teaching, or overtime when the employer has certified to SURS, and SURS has approved the certification, that:*
- i) *in the case of overloads:*
- *the overload work is for the sole purpose of academic instruction in excess of the standard number of instruction hours for a full-time employee occurring during the academic year that the overload is paid; and*
 - *the earnings increases are equal to or less than the rate of pay for academic instruction computed using the participant's current salary rate and work schedule; and*
- ii) *in the case of overtime, the overtime was necessary for the educational mission. [40 ILCS 5/15-155(h)]*

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- B) The certification shall be in the form adopted by SURS and be signed by a duly authorized representative of the employer. The certification must be accompanied by supporting documentation as required by the form.
 - C) The standard number of instruction hours for a full-time employee shall be consistent with employer policy in force for the academic year in which the overload earnings were earned.
- 4) Promotions
- A) *When assessing payment for any amount due under Section 15-155(g), SURS will exclude earnings increases resulting from:*
 - i) *a promotion for which the employee moves from one classification to a higher classification under the State Universities Civil Service System;*
 - ii) *a promotion in academic rank for a tenured or tenure-track faculty position; or*
 - iii) *a promotion that the Illinois Community College Board has recommended in accordance with Section 15-155(k).*
 - B) *The earnings increases referenced in subsection (c)(4)(A) shall be excluded only if the promotion is to a position that has existed and been filled by a member for no less than one complete academic year and the earnings increase as a result of the promotion is an increase that results in an amount no greater than the average salary paid for other similar positions. [40 ILCS 5/15-155(h)]*
 - C) The employer shall certify that the promotion is to a position that has existed and been filled by a member for no less than one complete academic year and the earnings increase as a result of the promotion is an increase that results in an amount no greater than the average salary paid for other similar positions. The certification shall be in the form adopted by SURS and be signed by a duly authorized representative of the employer. The

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certification must be accompanied by supporting documentation as required by the form.

- D) The phrase "an amount no greater than the average salary paid for other similar positions" shall mean the midpoint of the salary range for the position or similar positions as most recently approved by the Merit Board of the State Universities Civil Service System or the current average salary paid for tenured or tenure-track faculty positions in the same department, as the case may be.
- d) Exclusions for earnings increases described in Section 15-155(h) paid on or after July 1, 2011, but before July 1, 2014, under a contract or collective bargaining agreement entered into, amended, or renewed on or after June 1, 2005, but before July 1, 2011, under Section 15-155(i). For the purpose of Section 15-155(i), a contract or collective bargaining agreement is "entered into, amended or renewed" on the earliest of the following:
- 1) the date the governing body of the employer voted to accept the contract or collective bargaining agreement;
 - 2) the date the contract or collective bargaining agreement was executed in final form by the parties; or
 - 3) the date the parties to the contract or collective bargaining agreement reached a tentative agreement regarding the terms of the contract or collective bargaining agreement, provided that the tentative agreement is subsequently approved by the governing body of the employer on or after July 1, 2011 without any changes to the terms that have the effect of extending the expiration date.
- e) The exclusions under subsections (c) and (d) shall not apply to earnings increases paid after June 30, 2014.

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

Section 1600.275 Employer Contributions for Employing Affected Annuitants

- a) Purpose and Applicability

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- 1) This Section implements Section 15-139.5 of the Code concerning employer reporting and contribution requirements for employing or reemploying annuitants and affected annuitants, effective for academic years beginning on or after August 1, 2013.
- 2) Effective November 19, 2013, this Section shall not apply to an annuitant if the employer of that annuitant provides documentation to the System that:
 - A) the annuitant is employed in a status appointment position, as that term is defined in 80 Ill. Adm. Code 250.80; and
 - B) due to obligations contained under the State Universities Civil Service Act [110 ILCS 70], the employer does not have the ability to limit the earnings or duration of employment for the annuitant while employed in the status appointment position. [40 ILCS 5/15-139.5(j)]
- b) Definitions. For purposes of Section 15-139.5 of the Code and this Section, the following terms shall have the meanings ascribed in this subsection (b).
 - 1) "Academic Year" means the 12-month period beginning on September 1. [40 ILCS 5/15-139.5(a)]
 - 2) "Affected Annuitant"
 - A) Means an annuitant on the first day of the academic year following the academic year in which the annuitant first met the following conditions:
 - i) While receiving a retirement annuity under Article 15 of the Code, the annuitant was employed on or after August 1, 2013 by one or more employers under that Article and received or became entitled to receive during an academic year compensation for that employment in excess of 40% of his or her highest annual earnings prior to retirement; except that compensation paid from federal, corporate,

STATE UNIVERSITIES RETIREMENT SYSTEM

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foundation, or trust funds or grants of State funds that identify the principal investigator by name is excluded.

- ii) For the academic year containing June 1, 2015 and academic years thereafter, the annuitant received an annualized retirement annuity under Article 15 of at least \$10,000. [40 ILCS 5/15-139.5(b)] The annualized retirement annuity of at least \$10,000 shall be a gross monthly retirement annuity of at least \$833.33 per month.

- B) A person who becomes an affected annuitant remains an affected annuitant, except for any period during which the person returns to active service and does not receive a retirement annuity from the System. [40 ILCS 5/15-139.5(b)]

- 3) "Annuitant" means a person who is receiving a retirement annuity or, if the retirement annuity payment or payments have not yet been paid due to SURS processing, a person whose retirement annuity payment period has commenced. A person is not an annuitant if he or she:
 - A) has received a lump-sum retirement benefit under the Portable Benefit Package; or
 - B) is receiving or has received retirement benefits under the Self-Managed Plan.

- 4) "Catastrophic Incident" means an occurrence of widespread or severe damage or loss of property resulting from any manmade or natural cause, including, but not limited to, fire (including arson), flood, earthquake, wind, storm, explosion or extended periods of severe inclement weather.

- 5) "Compensation" means any remuneration paid by an employer that is reportable to the Internal Revenue Service by the employer as "wages, tips, or other compensation" on IRS Form W-2.

- 6) "Critical Operations" means teaching services, medical services, student welfare services, and any other services that are critical to the mission of the employer. [40 ILCS 5/15-139.5(i)]

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- 7) "Disaster" means an event that results in the Governor declaring that a disaster exists pursuant to Section 7 of the Illinois Emergency Management Agency Act [20 ILCS 3305/7] or an event that results in a municipality to declare that a state of emergency exists pursuant to 65 ILCS 5/11-1-6.
 - 8) "Employed or Reemployed" means the employer and annuitant have entered into an employer-employee relationship under common law and the annuitant is not an independent contractor. For the purposes of this Section, an annuitant whose employment by an employer extends over more than one academic year shall be deemed to be reemployed by that employer in each of those academic years.[40 ILCS 5/15-139.5(a)]
 - 9) "Highest Annual Earnings" shall have the meaning ascribed in Section 1600.202(d).
 - 10) "Retirement Annuity" means an annuity payable under Section 15-136, 15-136.1, 15-136.3 or 15-136.4 of the Code, excluding any survivor annuitant portion of a joint and survivor annuity.
- c) Initial Notification for Employed Annuitants. Within 60 days after the date of employing or reemploying an annuitant, the employer shall submit notification to the System of the following items:
- 1) A summary of the contract of employment or specify the rate of compensation and the anticipated length of employment of that annuitant [40 ILCS 5/15-139.5(a)]. If an employer enters into a new contract with an annuitant during the same academic year of employment or reemployment, the employer shall submit a new summary or rate of compensation and anticipated length of employment within 60 days after the effective date of the contract. The employer shall provide a copy of the contract upon SURS' request.
 - 2) A certification of whether the annuitant will be compensated from federal, corporate, foundation, or trust funds or grants of State funds that identify the principal investigator by name [40 ILCS 5/15-139.5(a)].
 - 3) Critical Operations

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- A) A certification of whether the annuitant has become an affected annuitant and:
- i) if the annuitant is an affected annuitant, whether the annuitant was employed in order to continue critical operations in the event of either an employee's unforeseen illness, accident, or death or a catastrophic incident or disaster; or [40 ILCS 5/15-139.5(i)]
 - ii) if the annuitant is an affected annuitant, whether the employer has certified the annuitant as a participating employee under Section 15-139(c) of the Code.
- B) If the employment is for critical operations, the notice in this subsection (c) shall be submitted within 5 business days after employing or reemploying the annuitant.
- d) Annual Certification of Employed Annuitants. For each employed annuitant, an employer shall submit to the System the following information no later than 30 days following the conclusion of the academic year:
- 1) The amount of compensation paid to the annuitant for employment in the academic year; and
 - 2) The amount of compensation that comes from federal, corporate, foundation, or trust funds or grants of State funds that identify the principal investigator by name that has been paid to the annuitant in the academic year. [40 ILCS 5/15-139.5(a)]
- e) Affected Annuitants
- 1) It is the obligation of the employer to determine whether an annuitant is an affected annuitant before employing the annuitant. For that purpose, the employer may require the annuitant to disclose and document his or her relevant prior employment and earnings history. Failure of the employer to make this determination correctly and in a timely manner or to include this determination with the notification required under

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subsection (d) does not excuse the employer from making the contribution required under subsection (g).

2) The System may assist the employer in determining whether a person is an affected annuitant. The System shall inform the employer if it discovers that the employer's determination is inconsistent with the employment and earnings information in the System's records. [40 ILCS 5/15-139.5(c)]

f) Annuitant and Employer Information Requests. Upon written request, the System will provide an annuitant or employer with the following information concerning the annuitant:

- 1) The annuitant's status as an annuitant or participating employee;
- 2) Whether an employer has determined and reported to the System that the annuitant is an affected annuitant;
- 3) The annuitant's highest annual earnings;
- 4) The compensation paid for the annuitant's post-retirement employment in each academic year as reported by employers;
- 5) Whether any of the annuitant's post-retirement employment or compensation has been certified to the System as being paid from federal, corporate, foundation, or trust funds or grants of State funds that identify the principal investigator by name. [40 ILCS 5/15-139.5(d)]

g) Payment of Employer Contributions

- 1) Certification of Contribution. If an employer employs or reemploys an affected annuitant in an academic year, and no exception applies, the System shall notify the employer and certify the amount of the contribution, which shall be equal to 12 times the amount of the gross monthly retirement annuity payable to the annuitant for the month in which the first paid day of employment in that academic year occurs, after any reduction in that annuity that may be imposed under Section 15-139(b) of the Code.

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- 2) Multiple Employers. *If an affected annuitant is employed by more than one employer in an academic year, the employer contribution required under this Section shall be divided among those employers in proportion to their respective portions of the total compensation paid to the affected annuitant for that employment during that academic year.*
- 3) Double Contribution Penalty
- A) *If the System determines that an employer, without reasonable justification, has failed to make the determination of affected annuitant status correctly and in a timely manner, or has failed to notify the System or to correctly document or certify to the System any of the information required by this Section, and that failure results in a delayed determination by the System that a contribution is payable under this Section, then the amount of that employer's contribution otherwise determined under this Section shall be doubled.*
- B) *The System shall deem a failure to correctly determine the annuitant's status to be justified if the employer establishes to the System's satisfaction that the employer, after due diligence, made an erroneous determination that the annuitant was not an affected annuitant due to reasonable reliance on false or misleading information provided by the annuitant or another employer, or an error in the annuitant's official employment or earnings records.*
[40 ILCS 5/15-139.5(e)]
- 4) Payment Deadline and Interest. *The employer may pay the required contribution without interest at any time within one year after receipt of the certification. If the employer fails to pay within that year, then interest shall be charged at a rate equal to the System's prescribed rate of interest, compounded annually from the 366th day after receipt of the certification from the System. Payment must be concluded within 2 years after receipt of the certification by the employer. If the employer fails to make complete payment, including applicable interest, within 2 years, then the System may, after giving notice to the employer, certify the delinquent amount to the State Comptroller, and the Comptroller shall thereupon deduct the certified delinquent amount from State funds payable to the employer and pay them instead to the System.* [40 ILCS 5/15-139.5(f)]

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- 5) Reparticipating Annuitants. If an employer is required to make a contribution to the System as a result of employing an affected annuitant and the annuitant later elects to forgo his or her annuity in that same academic year pursuant to Section 15-139(c) of the Code, then the required contribution by the employer shall be waived, and if the contribution has already been paid, it shall be refunded to the employer without interest. [40 ILCS 5/15-139.5(g)]
- 6) Employment for Critical Operations. Notwithstanding any other provision of this Section to the contrary, if an employer employs an affected annuitant in order to continue critical operations in the event of either an employee's unforeseen illness, accident, or death or a catastrophic incident or disaster, then, for one and only one academic year, the employer is not required to pay the contribution set forth in Section 15-139.5 of the Code for that annuitant. [40 ILCS 5/15-139.5(i)]
- 7) Appeals. The employer may appeal a certification of the contribution amount pursuant to Section 1600.510.

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

SUBPART E: DISABILITY CLAIMS AND ADMINISTRATIVE REVIEW**Section 1600.510 Employer-Related Determinations and Rules for Appeal**

This Section establishes procedures for employer appeals concerning matters of administration under the Illinois Pension Code.

- a) Administrative Determination. The Board of Trustees hereby delegates to the SURS administrative staff the responsibility for making determinations that affect the rights and obligations of employers, consistent with the provisions of the Illinois Pension Code.
- b) Review by Director of Member Services. Any employer adversely affected by a determination by System administrative staff may file a Statement of Employer Appeal to the SURS Director of Member Services or such other person as may be designated by the Executive Director. The designee shall have all the powers and duties of the Director of Member Services, as set forth in this subsection (b). A

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Statement of Employer Appeal must be received within 35 days from the date of the decision from which review is sought. If a Statement of Employer Appeal is not timely filed, the determination by administrative staff is final for all purposes and not subject to administrative or judicial review. The review by the Director of Member Services shall be based on all materials contained in the record, as well as any additional materials the employer attaches to the Statement of Employer Appeal. All filings or submissions, whether optional or required under this Section, shall be considered timely if date stamped by SURS within the time prescribed. The decision of the Director of Member Services shall be served on the employer's authorized representative by delivery to a third-party commercial carrier or by registered or certified mail, return receipt requested.

- c) Review by the Executive Committee
- 1) Any employer adversely affected by the disposition of a Statement of Employer Appeal may request, in writing, review by the Executive Committee of the Board by filing a Statement of Exceptions to the Executive Committee with the SURS General Counsel within 35 days after the date of the decision from which review is sought. The Statement of Exceptions to the Executive Committee shall not exceed 15 pages in length, unless agreed to by the SURS General Counsel. No additional filings or submissions apart from those already contained in the record may be enclosed with the Statement of Exceptions to the Executive Committee. If a Statement of Exceptions is not timely filed pursuant to this subsection (c)(1), the decision of the Director of Member Services is final for all purposes and not subject to administrative or judicial review.
 - 2) The Executive Committee shall render one of the following decisions with respect to the claim: affirmance of the decision of the Director of Member Services, reversal of that decision, or remand of the case to the administrative staff for further consideration. Remand of the case to the administrative staff shall not be considered a final decision of the Executive Committee. A decision by the Executive Committee either reversing or affirming the decision of the Director of Members Services shall constitute a final decision for the purpose of review under the Administrative Review Law [735 ILCS 5/Art. III].
 - 3) All decisions of the Executive Committee shall specify whether they are final and subject to the Administrative Review Law.

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- 4) Parties and their representatives shall be notified, personally, by delivery to a third-party commercial carrier, or by registered or certified mail, return receipt requested, of any decision of the Executive Committee. The date of mailing of the decision shall constitute the date of service for purposes of the Administrative Review Law or any other applicable law.

- d) Effect of Appeal on Due Dates, Interest and Penalties
 - 1) Due Dates. If any provision of the Code or SURS regulations requires the employer to make payment by a certain date, the due date shall not be extended during the pendency of the appeal. Any final decision under this Section that partially reduces the payment shall extend the due date of the remaining balance by the time period during which the matter was under appeal.

 - 2) Interest and Penalties on Payments. If any provision the Code or SURS regulations imposes interest or penalties upon an employer after a certain date for nonpayment, the interest and/or penalties shall continue to accrue during the pendency of the appeal. Any final decision that partially reduces the payment shall also reduce the attributable interest and/or penalties. To avoid the accrual of interest and/or penalties, the employer may make payment under protest. A payment under protest must be submitted, at the latest, with the Statement of Employer Appeal filed pursuant to subsection (b). If made, the payment shall not be considered an admission of any liability and shall not constitute a waiver of any appeal rights under this Section.

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

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Accident and Health Reserves
- 2) Code Citation: 50 Ill. Adm. Code 2004
- 3) Section Number: 2004.10 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing Section 353a and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/353a and 401]
- 5) Effective Date of Rule: December 31, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 39 Ill. Reg. 12715; September 18, 2015
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version:
 - a. 2004.10(a): 4th line, strike :The standards: and add :The original standards created in this Part applied through 2001.; strike 5th line. Change 6th line to :Starting in 2002, the incurred on or after January 1, 2002. After that date applicable standards have been those are as:.
 - b. 2004.10(a): Last line, after the period add :The incorporations by reference of APPM included in subsection (b) include no later amendments or editions:.
 - c. 2004.10(b): 1st line, after :b): add :APPM Applicability Dates:; before :Policies:, add :1):; 3rd line, before :Policies: add :2):; 5th line, before :Policies: add :3):.
 - d. 2004.10(b): 6th line, change :the effective date of Section 2004.10: to :December 31, 2015:.

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- e. 2004.10(b): 7th and 8th lines, before :Policies: add :4):; change :the effective date of Section 2004.10: to :December 31, 2015:; add :March 2015: before :APPM:.
- f. 2004.10(c): first line, change :the effective date of Section 2004.10: to :December 31, 2015:; 3rd line, change :under the limitations described in the APPM: to :required by subsection (b):; 4th line, delete :then:.
- 12) Have all 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: The amendment to Part 2004 will require all companies transacting in this State the kinds of business enumerated in clause (b) of Class 1 and clause (a) of Class 2 of Section 4 of the Code [215 ILCS 5/4] to use of the current Accounting Practices and Procedures (APPM) standards found within the most recent version of the APPM manual, which is updated on an annual basis. The Part currently provides that companies refer to the applicable standards prescribed by the APPM as of March 2008. There have been amendments to the APPM subsequent to 2008, and it is necessary that Section 2004 reflect the current standards referenced in the most recent version of the APPM. The amendment to Part 2004 will also provide guidance with respect to the specific APPM standards to apply for reserves for policies issued and claims incurred prior to 2008. Moreover, the amendment to Part 2004 will also provide companies with the knowledge that for claims incurred on or after 2002 and before the effective date of this Part, companies may elect to calculate reserves for all open claims using a more recent standard under the limitations described in the APPM. This language is also found within the APPM, but is necessary to add to Part 2004 to address the 2002 through the present time period.
- 16) Information and questions regarding this adopted rule shall be directed to:

Susan Christy, Actuary I
Life Actuarial Section
Department of Insurance
320 West Washington Street
Springfield IL 62767-0001

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217/782-1759

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

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENT

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER z: ACCIDENT AND HEALTH INSURANCEPART 2004
ACCIDENT AND HEALTH RESERVES

Section

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

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

SOURCE: Filed December 14, 1965, effective December 28, 1965; codified at 7 Ill. Reg. 4219; amended at 26 Ill. Reg. 3074, effective February 19, 2002; transferred from the Department of Insurance to the Department of Financial and Professional Regulation pursuant to Executive Order 2004-6 on July 1, 2004; amended at 30 Ill. Reg. 19360, effective November 29, 2006; amended at 32 Ill. Reg. 13191, effective July 25, 2008; recodified from the Department of Financial and Professional Regulation to the Department of Insurance pursuant to Executive Order 2009-04 at 39 Ill. Reg. 2804; amended at 40 Ill. Reg. 211, effective December 31, 2015.

Section 2004.10 Application and Effective Date

- a) This Part applies to all companies transacting in this State the kinds of business enumerated in clause (b) of Class 1 and clause (a) of Class 2 of Section 4 of the Code [215 ILCS 5/4], and it applies to all accident and health policies for which reserve standards are prescribed under Section 353a of the Code. The original standards created in this Part applied through 2001. Starting in 2002, the standards established by this Part will no longer be applicable to policies issued and claims incurred on or after January 1, 2002. After that date, applicable standards have been those are as prescribed by the National Association of Insurance Commissioners (NAIC) in the Accounting Practices and Procedures Manual (APPM) (2301 McGee Street, Suite 800, Kansas City MO 64108-2662)

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~~(Accounting Practices and Procedures Manual—as of March 2008, no subsequent dates or editions).~~ The incorporations by reference of the APPM included in subsection (b) include no later amendments or editions.

b) APPM Applicability Dates

- 1) Policies issued and claims incurred on or after January 1, 2002 and before November 29, 2006 are subject to the standards prescribed in the March 2001 APPM.
- 2) Policies issued and claims incurred on or after November 29, 2006 and before July 25, 2008 are subject to the standards prescribed in the March 2006 APPM.
- 3) Policies issued and claims incurred on or after July 25, 2008 and before December 31, 2015 are subject to the standards prescribed in the March 2008 APPM.
- 4) Policies issued and claims incurred on or after December 31, 2015 are subject to the standards prescribed in the March 2015 APPM.

- c) For claims incurred on or after January 1, 2002 and before December 31, 2015, the insurer may elect to calculate reserves for all open claims using a more recent standard required by subsection (b), but once a more recent standard is elected, all future valuations must be on that basis.

(Source: Amended at 40 Ill. Reg. 211, effective December 31, 2015)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Surplus Line Business Requirements
- 2) Code Citation: 50 Ill. Adm. Code 2801
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
2801.10	Amendment
2081.30	Amendment
2081.40	Amendment
2801.50	Amendment
2801.60	Amendment
2801.70	Amendment
2801.80	Amendment
2801.90	Amendment
2801.100	Amendment
2801.110	Amendment
2801.120	Amendment
2801.130	Amendment
2801.140	Amendment
2801.ILLUSTRATION A	Amendment
- 4) Statutory Authority: Implementing Section 445 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/445 and 401]
- 5) Effective Date of Rules: December 21, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the principal office of the Department of Insurance and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 39 Ill. Reg. 11852; August 28, 2015
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between Proposal and Final Version:

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- a. 2801.30(a)(1)(B): 2nd and 3rd lines, struck "Section 445 of the Code)".
 - b. 2801.30(a)(1)(C): Changed to "C) that is permitted in its domiciliary jurisdiction to write the type of insurance involved. (Section 445(1.5)(b) of the Code)".
 - c. 2801.30(b): 5th line, changed "Commissioner" to "Commissioners".
 - d. 2801.50(a): 3rd line, removed strikethrough from "(Section 445 of The Code)" and changed "The" to "the".
 - e. 2801.50(c), (c)(1) and (c)(2): italicized existing text and added "(Section 445(1.5)(e) of the Code)" after the period.
 - f. 2801.80(d): italicized existing text and added "(Section 445.4 of the Code)" after the period.
 - g. 2801.100(d): first line, changed "in" to "from".
 - h. 2801.120(a): italicized existing text; last line, changed "Guarantee" to "Guaranty"; after the period, added "(Section 445(10.5) of the Code)".
 - i. 2801.120(b): italicized all existing text after "procured"; last line, after the quotation mark added "(Section 445(10.5) of the Code)".
- 12) Have all 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: Changes needed to be made as a result of SB3324 becoming law. Senate Bill 3324 is an initiative of the Illinois Department of Insurance in conjunction with the Surplus Lines Association of Illinois and the Independent Insurance Agents of Illinois. SB3324 aims to clean up several provisions relating to the regulation of "surplus line" and "unauthorized" insurance which is a vital safety valve for the market – allowing Illinois businesses and residents to get insurance when it is not available with "licensed" insurers. These changes are needed to finish

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bringing Illinois statutes into compliance with the recently enacted federal NRRA laws, to close a tax loophole, and to address other minor market and statutory inefficiencies.

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

Marcy Savage, Assistant Deputy Director
Corporate Regulation Section
Department of Insurance
320 West Washington Street
Springfield IL 62767-0001

217/524-0016

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

DEPARTMENT OF INSURANCE

NOTICE OF ADOPTED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER gg: FINAL PROVISIONSPART 2801
SURPLUS LINE BUSINESS REQUIREMENTS

Section

2801.10	Policies or Contracts of Insurance
2801.20	License Expiration
2801.30	Unauthorized InsurersCompanies
2801.40	Maintenance of Funds in Illinois
2801.50	Procurement of Policies or Contracts
2801.60	Record of Efforts to Procure Policies or Contracts
2801.70	Declinations of Artificial Coverage not Acceptable
2801.80	Surplus Line Association of Illinois
2801.90	Separate Records and Accounts
2801.100	License Rejection or Renewal Refusal
2801.110	Service of Process
2801.120	Required Surplus Line Policy Notice
2801.130	Taxes
2801.140	Classes not Subject to Surplus Line Law

2801.ILLUSTRATION A Written Warning to Insureds

AUTHORITY: Implementing Section 445 and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/445 and 401].

SOURCE: Filed July 11, 1958; codified at 7 Ill. Reg. 897; amended at 12 Ill. Reg. 11754, effective July 1, 1988; amended at 20 Ill. Reg. 5846, effective April 9, 1996; amended at 40 Ill. Reg. 216, effective December 21, 2015.

Section 2801.10 Policies or Contracts of Insurance

Policies or contracts of insurance may not be placed with [insurerseompanies](#) not authorized to do business in Illinois other than through surplus line producers licensed pursuant to Section 445 of the Illinois Insurance Code (the Code) [215 ILCS 5/445](Ill. Rev. Stat. 1987, ch. 73, par. 1057).

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

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Section 2801.30 Unauthorized Insurers~~Companies~~

- a) Procurement of Insurance by a Surplus Line Producer
- 1) A surplus line producer may procure insurance from an unauthorized insurer domiciled in the United States~~company~~:
- A1) ~~that~~ ~~Which~~ based upon information available to the surplus line producer, has a policyholders' surplus of not less than \$15,000,000 determined in accordance with accounting rules ~~as~~ set forth in the Illinois Insurance Code ~~that~~~~which~~ are applicable to authorized insurer~~se~~~~companies~~ (Section 445 of the Code); and
- B2) ~~that~~~~which~~ has standards of solvency and management ~~that~~~~which~~ are adequate for the protection of policyholders (Section 445 of the Code); ~~and~~.
- C) ~~that~~ is permitted in its domiciliary jurisdiction to write the type of insurance involved. (Section 445(1.5)(b) of the Code)
- 2) A surplus line producer may procure insurance from an unauthorized insurer domiciled outside of the United States only if the insurer meets the standards for unauthorized insurers domiciled in the United States as set forth in subsection (a)(1), or if the insurer is listed on the Quarterly Listing of Alien Insurers maintained by the International Insurers Department of the National Association of Insurance Commissioners.
- b) Information available to the surplus line producer at the time of procurement includes financial information published by the unauthorized insurer~~company~~, the financial information and quarterly listing of alien insurers published by the International Insurers Department of the National Association of Insurance Commissioners~~Commissioners' Non-Admitted Insurers Office~~ and information published by Best's Insurance Reports or other independent market reporting agencies.
- c) In determining whether the standards of solvency and management of an unauthorized insurer~~company~~ at the time of procurement ~~are such that~~ meet requirements necessary for the protection of policyholders, the surplus line

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producer shall consider the financial condition of the ~~insurereompany~~, the ready acceptance of the ~~insurereompany~~ in responsible commercial markets, the general reputation of the ~~insurereompany~~, and the ~~insurer'scompany's~~ past and current performance of its obligations.

- d) When an unauthorized ~~insurereompany~~ does not meet the standards set forth in subsection (a)(1) ~~or (a)(2) of this Section~~ or a surplus line producer is unable to verify ~~thosesueh~~ facts, the surplus line producer may procure insurance from that ~~insurereompany~~ only if prior written warning of ~~thesueh~~ fact or condition is given to the insured by the insurance producer or surplus line producer. Evidence of the warning and its delivery shall be maintained by the insurance producer and surplus line producer, together with the evidence of coverage. ~~TheSueh~~ written warning shall be in a form substantially similar to the sample warning set forth in Illustration A ~~of this Part~~.
- e) If the Director at any time determines that the further assumption of risks might be hazardous to the policyholders of an unauthorized ~~insurereompany~~, the Director shall order the Surplus Line Association of Illinois not to countersign insurance contracts evidencing insurance in ~~that insurersueh company~~. ~~The Director'sSaid~~ determination will be made by examining the criteria contained in the Illinois Insurance Code for authorized ~~insurereompanies~~. ~~TheIn such event the~~ Director shall also direct all surplus line producers to cease procuring insurance from ~~that insurersueh company~~.

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

Section 2801.40 Maintenance of Funds in Illinois

Nothing contained in this Part shall be construed to prohibit an unauthorized ~~insurereompany~~ from maintaining funds in Illinois to service its business.

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

Section 2801.50 Procurement of Policies or Contracts

- a) The ~~surplus line~~~~Surplus Line~~ producer must exert diligent effort to procure the policies or contracts required by the insureds from ~~insurers thateompanies which~~ are authorized to transact business in Illinois (Section 445 of ~~theThe~~ Code). Diligent effort by the ~~surplus line~~~~Surplus Line~~ producer shall be deemed to have

DEPARTMENT OF INSURANCE

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been exercised if the ~~surplus line~~ ~~Surplus Line~~ producer or the referring insurance producer ~~submits~~ ~~shall submit~~ a risk to three or more authorized ~~insurers~~ ~~that companies, which~~ are engaged in writing in Illinois the type of coverage sought, or if there are no ~~insurer companies~~ actually engaged in writing ~~that such~~ coverage, the risk shall be submitted to ~~insurers that companies which~~, in the ~~surplus line~~ ~~Surplus Line~~ producer's or the insurance producer's professional judgment, are the most likely to accept the risk.

- b) Submission of insuring contracts to the Surplus Line Association of Illinois constitutes a certification by the surplus line producer or by the insurance producer who presented the risk to the surplus line producer for placement as a surplus line risk that after diligent effort the required insurance could not be procured from ~~insurers that companies which~~ are authorized to transact business in this State and that ~~the such~~ procurement was otherwise in accordance with the surplus line law.
- c) *Licensed surplus line producers may procure surplus line insurance from an unauthorized insurer for an exempt commercial purchaser, as that term is defined in Section 445, without making the required diligent effort to procure the insurance from authorized insurers if:*
- 1) *the producer has disclosed to the exempt commercial purchaser that the insurance may or may not be available from authorized insurers that may provide greater protection with more regulatory oversight; and*
 - 2) *the exempt commercial purchaser has subsequently, in writing, requested the producer to procure that insurance from an unauthorized insurer. (Section 445(1.5)(e) of the Code)*

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

Section 2801.60 Record of Efforts to Procure Policies or Contracts

The surplus line producer must maintain, with the copy of the insurance that was placed, a record of ~~the such~~ diligent effort, which must state the name of the authorized ~~insurer companies~~ and the individuals contacted at each ~~insurer company~~ who declined the risk. If the diligent effort was made by the insurance producer, the surplus line producer must maintain a written record signed by the insurance producer that the insurance producer made ~~the such~~ diligent effort, and the insurance producer must maintain a record that states the name of the authorized

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[insurerseompanies](#) and the individuals contacted at each [insurereompany](#) who declined the risk.

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

Section 2801.70 Declinations of Artificial Coverage not Acceptable

- a) Declinations by authorized [insurerseompanies](#) for the following reasons do not qualify insurance to be placed under the surplus line law:
- 1) Artificial division of one coverage into two or more proposed contracts;
 - 2) Differential in premium or rate quoted between an authorized [insurereompany](#) and an unauthorized [insurereompany](#).
- b) Declinations by authorized [insurerseompanies](#) for the following reasons do qualify insurance to be placed under the surplus line law:
- 1) Underwriting reason pertaining to the risk or the class;
 - 2) Size of the risk;
 - 3) Coverage is not available except in combination with other coverage not required by the insured;
 - 4) Required coverage is not acceptable in part to the authorized [insurereompany](#) although part of the coverage is acceptable, and the unauthorized [insurereompany](#) will accept only the entire risk and not solely the rejected portion; and
 - 5) Authorized [insurerseompanies](#) will accept less than the amount of coverage required and the entire amount and not just part of that amount ~~thereof~~ will be accepted by unauthorized [insurerseompanies](#).

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

Section 2801.80 Surplus Line Association of Illinois

- a) All surplus line insurance ~~placed on Illinois risks~~ must be submitted to the Surplus Line Association if Illinois is the insured's home state, as that term is defined in

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Section 445. The Surplus Line Association~~which~~ will process and countersign the insurance policies or contracts, keep records of the business written and report to the surplus line producers and to the Director pursuant to Sections 445 and 445.1 of the Code. The Surplus Line Association shall report to ~~the surplus line producers and~~ the Director and, at the discretion of the Director, to the surplus line producers:

- 1) by July 15 each year, the business processed by each surplus line producer during the six month period ending June 30; and
 - 2) by January 15 each year, the business processed by each surplus line producer during the six month period ending December 31 of the previous year.
- b) The Surplus Line Association is authorized to charge a fee to cover its cost of operations. The fee is payable by the surplus line producer based on the same gross premiums ~~that~~which are subject to the surplus line tax. The fee schedule is subject to the Director's approval. The Director's approval of the fee schedule shall be determined from the annual audited financial report submitted to the Director by the Surplus Line Association.
- c) The Surplus Line Association shall maintain records of surplus line insurance submitted by surplus line producers for a period of 10 years.
- d) The Association shall annually provide for an independent financial audit of the books and records of the Association by a certified public accountant and shall provide a copy of the audit report to the Director. (Section 445.4 of the Code)

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

Section 2801.90 Separate Records and Accounts

Each ~~surplus line~~Surplus Line producer must keep separate accounts and records of the business transacted under ~~its surplus line~~his Surplus Line license for 7 years from the policy effective date, and these separate accounts and records shall be open at all times to ~~the~~ inspection by the Illinois Director of Insurance ~~or his or her designee~~or the members of his staff.

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

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Section 2801.100 License Rejection or Renewal Refusal

Application for a surplus line producer license shall be rejected, or renewal thereof refused, for failure:

- a) ~~to~~ pay the tax required by Section 445 of the Illinois Insurance Code and by Section 12 of the Fire Investigation Act [425 ILCS 25/12]; or
- b) to pay the annual license fee to the Director of Insurance pursuant to Section 445(2)~~(b)~~ of the Code; or
- ~~e)~~ ~~to maintain the surety bond required by Section 445; or~~
- ~~c)~~ to pay the fee due the Surplus Line Association; or
- ~~d)~~ to exert diligent effort to secure the business required by an insured ~~from~~ duly authorized ~~insurer~~ companies; or
- ~~f)~~ to procure surplus line policies or contracts or coverage from ~~insurer~~ companies that have at least \$15,000,000 in policyholders surplus and have the standards of solvency or management necessary for the protection of policyholders; or
- ~~g)~~ to process all surplus line business on Illinois risks through the Surplus Line Association; or
- ~~h)~~ to maintain records and accounts pursuant to Section 445 of the Code; or
- ~~i)~~ to maintain membership in the Surplus Line Association of Illinois; or
- ~~j)~~ to comply with the requirements of the Illinois Insurance Code or 50 Ill. Adm. Code.

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

Section 2801.110 Service of Process

- a) Service of process relating to any surplus line insurance ~~that~~ which the Surplus Line Association receives from the Director shall be delivered to the surplus line producer for delivery to the unauthorized ~~insurer~~ company. The surplus line

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producer shall promptly forward any such process by the fastest, most reliable means to the unauthorized ~~insurereompany~~ or its designated representative for service of process.

- b) Any unauthorized ~~insurer thatecompany which~~ elects to do so may file a written request with the Surplus Line Association that service of process be forwarded directly to the ~~insurer. Theecompany in which case the~~ Surplus Line Association shall forward a copy of ~~thesuch~~ process directly to the ~~insurereompany~~ and ~~a copy~~ to the surplus line producer.

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

Section 2801.120 Required Surplus Line Policy Notice

- a) Each policy or contract for insurance ~~procured from an unauthorized insurer, other than a domestic surplus line insurer, issued~~ in conformity with Section 445 of the Code shall have stamped or imprinted on the first page, ~~thereof~~ in not less than 12-pt. bold face type, the following legend:

"Notice to Policyholder"

"This contract is issued, pursuant to Section 445 of the Illinois Insurance Code, by a company not authorized and licensed to transact business in Illinois and as such is not covered by the Illinois Insurance ~~Guaranty~~Guarantee Fund."

- b) Each policy or contract for insurance ~~procured from a domestic surplus line insurer in conformity with Section 445 of the Code shall have stamped or imprinted on the first page, in not less than 12-pt. bold face type, the following legend:~~

"Notice to Policyholder"

"This contract is issued by a domestic surplus line insurer, as defined in Section 445a of the Illinois Insurance Code, pursuant to Section 445 of the Code and, as such, is not covered by the Illinois Insurance Guaranty Fund." (Section 445(10.5) of the Code)

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

DEPARTMENT OF INSURANCE

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Section 2801.130 Taxes

- a) The surplus line producer shall pay to the Director as a surplus line tax a sum equal to ~~3% of~~ the gross premiums less returned premiums multiplied by the surplus line tax rate set forth in Section 445 of the Code upon all surplus line insurance. The payment is due on or before February 1 of each year for the business processed through the Surplus Line Association during the six month period ending December 31 of the previous year and on August 1 of each year for the six month period ending June 30. The Surplus Line Association will report to each surplus line producer and to the Director the business processed during each six month period.
- b) The surplus line producer shall pay to the Director as a Fire Marshal Tax a sum equal to 1% of the gross premiums less returned premiums on all surplus line insurance subject to the tax required by Section 12 of the Fire Investigation Act [425 ILCS 25]Chapter 127½, par. 16 of the Illinois Revised Statutes. The payment is due in the month of March for the business processed through the Surplus Line Association for the preceding calendar year. The Surplus Line Association, prior to March 1, will report to each surplus line producer and to the Director the business subject to this Fire Marshal Tax processed during each calendar year.
- c) The surplus line tax and the Fire Marshal tax, ~~when~~where applicable, shall be due and payable on all surplus line business processed by the surplus line producer through the Surplus Line Association.

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

Section 2801.140 Classes not Subject to Surplus Line Law

Sections 445 and 445.5 inclusive of the Illinois Insurance Code (~~Ill. Rev. Stat. 1987, ch. 73, pars. 1057-1057.5~~) do not apply to insurance of property and operations of railroads or aircraft engaged in interstate or foreign commerce, insurance of vessels, crafts or hulls, cargoes, marine builders risks, marine protection and indemnity, or other risks including strikes and war risks insured under ocean or wet marine forms of policies. Surplus line producers should not submit the above types of insurance to the Surplus Line Association for processing.

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

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Section 2801.ILLUSTRATION A Written Warning to Insureds

TO: _____

RE: (Name of Unauthorized
InsurerCompany)
(Type of Coverage)

In accordance with Section 445 of the Illinois Insurance Code, I hereby provide you with a written WARNING that the above-captioned unauthorized insurerecompany with which I propose to place the captioned coverage does not, or I am unable to verify that it does (checked as applicable):

_____ Have a policyholder surplus of \$15,000,000 or more;

_____ Meet minimal standards of solvency and management thatwhich are adequate for your protection.

Sincerely,

(Source: Amended at 40 Ill. Reg. 216, effective December 21, 2015)

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- 1) Heading of the Part: Equal Pay in Employment
- 2) Code Citation: 56 Ill. Adm. Code 320
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
320.220	Amendment
320.300	Amendment
320.310	Amendment
320.330	Amendment
- 4) Statutory Authority: Equal Pay Act of 2003 [820 ILCS 112]
- 5) Effective Date of Rules: December 21, 2015
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: August 14, 2015; 39 Ill. Reg. 11199
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: There have not been any changes.
- 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 any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking adds language to implement PA 98-1051 which allows the Department of Labor to refer a complaint under the Equal Pay Act of 2003 to the Department of Human Rights if the complaint also alleges a violation of the Illinois Human Rights Act. Includes references to the new joint rules of the Departments of Labor and Human Rights in 56 Ill. Adm. Code 325.

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

Chris Wieneke
Chief Legislative Liaison
Illinois Department of Labor
900 S. Spring St.
Springfield IL 62704

217/558-1270

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

DEPARTMENT OF LABOR

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TITLE 56: LABOR AND EMPLOYMENT
CHAPTER I: DEPARTMENT OF LABOR
SUBCHAPTER b: REGULATION OF WORKING CONDITIONS

PART 320
EQUAL PAY IN EMPLOYMENT

SUBPART A: GENERAL PROVISIONS

Section	
320.100	Purpose and Scope
320.110	Application of the Act
320.120	Definitions
320.130	Independent Contractor Exemption
320.140	Recordkeeping Requirements

SUBPART B: COMPLAINT

Section	
320.200	Persons Who May File a Complaint
320.210	Contents and Time Limit for Filing
320.220	Confidentiality
320.230	Incomplete Complaint
320.240	Amendment of Complaint
320.250	Withdrawal of Complaint

SUBPART C: PROCEDURE UPON COMPLAINT AND DECISION

Section	
320.300	Jurisdiction
320.310	Investigation
320.320	Fact-Finding Conference
320.330	Decision After Investigation
320.340	Enforcement Procedures

SUBPART D: SETTLEMENT

Section	
320.400	Settlement

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SUBPART E: DISMISSAL, DEFAULT AND CLOSURE

Section	
320.500	Dismissal
320.510	Default
320.520	Closure

SUBPART F: INFORMAL INVESTIGATIVE HEARING

Section	
320.600	Request for Informal Investigative Hearing
320.610	Convening an Informal Investigative Hearing
320.620	Continuances
320.630	Application of the Rules of Evidence, Pleading and Procedure
320.640	Attorneys and Witnesses at an Informal Investigative Hearing
320.650	Contumacious Conduct
320.660	Telephone Hearings

SUBPART G: REQUEST FOR REVIEW

Section	
320.700	Filing with Chief Administrative Law Judge
320.710	Contents of Request for Review
320.720	Reply to Request for Review and Surreply
320.730	Extensions of Time
320.740	Additional Investigation and Decision

AUTHORITY: Implementing the Equal Pay Act of 2003 [820 ILCS 112].

SOURCE: Emergency rule adopted at 28 Ill. Reg. 363, effective January 1, 2004, for a maximum of 150 days; adopted at 28 Ill. Reg. 8009, effective May 26, 2004; amended at 34 Ill. Reg. 19552, effective December 3, 2010; amended at 40 Ill. Reg. 229, effective December 21, 2015.

SUBPART B: COMPLAINT

Section 320.220 Confidentiality

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While the case is pending at the administrative level, the identity of the complainant shall be kept confidential unless the complainant requests otherwise. This confidentiality provision does not apply in cases alleging retaliatory discharge or retaliatory discrimination under the Act, or to matters referred to the Department of Human Rights for an investigation under Section 15(d) of the Act.

(Source: Amended at 40 Ill. Reg. 229, effective December 21, 2015)

SUBPART C: PROCEDURE UPON COMPLAINT AND DECISION

Section 320.300 Jurisdiction

- a) At the time of filing, the Department shall determine initially whether the allegations in the complaint sufficiently state a claim under the Act so that the Department can proceed with the investigation.
- b) If, at the time of filing, or at any subsequent time, it is determined that there is a lack of jurisdiction, the complaint shall be dismissed. All parties shall be notified of the dismissal pursuant to Section 320.500.
- c) If, at the time of filing, or at any subsequent time while the matter is pending with the Department of Labor, it is determined that the subject matter of the complaint also alleges a violation of the Illinois Human Rights Act, the Department may refer the complaint to the Department of Human Rights to be processed pursuant to 56 Ill. Adm. Code 325 (Joint rules of the Departments of Labor and Human Rights on the investigation of Equal Pay Act cases).

(Source: Amended at 40 Ill. Reg. 229, effective December 21, 2015)

Section 320.310 Investigation

- a) After the Department determines jurisdiction and the matter has not been referred to the Department of Human Rights, the Department shall conduct an investigation to determine whether reasonable cause exists to believe a violation under the Act has occurred. The investigation shall include a written notice to the respondent of the substance of the alleged violation and an opportunity to present any information the respondent wishes the Department to consider in reaching its determination. The investigation may be made by written or oral inquiry, field visit, conference or any method or combination of methods deemed suitable in the

DEPARTMENT OF LABOR

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discretion of the Department. The Department will limit its investigation to reviewing up to 3 years prior to the date the complaint was filed, but in no case will review occur prior to the effective date of the Act, January 1, 2004.

- b) If during the investigation a respondent refuses to cooperate, the Director may either make a finding of reasonable cause or issue subpoenas to compel the attendance of respondent witnesses or the production of documents.
- c) Whenever a decision is made after an investigation conducted by the Department of Human Rights and the Department of Labor adopts that decision, 56 Ill. Adm. Code 325 supercedes this Part and shall control as to further procedural actions and remedies available to the parties. If the Department of Labor does not adopt the Department of Human Rights decision, then this Part 320 applies and controls as to further procedural actions and remedies available to the parties.
- d) A complainant must promptly provide the Department with a notice of address or telephone change or any prolonged absence from the current address so that the complainant can be located. A complainant must cooperate with the Department, provide necessary information and be available for interviews, conferences and hearings upon reasonable notice or request by the Department. If a complainant cannot be located or does not respond to reasonable requests by the Department, the Department may dismiss the complaint pursuant to Section 320.500.
- e) The Department may in its discretion withhold any witness statement or identity of any witness as confidential upon the request of a party or the witness. Circumstances in which the Department may withhold a witness statement include, but are not limited to, when the safety or employment status of the witness is endangered or threatened.

(Source: Amended at 40 Ill. Reg. 229, effective December 21, 2015)

Section 320.330 Decision After Investigation

- a) At the conclusion of Department of Labor investigation, the Department must make one of the following findings:
 - 1) Reasonable cause found. If the Department determines that there is reasonable cause to believe that a violation of the Act has occurred, it may:

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- A) Seek a voluntary settlement agreement signed by the respondent that eliminates the unlawful practice and provides appropriate relief to the complainant; or
 - B) Recommend the commencement of a civil action.
- 2) No reasonable cause found. If the Department determines that there is no reasonable cause to believe that a violation of the Act has occurred, the complaint will be dismissed pursuant to Section 320.500.
- b) Whenever a decision is made under this Section, a written notice must be provided to the parties stating the Department's findings and any applicable civil penalty assessments pursuant to Section 30(c) of the Act and advise the parties of the right to request review pursuant to Section 320.600. The notice must also advise the parties of the right to bring a civil action as provided for in Section 30 of the Act.

(Source: Amended at 40 Ill. Reg. 229, effective December 21, 2015)

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

NOTICE OF PUBLIC HEARING AND COMMENT PERIOD
PURSUANT TO 415 ILCS 5/10(H) and 1 ILCS 100/5-70(b)Notice of Public Comment Period and Public Hearing
for State Implementation Plan (SIP) Submittals
for National Ambient Air Quality Standards (NAAQS)

The Pollution Control Board (Board) is accepting public comments and will conduct a public hearing on a prospective NAAQS SIP submittal to the U.S. Environmental Protection Agency (USEPA). The Board will accept written comments on the proposed rule that will form the basis for the SIP proposal until 45 days after the date of this issue of the *Illinois Register*, and a public hearing will occur by videoconference between Chicago and Springfield on February 18, 2016. The Board presently anticipates adoption of amendments to the Illinois ambient air quality standards on March 3, 2016, or within a short time after that date.

Section 10(H) of the Environmental Protection Act (Act) [415 ILCS 5/10(H)] requires the Board to do as follows:

[T]he Board shall adopt ambient air quality standards specifying the maximum permissible short-term and long-term concentrations of various contaminants in the atmosphere, those standards shall be identical in substance to the national ambient air quality standards promulgated by the Administrator of the United States Environmental Protection Agency in accordance with Section 109 of the Clean Air Act [(42 U.S.C. 7409 (2013))].

The USEPA NAAQS are codified at 40 C.F.R. 50. The Board is required to adopt those exemptions using the "identical in substance" rulemaking procedure of Section 7.2 of the Act [415 ILCS 5/7.2]. The Illinois listing of these compounds is codified at 35 Ill. Adm. Code 243.

On December 17, 2015, the Board adopted a proposal for public comment in docket R16-2 to initiate adoption of the latest USEPA amendments to and actions affecting the federal NAAQS during the period January 1, 2015 through June 30, 2015.

- On March 6, 2015 (80 Fed. Reg. 12264) USEPA adopted an implementation rule for the 2008 ozone National Ambient Air Quality Standard (NAAQS). One segment of the implementation rule revised the sunset and anti-backsliding provisions of the 1997 ozone NAAQS.
- On June 5, 2015 (80 Fed. Reg. 32114) USEPA designated one new reference method (FRM) for fine particulates (PM_{2.5}), one new equivalent method (FEM) for PM_{2.5}, one

POLLUTION CONTROL BOARD

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new FEM for coarse particulates (PM_{10-2.5}), and two new FEMs for ozone (O₃) in ambient air.

- On June 18, 2015 USEPA issued an updated version of its *List of Designated Reference and Equivalent Methods (List of Designated Methods)*. The update included the one new FRM and four new FEMs included in the June 5, 2015 *Federal Register* notice.

The Board added three USEPA actions that occurred after June 30, 2015 for the purpose of administrative economy:

- On August 26, 2015 (at 80 Fed. Reg. 51802) USEPA designated one new FEM for fine particulate matter (PM_{2.5}) and one for ozone in ambient air.
- On October 26, 2015 (at 80 Fed. Reg. 65292) USEPA adopted a new primary and secondary NAAQS for O₃ in ambient air, lowering the NAAQS to 70 parts per billion (ppb) from the 2008 primary and secondary NAAQS for ozone, which was 75 ppb. USEPA included amendments relating to implementation of the 2015 NAAQS.
- On November 19, 2015 (at 80 Fed. Reg. 72432) USEPA designated one new FRM for carbon monoxide and one new FEM for ozone in ambient air.

A Notice of Proposed Amendment appears in today's issue of the *Illinois Register* relative to the docket R16-2 proposal.

The Board expects that the Illinois Environmental Protection Agency (Agency) will submit the present amendments to USEPA to be included in or to revise the Illinois SIP pertaining to one or more ambient air quality priority pollutants (carbon monoxide, lead nitrogen oxides, ozone, particulate matter, and sulfur dioxide) pursuant to section 110 of the federal Clean Air Act (42 U.S.C. 7410(a) (2013) and the implementing USEPA regulations. *See* 40 C.F.R. 51.102 and appendix V (2015).

As USEPA will require the State to have conducted a hearing on the amendments to the Illinois NAAQS rules involved in this proceeding pursuant to 42 U.S.C. 4210(a) and 40 C.F.R. 51.102, the Board has scheduled a public hearing in this matter to occur by videoconference between two locations, as follows:

POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION ON PROPOSED AMENDMENT

1:30 p.m., February 18, 2016

James R. Thompson Center
Illinois Pollution Control Board Hearing Room
100 West Randolph Street, Room 11-512
Chicago

and

Sangamo Building
Illinois Pollution Control Board Hearing Room
1021 North Grand Avenue
Springfield

The Board invites public comment on the proposed amendments. The Board will receive public comments until at least 45 days after a notice of these proposed amendments appears in the *Illinois Register*. Anyone may file a public comment with the Board addressed as follows:

Office of the Clerk
Pollution Control Board
James R. Thompson Center
100 W. Randolph Street, Suite 11-500
Chicago IL 60601

All comments relating to this rulemaking should clearly refer to docket number R16-2.

The record in this docket will include all documents pertaining to this proceeding. All documents in the record are publicly available for inspection and copying as provided in 2 Ill. Adm. Code 2175 (2014) by contacting the Office of the Clerk. The documents are also freely available online at the Board's webpage: www.ipcb.state.il.us.

The record will not include a copy of the following documents, which are all otherwise publicly available:

- The March 6, 2015, June 5, 2015, August 26, 2015, October 26, 2015, and November 19, 2016 *Federal Register* notices that prompted this action (referenced in the Board's December 17, 2015 opinion and order proposing amendments);
- The June 18, 2015 update to the List of Designated Methods that prompted this action (referenced in the Board's December 17, 2015 opinion and order proposing amendments);

POLLUTION CONTROL BOARD

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- Federal statutes and regulations referenced in the Board's December 17, 2015 opinion and order; and
- Illinois statutes and regulations referenced in the Board's December 17, 2015 opinion and order.

The Board requests that interested persons direct questions to the following person:

Michael J. McCambridge, Staff Attorney
Pollution Control Board
100 West Randolph Street, Room 11-500
Chicago IL 60601
312/814-6924
michael.mccambridge@illinois.gov

The Board requests that interested persons request documents from or submit documents to the following person:

John T. Therriault, Clerk of the Board
Pollution Control Board
100 West Randolph Street, Room 11-500
Chicago IL 60601
312/814-3629
john.therriault@illinois.gov

After the hearing and conclusion of the public comment period, the Board will promptly issue an opinion and order adopting final rule amendments. The Board presently anticipates adoption of the amendments on March 3, 2016. The Board will then file the amendments with the Office of the Secretary of State, and a Notice of Adopted Amendments will appear in the *Illinois Register*. Any Agency submission of the associated SIP revision to USEPA will follow that Notice.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of December 15, 2015 through December 21, 2015. The rulemakings are scheduled for review at the Committee's January 13, 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>
1/20/16	<u>Office of the Attorney General</u> , Attorney General's Procurement (44 Ill. Adm. Code 1300)	10/16/15 39 Ill. Reg.13542	1/13/16
1/21/16	<u>Department of Financial and Professional Regulation</u> , Veterinary Medicine and Surgery Practice Act of 2004 (68 Ill. Adm. Code 1500)	9/18/15 39 Ill. Reg. 12677	1/13/16
1/21/16	<u>Department of Financial and Professional Regulation</u> , Certified Veterinary Technicians (68 Ill. Adm. Code 1505)	9/18/15 39 Ill. Reg. 12699	1/13/16
1/27/16	<u>Health Facilities and Services Review Board</u> , Specialized Mental Health Rehabilitation Facilities (SMHRFs) (77 Ill. Adm. Code 1126)	7/31/15 39 Ill. Reg. 10577	1/13/16
1/29/16	<u>Department of Healthcare and Family Services</u> , Medical Assistance Programs (89 Ill. Adm. Code 120)	1/23/15 39 Ill. Reg. 1403	1/13/16
1/29/16	<u>Department of Agriculture</u> , Diseased Animals (8 Ill. Adm. Code 85)	10/30/15 39 Ill. Reg. 14044	1/13/16
1/29/16	<u>Department of Agriculture</u> , Illinois Dead Animal Disposal Act (8 Ill. Adm. Code 90)	10/30/15 39 Ill. Reg. 14061	1/13/16

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

1/29/16	<u>Department of Agriculture</u> , Swine Disease Control and Eradication Act (8 Ill. Adm. Code 105)	10/30/15 39 Ill. Reg. 14078	1/13/16
1/29/16	<u>Department of Agriculture</u> , Animal Disease Laboratories Act (8 Ill. Adm. Code 110)	10/30/15 39 Ill. Reg. 14089	1/13/16
1/29/16	<u>Department of Agriculture</u> , Meat and Poultry Inspection Act (8 Ill. Adm. Code 125)	10/30/15 39 Ill. Reg. 14101	1/13/16
1/29/16	<u>State Board of Education</u> , Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)	10/16/15 39 Ill. Reg. 13595	1/13/16
1/29/16	<u>State Board of Education</u> , Programs for the Preparations of Principals in Illinois (23 Ill. Adm. Code 30)	10/2/15 39 Ill. Reg. 13210	1/13/16
1/29/16	<u>State Board of Education</u> , Health/Life Safety Code for Public Schools (23 Ill. Adm. Code 180)	10/2/15 39 Ill. Reg. 13214	1/13/16
1/29/16	<u>State Board of Education</u> , Reading Improvement Program (23 Ill. Adm. Code 260)	10/2/15 39 Ill. Reg. 13246	1/13/16

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

JANUARY 2016 REGULATORY AGENDA

- a) Parts (Headings and Code Citations): General Program (35 Ill. Adm. Code 1500)
- 1) Rulemaking:
- A) Description: 35 Ill. Adm. Code 1500.50 contains the Fund's general program rules related to insurance program requirements. The Council will be amending these regulations to define the operational and reporting requirements of a Council approved compliance program.
- B) Statutory Authority: Implementing and authorized by Section 20 of the Drycleaner Environmental Response Trust Fund Act [415 ILCS 135/20(a)].
- C) Scheduled meeting/hearing dates: Public hearings are not required to prescribe the compliance program requirements.
- D) Date agency anticipates First Notice: The Council anticipates First Notice publication of the proposed rules in the *Illinois Register* in May of 2016.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Four hundred seventy five (475) active drycleaning facilities, which are insured by the Fund Council are subject to participation in a Council approved compliance program. There should be no effect on these drycleaning facilities. There should be no effect on small municipalities or not-for profit corporations.
- F) Agency contact person for information:
- H. Patrick Eriksen
Drycleaner Environmental Response Trust Fund Council
PO Box 480
Bensenville IL 60106-0480
- 630/741-0022
hpe@willconsult.com
Fax: 630/741-0026

DRYCLEANER ENVIRONMENTAL RESPONSE TRUST FUND
COUNCIL OF ILLINOIS

JANUARY 2016 REGULATORY AGENDA

- G) Related rulemakings and other pertinent information: There are no other related rulemakings.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

JANUARY 2016 REGULATORY AGENDA

I. DIVISION OF BANKING

a) Part (Heading and Code Citation): Eligible State Bank (38 Ill. Adm. Code 380)

1) Rulemaking:

- A) Description: Amendments to this Part will allow the Division of Banking to continue its partnership with federal regulatory agencies in the examination of state chartered commercial banks pursuant to Section 48(2) of the Act which provides for an alternating exam schedule of eligible state banks with federal regulatory agencies. On December 4, 2005, the "Fixing America's Surface Transportation Act" or the "FAST Act" was signed into law. The law made numerous changes to various federal laws. Specifically, the Act extended the examination interval for banks \$500 million to \$1 billion to 18 months (rather than the previous 12 month cycle). Updates and changes reflecting the consolidation of the Department of Financial and Professional Regulation will also be included.
- B) Statutory Authority: Illinois Banking Act [205 ILCS 5/48(2) and 48(6)]
- C) Scheduled Meeting/Hearing Dates: No meetings or hearings have been scheduled.
- D) Date Agency anticipates First Notice: January 2016
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

JANUARY 2016 REGULATORY AGENDA

- G) Related rulemakings and other pertinent information: None

II. DIVISION OF PROFESSIONAL REGULATION

- b) Part (Heading and Code Citation): Administrative Procedures for General Professional Regulation Under the Administrative Code (68 Ill Adm. Code 1130).

1) Rulemaking:

- A) Description: Rules will need to be promulgated to address the provisions of PA 98-659, which provides IDFPD-Division of Professional Regulation (DPR) with the authority to grant volunteer licenses to licensed health care professionals. The Act defines "volunteer practice" and provides that a health care professional practicing under a volunteer license shall engage only in volunteer practice. It further provides that a volunteer license shall be granted in accordance with the requirements of the licensing Act that applies to the health care professional's given field of health care practice and that the licensure fee shall be waived.
- B) Statutory Authority: Illinois Administrative Code [20 ILCS 2105]
- C) Scheduled Meeting/Hearing Dates: No meetings or hearings have been scheduled.
- D) Date Agency anticipates First Notice: May 2016
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

JANUARY 2016 REGULATORY AGENDA

- G) Related rulemakings and other pertinent information: None
- c) Part (Heading and Code Citation): Illinois Athletic Trainers Practice Act (68 Ill. Adm. Code 1160)
- 1) Rulemaking:
- A) Description: Various Sections will be amended to address changes as a result of PA 99-469, the sunset reauthorization of the Act. Technical clean-up changes may also be made.
- B) Statutory Authority: Illinois Athletic Trainers Practice Act [225 ILCS 5]
- C) Scheduled Meeting/Hearing Dates: No hearings or meetings have been scheduled.
- D) Date Agency anticipates First Notice: July 2016
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Licensed athletic trainers may be affected.
- F) Agency Contact Person for Information:
- Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786
- 217/785-0813
fax: 217/557-4451
- G) Related rulemakings and other pertinent information: None
- d) Part (Heading and Code Citation): The Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985 (68 Ill. Adm. Code 1175)
- 1) Rulemaking:

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- A) Description: Various sections may be amended to address changes as a result of the sunset reauthorization of the Act (PA 99-427). In addition, standards need to be proposed for the Department to waive remedial training for applicants who have failed their examinations after several attempts.
- B) Statutory Authority: Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985 [225 ILCS 410]
- C) Scheduled Meeting/Hearing Dates: No hearings or meetings have been scheduled.
- D) Date Agency anticipates First Notice: July 2016
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Licensed barbers, cosmetologists, estheticians, hair braiders, and nail technicians may be affected.
- F) Agency Contact Person for Information:
- Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786
- 217/785-0813
fax: 217/557-4451
- G) Related rulemakings and other pertinent information: None
- e) Part (Heading and Code Citation): Clinical Psychologist Licensing Act (68 Ill. Adm. Code 1400)
- 1) Rulemaking:
- A) Description: Various Sections may be amended to implement PA 98-668, establishing criteria for certification of prescriptive authority for clinical psychologists. Technical clean-up changes may also be made.

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- B) Statutory Authority: Clinical Psychologist Licensing Act [225 ILCS 15]
- C) Scheduled Meeting/Hearing Dates: No hearings have been scheduled.
- D) Date Agency anticipates First Notice: February 2016
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Licensed clinical psychologists may be affected.
- F) Agency Contact Person for Information:

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

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

- G) Related rulemakings and other pertinent information: None

f) Part (Heading and Code Citation): Collection Agency Act (68 Ill. Adm. Code 1210)1) Rulemaking:

- A) Description: Various sections may be amended to address changes as a result of the sunset reauthorization of the Act (PA 99-227).
- B) Statutory Authority: Collection Agency Act [225 ILCS 425]
- C) Scheduled Meeting/Hearing Dates: No hearings or meetings have been scheduled.
- D) Date Agency anticipates First Notice: July 2016
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Licensed collection agencies may be affected.
- F) Agency Contact Person for Information:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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

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

G) Related rulemakings and other pertinent information: None

g) Part (Heading and Code Citation): Illinois Controlled Substances Act (77 Ill. Adm. Code 3100)

1) Rulemaking:

A) Description: Amendment to this Part needed to include prescribing psychologists in response to PA 98-668.

B) Statutory Authority: Illinois Controlled Substances Act [720 ILCS 570]

C) Scheduled Meeting/Hearing Dates: No hearings or meetings have been scheduled.

D) Date Agency anticipates First Notice: February 2016

E) Effect on small businesses, small municipalities or not-for-profit corporations: Licensed clinical psychologists may be affected.

F) Agency Contact Person for Information:

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- G) Related rulemakings and other pertinent information: Clinical Psychologist Licensing Act (68 Ill. Adm. Code 1400)
- h) Part (Heading and Code Citation): Illinois Dental Practice Act (68 Ill Adm. Code 1220).
- 1) Rulemaking:
- A) Description: A new Section needs to be added setting forth the requirements that must be met for dentists to provide influenza vaccines per PA 98-665. Technical clean-up changes may also be made.
- B) Statutory Authority: Illinois Dental Practice Act [225 ILCS 25]
- C) Scheduled Meeting/Hearing Dates: No meetings or hearings have been scheduled.
- D) Date Agency anticipates First Notice: March 2016
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Licensed dentists, dental hygienists and dental assistants may be affected.
- F) Agency Contact Person for Information:
- Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786
- 217/785-0813
fax: 217/557-4451
- G) Related rulemakings and other pertinent information: None
- i) Part (Heading and Code Citation): Funeral Directors and Embalmers Licensing Code (68 Ill. Adm. Code 1250)
- 1) Rulemaking:

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- A) Description: Various sections may be amended to include changes to Continuing Education (CE) and internship renewals as well as changes to requirements for a preparation room. Technical clean-up changes may also be made.
- B) Statutory Authority: Funeral Directors and Embalmers Licensing Code [225 ILCS 41]
- C) Scheduled Meeting/Hearing Dates: No hearings or meetings have been scheduled.
- D) Date Agency anticipates First Notice: April 2016
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Licensed funeral directors and embalmers may be affected.
- F) Agency Contact Person for Information:
- Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786
- 217/785-0813
fax: 217/557-4451
- G) Related rulemakings and other pertinent information: None
- j) Part (Heading and Code Citation): Professional Geologist Licensing Act (68 Ill. Adm. Code 1252)
- 1) Rulemaking:
- A) Description: Various sections may be amended to address changes as a result of the sunset reauthorization of the Act (PA 99-26). Technical clean-up language including changes reflecting the consolidation of the Department of Financial and Professional Regulation will also be needed.

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- B) Statutory Authority: Professional Geologist Licensing Act [225 ILCS 745]
- C) Scheduled Meeting/Hearing Dates: No hearings or meetings have been scheduled.
- D) Date Agency anticipates First Notice: March 2016
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Licensed geologists may be affected.
- F) Agency Contact Person for Information:
- Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786
- 217/785-0813
fax: 217/557-4451
- G) Related rulemakings and other pertinent information: None
- k) Part (Heading and Code Citation): Marriage and Family Therapy Licensing Act (68 Ill. Adm. Code 1283)
- 1) Rulemaking:
- A) Description: The rules may be amended in order to make updates to reflect recent changes in education standards.
- B) Statutory Authority: Marriage and Family Therapy Licensing Act [225 ILCS 55]
- C) Scheduled Meeting/Hearing Dates: No hearings or meetings have been scheduled.
- D) Date Agency anticipates First Notice: Unknown

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- E) Effect on small businesses, small municipalities or not-for-profit corporations: Licensed marriage and family therapists may be affected.
- F) Agency Contact Person for Information:
- Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786
- 217/785-0813
fax: 217/557-4451
- G) Related rulemakings and other pertinent information: None
- 1) Part (Heading and Code Citation): Rules for Administration of the Compassionate Use of Medical Cannabis Pilot Program (68 Ill. Adm. Code 1290)
- 1) Rulemaking:
- A) Description: The rules need to be amended in order to make several updates to Sections concerning definitions, administration, visitors, audit and recordkeeping requirements, inventory tracking system, security system, destruction and applications.
- B) Statutory Authority: Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130]
- C) Scheduled Meeting/Hearing Dates: No hearings or meetings have been scheduled.
- D) Date Agency anticipates First Notice: May 2016
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Licensed cannabis dispensaries may be affected.
- F) Agency Contact Person for Information:

Department of Financial and Professional Regulation

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

JANUARY 2016 REGULATORY AGENDA

Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786

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

G) Related rulemakings and other pertinent information: None

m) Part (Heading and Code Citation): Illinois Optometric Practice Act of 1987 (68 Ill. Adm. Code 1320)

1) Rulemaking:

A) Description: Technical clean-up changes may be made as well as possible changes to Continuing Education (CE).

B) Statutory Authority: Illinois Optometric Practice Act of 1987 [225 ILCS 80]

C) Scheduled Meeting/Hearing Dates: No hearings or meetings have been scheduled.

D) Date Agency anticipates First Notice: January 2016

E) Effect on small businesses, small municipalities or not-for-profit corporations: Licensed optometrists may be affected.

F) Agency Contact Person for Information:

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

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

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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n) Part (Heading and Code Citation): Pharmacy Practice Act (68 Ill. Adm. Code 1330)

1) Rulemaking:

A) Description: A complete rewriting of the regulations for sterile and non-sterile compounding is needed including changing the standards for pharmacy compounding from those specifically set down in rule to the standards developed by the United States Pharmacopeial-National Formulary (USP-NF). Other changes will include allowing pharmacies to sell non-sterile compounded products to practitioners for office use and sterile compounding of veterinary products for office use. Technical clean up changes may also be made.

B) Statutory Authority: Pharmacy Practice Act [225 ILCS 85]

C) Scheduled Meeting/Hearing Dates: No hearings have been scheduled.

D) Date Agency anticipates First Notice: April 2016

E) Effect on small businesses, small municipalities or not-for-profit corporations: Licensed pharmacists, pharmacy technicians, and pharmacies will be affected.

F) Agency Contact Person for Information:

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

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

G) Related rulemakings and other pertinent information: None

o) Part (Heading and Code Citation): Professional Counselor and Clinical Professional Counselor Licensing Act (68 Ill. Adm. Code 1375)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- 1) Rulemaking:
 - A) Description: Changes to curriculum and education requirements may be made as well as technical clean-up changes.
 - B) Statutory Authority: Professional Counselor and Clinical Professional Counselor Licensing Act [225 ILCS 107]
 - C) Scheduled Meeting/Hearing Dates: No hearings or meetings have been scheduled.
 - D) Date Agency anticipates First Notice: July 2016
 - E) Effect on small businesses, small municipalities or not-for-profit corporations: Licensed professional counselors may be affected.
 - F) Agency Contact Person for Information:

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

217/785-0813
fax: 217/557-4451
 - G) Related rulemakings and other pertinent information: None
- p) Part (Heading and Code Citation): Illinois Roofing Industry Licensing Act (68 Ill. Adm. Code 1460)
 - 1) Rulemaking:
 - A) Description: Various sections may be amended to address changes as a result of the sunset reauthorization of the Act (PA 99-469).
 - B) Statutory Authority: Illinois Roofing Industry Licensing Act [225 ILCS 335]

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- C) Scheduled Meeting/Hearing Dates: No hearings or meetings have been scheduled.
- D) Date Agency anticipates First Notice: July 2016
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Licensed roofing contractors and applicants for licensure may be affected.
- F) Agency Contact Person for Information:
- Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786
- 217/785-0813
fax: 217/557-4451
- G) Related rulemakings and other pertinent information: None
- q) Part (Heading and Code Citation): Sex Offender Evaluation and Treatment Provider Act (68 Ill. Adm. Code 1280)
- 1) Rulemaking:
- A) Description: The curriculum requirements for associate sex offender providers need to be revised.
- B) Statutory Authority: Sex Offender Evaluation and Treatment Provider Act [225 ILCS 109]
- C) Scheduled Meeting/Hearing Dates: No hearings or meetings have been scheduled.
- D) Date Agency anticipates First Notice: February 2016
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Licensed physicians, nurses, psychologists, professional

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

JANUARY 2016 REGULATORY AGENDA

counselors, clinical social workers, and marriage and family therapists may be affected.

F) Agency Contact Person for Information:

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

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

G) Related rulemakings and other pertinent information: None

OFFICE OF THE STATE FIRE MARSHAL

JANUARY 2016 REGULATORY AGENDA

a) Part(s) (Heading and Code Citations): Fire Sprinkler Contractor Licensing Rules (41 Ill. Adm. Code 109)

1) Rulemaking:

- A) Description: This rulemaking will incorporate statutory provisions that permit only properly qualified and licensed sprinkler contractors to conduct inspections and testing of fire sprinkler systems. It will require that fire sprinkler contractors must submit copies of their sprinkler system inspection documentation to local fire departments or fire protection districts. It will require a copy of a driver's license or State identification for each certified person or responsible managing employee designated by the licensee. This rulemaking will also further define the terms "single family or multiple family residential dwellings up to and including 8 family units," as used in the Fire Sprinkler Contractor Licensing Act.
- B) Statutory Authority: Implementing and authorized by Section 55 of the Fire Sprinkler Contractor Licensing Act [225 ILCS 317/55].
- C) Scheduled Meeting/Hearing Dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking will impact any small business that installs or repairs fire sprinkler systems.
- F) Agency Contact Person for Information:

Kevin Switzer
Manager
Division of Fire Prevention
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703

217/558-0639

OFFICE OF THE STATE FIRE MARSHAL

JANUARY 2016 REGULATORY AGENDA

G) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citations): School Inspections (41 Ill. Adm. Code 111)

1) Rulemaking:

- A) Description: This rulemaking will update the agency's rules applicable to the inspection of public schools. Some fire departments would like to inspect their public schools, but don't have qualified staff pursuant to current requirements. The primary focus of the revisions will be to add an alternate avenue to become a qualified public school inspector, with extra training from OSFM. The new rules will identify 2 tiers of public school inspectors. The proposal would require local fire authorities to submit their reports to OSFM, in addition to the Regional Office of Education. Additionally, language related to quality assurance for the program is being considered.
- B) Statutory Authority: Implementing and authorized by the School Code [105 ILCS 5/2-3.12(k)].
- C) Scheduled Meeting/Hearing Dates: The Agency has not yet scheduled any hearings or meetings on this proposal.
- D) Date Agency anticipates First Notice: Winter 2016
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking will not Effect any small business or not-for-profit corporation. The rulemaking will allow more local municipal fire departments and fire protection districts to become involved in the inspection of their public schools. The proposed rulemaking is not anticipated to impose further restrictions upon public schools or local authorities.
- F) Agency Contact Person for Information:

Catherine Stashak
Division of Technical Services
Office of the State Fire Marshal
100 W. Randolph St., Suite 4-600

OFFICE OF THE STATE FIRE MARSHAL

JANUARY 2016 REGULATORY AGENDA

Chicago IL 60601

312/814-2425

G) Related rulemakings and other pertinent information: Nonec) Part(s) (Heading and Code Citations): Carbon Monoxide Detectors in Public Schools (41 Ill. Adm. Code 112)1) Rulemaking:

- A) Description: PA 99-0470 takes effect on January 1, 2016 and mandates local school boards to require each school under its authority to be equipped with carbon monoxide alarms or carbon monoxide detectors. The Office of the State Fire Marshal is responsible for establishing the guidelines for approved carbon monoxide detectors under this Act and carbon monoxide alarms under the Carbon Monoxide Alarm Detector Act [430 ILCS 135]. This proposal will establish the minimum requirements for approved carbon monoxide alarms and detectors to provide clarity to local school boards.
- B) Statutory Authority: Implementing and Authorized by Section 34-18.49 of the School Code [105 ILCS 5/10-20.56 & 5/34-18.49].
- C) Scheduled Meeting/Hearing Dates: The Agency has not yet scheduled any hearings or meetings on this proposal.
- D) Date Agency anticipates First Notice: Winter 2016
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking has no impact on small businesses or not-for-profit corporations. These rules are expected to provide assistance to local school boards in achieving compliance with PA 99-0470 and in doing so may provide beneficial impacts to some small municipalities.
- F) Agency Contact Person for Information:

Catherine Stashak
Division of Technical Services

OFFICE OF THE STATE FIRE MARSHAL

JANUARY 2016 REGULATORY AGENDA

Office of the State Fire Marshal
100 W. Randolph St., Suite 4-600
Chicago IL 60601

312/814-2425

- G) Related rulemakings and other pertinent information: None
- d) Part(s) (Heading and Code Citations): Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 2120)
- 1) Rulemaking: Amendments to Boiler and Pressure Vessel Safety regulations
- A) Description: This rulemaking will require that carbon dioxide detectors be placed inside every building where any portion of a pressurized carbon dioxide vessel system is located. For newly installed systems only, it will also 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. The proposal will clarify what the inspection cycle for a historical boiler will consist of in the event that one or more required inspections in the current cycle are skipped by the owner or operator. If four or more years of successive inspections are skipped, 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. Finally, the proposal will update the national technical codes required by statute to be incorporated into these rules.
- B) Statutory Authority: Boiler and Pressure Vessel Safety Act [430 ILCS 75/2].
- C) Scheduled Meeting/Hearing Dates: None scheduled yet.
- D) Date Agency anticipates First Notice: Winter 2016.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: No significant impact anticipated.

OFFICE OF THE STATE FIRE MARSHAL

JANUARY 2016 REGULATORY AGENDA

F) Agency Contact Person for Information:

Clayton Novak
Chief Inspector
Division of Boiler and Pressure Vessel Safety
Office of the State Fire Marshal
100 W. Randolph St., Suite 4-600
Chicago IL 60601

312/814-2381

217/785-1008

G) Related rulemakings and other pertinent information: None

e) Part(s) (Heading and Code Citations): Policy and Procedures Manual for Fire Protection Personnel (41 Ill. Adm. Code 141)1) Rulemaking:

- A) Description: In the first phase of the Office of the State Fire Marshal's amendments to this Part, the incorporations by reference in Section 141.20 will be updated. National Fire Prevention Association (NFPA) standards used by the Division of Personnel Standards and Education will be added and updated. In the second phase of the rulemaking, this Part will be amended for updates, clarification and consolidation. The Office of the State Fire Marshal intends to clarify this Part by separating the regulatory requirements for course and training facility approvals, state examinations, certifications, reimbursement and fees from non-regulatory provisions which constitute an internal policy and procedure manual. Those provisions which do not constitute regulatory requirements will be repealed and the current certifications will be updated.
- B) Statutory Authority: Implementing and authorized by Sections 8 and 11 of the Fire Protection Training Act [50 ILCS 740/8] and the Peace Officer Fire Investigation Act [20 ILCS 2910].
- C) Scheduled Meeting/Hearing Dates: None Scheduled
- D) Date Agency anticipates First Notice: Winter and/or Spring 2016

OFFICE OF THE STATE FIRE MARSHAL

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- E) Effect on small businesses, small municipalities or not-for-profit corporations: The first phase of this rulemaking may impact small municipalities and fire protection districts that elect to participate in the Office of the State Fire Marshal's voluntary certification program by updating the standards on which training and certification requirements are based. The second phase of this rulemaking may impact small municipalities or fire protection districts that elect to participate in the Office of the State Fire Marshal's voluntary certification program and seek reimbursement for training expenditures from funds appropriated to the Office for these reimbursements. Streamlined procedural rules are expected to speed the curriculum approval time and decrease administrative burdens on participants.
- F) Agency Contact Person for Information:
- Mitzi Woodson
Manager
Division of Personnel Standards and Education
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703
- 217/785-1003
- G) Related rulemakings and other pertinent information: Amendments to this Part will be done in two separate rulemakings, each filed separately.
- f) Part(s) (Heading and Code Citations): Race Track Rules for Fire Safety (41 Ill. Adm. Code 150)
- 1) Rulemaking:
- A) Description: This rulemaking will update the agency's current rules applicable to pari-mutuel horse racing tracks. Current rules date to 1976 and cite editions of NFPA standards for which updated editions are available.
- B) Statutory Authority: Implementing and authorized by Section 9 of the

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Fire Investigation Act [425 ILCS 25/9].

- C) Scheduled Meeting/Hearing Dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The rules are applicable only to facilities which are part of a race track complex where the complex is primarily utilized for the purpose of conducting a horse racing meet where pari-mutuel wagering is authorized.
- F) Agency Contact Person for Information:
- Kevin Switzer
Manager
Division of Fire Prevention
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703

217/558-0639
- G) Related rulemakings and other pertinent information: None

g) Part(s) (Heading and Code Citations): Storage, Transportation, Sale and Use of Gasoline and Volatile Oils: Rules and Regulations\ Relating to General Storage (41 Ill. Adm. Code 160)

1) Rulemaking:

- A) Description: This rulemaking will update the agency's rules applicable to aboveground storage tanks (ASTs). This includes two primary rule Parts: 41 Ill. Adm. Code 160 and 41 Ill. Adm. Code 180 that are applicable to ASTs used for both dispensing and non-dispensing purposes. Part 160 rules primarily address the use of ASTs for bulk storage of flammable or combustible liquids (storage for other than dispensing purposes). The

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primary focus of the rules will be to replace the currently outdated rules with references to nationally recognized standards for ASTs.

- B) Statutory Authority: Implementing and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2].
- C) Scheduled Meeting/Hearing Dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Unknown.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The rules will impact any small business, municipality or not-for-profit corporations that install or relocate an AST containing flammable or combustible liquids. The proposed rules are not anticipated to impose further restrictions upon ASTs that are already in-place.
- F) Agency Contact Person for Information:

Cathy Stashak
Division of Technical Services
Office of the State Fire Marshal
100 W. Randolph St., Suite 4-600
Chicago IL 60601

312/814-2425
- G) Related rulemakings and other pertinent information: The proposed changes to 41 Ill. Adm. Code 160 are related to the proposed changes to 41 Ill. Adm. Code 180.

h) Part(s) (Heading and Code Citations): Petroleum Equipment Contractor Licensing (41 Ill. Adm. Code 172)

1) Rulemaking:

- A) Description: This rulemaking will update certification and licensure rules for petroleum equipment contractors doing work on underground storage tanks as a result of changes to the program made by PA 97-0428. The

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rulemaking will address consistencies between the rules and the statute raised in internal audit findings. It will also update cross-references to OSFM rules for which the numbering has changed from Part 170 to Parts 175 and 176.

- B) Statutory Authority: Petroleum Equipment Contractor Licensing Act [225 ILCS 729/25, 35(a)(4), and 35(b)(7)].
- C) Scheduled Meeting/Hearing Dates: None scheduled yet
- D) Date Agency anticipates First Notice: Unknown.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking will have a minimal impact on small businesses that conduct permitted work on underground storage tanks.
- F) Agency Contact Person for Information:

Fred Schneller
Manager
Division of Petroleum and Chemical Safety
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62603

217/557-3131

- G) Related rulemakings and other pertinent information: None
- i) Part(s) (Heading and Code Citations): General Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 Ill. Adm. Code 174); Technical Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 Ill. Adm. Code 175); Administrative Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances (41 Ill. Adm. Code 176)
 - 1) Rulemaking:

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- A) Description: This rulemaking will revise the Illinois technical requirements for underground storage tank systems ("USTs") to conform to new federal regulatory requirements that became effective on October 13, 2015. These changes would include requiring federally acceptable proofs of compatibility for underground storage tanks, piping and all related system components whenever such systems store or dispense ethanol blends above 10% ethanol (E10) for gasoline or above 20% biodiesel (B20) for diesel. Federally required changes will also include monthly walkthrough inspections by Certified Operators, tightness testing of spill buckets every three years, inspection of overfill prevention equipment every three years, prohibition of ball float vent valves at time of installation or replacement, full regulation of airport hydrant fueling systems, and full regulation of field constructed tanks. This rulemaking will also update these rules to incorporate and streamline current practices, including the electronic submission of reporting forms and permit applications. This rulemaking will also address an unsafe product piping set-up caused when formerly separate regular, midgrade and premium gasoline product piping lines are installed so that two products are mixed at the dispenser to create the midgrade product. When done incorrectly, this piping set-up may lead to an open pipe end and the release of product if the dispenser is struck by a vehicle and the piping is broken.
- B) Statutory Authority: Section 2 of the Gasoline Storage Act [430 ILCS 15/2].
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Some of the federal requirements being implemented will increase costs of UST operation. Other federal requirements will have no fiscal impact on owners and operators of USTs. Other federal requirements have been previously implemented. (Examples: Operator Training, double-wall design requirements, leak detection for emergency power generator USTs, replacement of tanks failing their internal lining inspection, annual leak detection testing, and requirements for under-dispenser containment sumps.) Other changes will decrease costs and increase the flexibility and convenience of compliance, for example,

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streamlining forms and implementing electronic submission of reporting forms and permit applications. Allowing new third-party (UL) listed tank replacement technologies is likely to reduce costs when a tank fails. These last two items will likely help those small businesses, small municipalities and not-for-profit entities that own and operate underground storage tanks.

F) Agency Contact Person for Information:

Fred Schneller
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703

217-557-3131

G) Related rulemakings and other pertinent information: Nonej) Part(s) (Heading and Code Citations): Storage, Transportation, Sale and Use of Gasoline and Volatile Oils (41 Ill. Adm. Code 180)1) Rulemaking:

A) Description: This rulemaking will update the agency's rules applicable to aboveground storage tanks (ASTs). This includes two primary rule Parts: 41 Ill. Adm. Code 160 and 41 Ill. Adm. Code 180 that are applicable to ASTs used for both dispensing and non-dispensing purposes. Part 180 rules primarily address the use of ASTs for flammable or combustible liquids used to dispense fuel into vehicles or portable containers. The primary focus of the rules will be to replace the currently outdated rules with references to nationally recognized standards for ASTs.

B) Statutory Authority: Implementing and authorized by Section 2 of the Gasoline Storage Act [430 ILCS 15/2].

C) Scheduled Meeting/Hearing Dates: The Agency has not yet scheduled meetings or hearings on this proposal.

D) Date Agency anticipates First Notice: Unknown.

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- E) Effect on small businesses, small municipalities or not-for-profit corporations: The rules will impact any small business, municipality or not-for-profit corporations that install or relocate an AST that contains flammable or combustible liquids used to dispense fuel into vehicles or portable containers. The proposed rules are not anticipated to impose further restrictions upon ASTs that are already in-place.
- F) Agency Contact Person for Information:
- Cathy Stashak
Division of Technical Services
Office of the State Fire Marshal
100 W. Randolph St., Suite 4-600
Chicago IL 60601
- 312/814-2425
- G) Related rulemakings and other pertinent information: The proposed changes to 41 Ill. Adm. Code 180 are related to the proposed changes to 41 Ill. Adm. Code 160.
- k) Part(s) (Heading and Code Citations): Storage, Transportation, Sale and Use of Liquefied Petroleum Gas (41 Ill. Adm. Code 200)
- 1) Rulemaking:
- A) Description: This rulemaking will update the agency's rules applicable to liquefied petroleum gas (LPG) tanks. The primary focus of the rules will be to update the reference to a national standard: NFPA 58 Liquefied Petroleum Gas Code. The rule currently references to the 2011 edition of NFPA 58 and the OSFM intends to update that reference to the latest published edition of NFPA 58 – the 2014 edition – in order to remain current with industry practices. The statute requires that OSFM rules on this topic be in substantial conformity with the national codes published by the National Fire Protection Association (NFPA)
- B) Statutory Authority: Liquefied Petroleum Gas Regulation Act [430 ILCS 5/3].

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- C) Scheduled Meeting/Hearing Dates: None scheduled
- D) Date Agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not-for-profit corporations: The rules will impact any small business, municipality or not-for-profit corporation that installs or relocates a LPG (including propane) storage tank. The proposed rules are not anticipated to impose further restrictions upon existing LPG tanks.
- F) Agency Contact Person for Information:
- Cathy Stashak
Division of Technical Services
Office of the State Fire Marshal
100 W. Randolph St., Suite 4-600
Chicago IL 60601
- 312/814-2425
- G) Related rulemakings and other pertinent information: None
- 1) Part(s) (Heading and Code Citations): Appeals and Enforcement Proceedings (41 Ill. Adm. Code 210)
- 1) Rulemaking:
- A) Description: This Part will be amended to delineate and clarify the appeal process utilized during certain OSFM administrative enforcement proceedings. Amendments will include, among other things, clarification concerning the duties of the respective parties, the initiation of contested hearings, pleadings, motions, discovery, the burden and standard of proof, the applicable rules of evidence, the consequences of failing to appear, and default procedures.
- B) Statutory Authority: Implemented and authorized by Section 10-5 of the Illinois Administrative Procedures Act [5 ILCS 100/10-5].

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- C) Scheduled Meeting/Hearing Dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None Anticipated
- F) Agency Contact Person for Information:
- Alix E. Armstead
Deputy General Counsel--Legal Division
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703
- 217/785-1519
- G) Related rulemakings and other pertinent information: None
- m) Part(s) (Heading and Code Citations): Pyrotechnic Distributor and Operator Licensing Rules (41 Ill. Adm. Code 230)
- 1) Rulemaking:
- A) Description: This rulemaking will update referenced industry technical standards and incorporate any recent federal requirements in OSFM Pyrotechnic Distributor and Operator Licensing Rules. It will also update or delete references to the Music Entertainment Task Force because its work has concluded. It will also develop an expedited licensing protocol for out-of-state production companies with an appropriate fee schedule and require cover license operators to identify out-of-state touring pyrotechnic participants on the display report that summarizes the pyrotechnic event. This will also require that distributors identify certain business information on the regulatory application, for example, any assumed name being used as well as the full legal name for the legal entity submitting the application. Finally, this will add a fee of \$30 for per pyrotechnic assistant at time of license renewal (every three years).

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- B) Statutory Authority: Implemented and authorized by Section 30 of Pyrotechnic Distributor and Operator Licensing Act [225 ILCS 227/30].
- C) Scheduled Meeting/Hearing Dates: None scheduled yet
- D) Date Agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not-for-profit corporations: A new fee (\$30) would be required for license renewal.
- F) Agency Contact Person for Information:
- Kevin Switzer
Manager
Division of Fire Prevention
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703
- 217-558-0639
- G) Related rulemakings and other pertinent information: None
- n) Part(s) (Heading and Code Citations): Pyrotechnic and Consumer Display Permitting Rules (41 Ill. Adm. Code 235)
- 1) Rulemaking:
- A) Description: This rulemaking will update referenced industry technical standards and incorporate any recent federal requirements in OSFM Pyrotechnic Distributor and Operator Licensing Rules. It will also require local permitting authorities to maintain certain minimum records.
- B) Statutory Authority: Implementing and authorized by Section 4.1 of the Fireworks Use Act [425 ILCS 35/5].
- C) Scheduled Meeting/Hearing Dates: None scheduled yet.
- D) Date Agency anticipates First Notice: Unknown.

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- E) Effect on small businesses, small municipalities or not-for-profit corporations: None anticipated.
- F) Agency Contact Person for Information:
- Kevin Switzer
Manager
Division of Fire Prevention
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703
- 217/558-0639
- G) Related rulemakings and other pertinent information: Proposed revisions to 41 Ill. Adm. Code 230's requirements for Flame Effect Licensure and Permit requirements.
- o) Part(s) (Heading and Code Citations): Fire Equipment Distributor and Employee Standards (41 Ill. Adm. Code 251); and Fire Equipment Administrative Procedures (41 Ill. Adm. Code 280)
- 1) Rulemaking:
- A) Description: This rulemaking will update the OSFM's rules applicable to fire equipment distributor and employee licensing, and will consider combining the Part 251 and Part 280 rules into one document to address procedures for administering the fire equipment contractor and employee licensing programs. This will require a copy of a driver's license or State identification for each employee being licensed. This will update rule references to cite the updated statutory authority which is now known as the Fire Equipment Distributor and Employee Regulation Act of 2011 [225 ILCS 217]. This will also define the procedures for the citation authority provided in Section 83 of this Act [225 ILCS 217/83]. Finally, this will implement recent statutory changes that divided Class II employees into separate classes for pre-engineered industrial fire suppression systems versus kitchen hood fire suppression systems.

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- B) Statutory Authority: Implementing and authorized by the Fire Equipment Distributor and Employee Regulation Act of 2011 [225 ILCS 217].
- C) Scheduled Meeting/Hearing Dates: The agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Any small business, small municipality or not-for-profit corporation that may be licensed by the OSFM as a fire equipment distributor or may be involved in the servicing of portable fire extinguishers and/or fixed fire suppression systems other than water-based systems. By clarifying standards and procedures and providing an enforcement mechanism authorized by statute, this will make compliance more efficient and reliable for the regulated community, including small businesses, small municipalities, and not-for-profit entities. Fire equipment companies will need to ensure their employees have the correct National Institute for Certification in Engineering Technologies (NICET) certification to work on the appropriate systems.
- F) Agency Contact Person for Information:
- Kevin Switzer
Manager
Division of Fire Prevention
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703
- 217/558-0639
- G) Related rulemakings and other pertinent information: None
- p) Part(s) (Heading and Code Citations): Hazardous Materials Emergency Response Reimbursement Standards (41 Ill. Adm. Code 270)
- 1) Rulemaking:

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- A) Description: This rulemaking will resolve a discrepancy between reimbursement standards in the Hazardous Material Emergency Response Reimbursement Act [430 ILCS 55] and those contained in the OSFM rules concerning Hazardous Materials Emergency Response Reimbursement Standards. It will also implement recent statutory changes made by PA 98-692, including a requirement that reimbursement claims be reviewed by the Illinois Fire Advisory Commission. Also, references to the Emergency Response Reimbursement Fund shall be changed to the Fire Prevention Fund, as required under PA 98-692.
- B) Statutory Authority: Implemented and authorized by Section 5(c) of the Hazardous Material Emergency Response Reimbursement Act [430 ILCS 55/5(c)].
- C) Scheduled Meeting/Hearing Dates: The Agency has not scheduled meetings or hearing on this proposal.
- D) Date Agency anticipates First Notice: Winter 2016
- E) Effect on small businesses, small municipalities or not-for-profit corporations: This rulemaking could benefit small municipalities that are unable to obtain reimbursement of emergency response expenses from responsible parties.
- F) Agency Contact Person for Information:
- Les Albert
Deputy Fire Marshal
Office of the State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703
- 217/558-1751
- G) Related rulemakings and other pertinent information: None
- q) Part(s) (Heading and Code Citations): Small Equipment Grant Program (41 Ill. Adm. Code 291)

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1) Rulemaking:

- A) Description: The Office of the Illinois State Fire Marshal (OSFM) administers a program to provide grant funds for the purchase of small firefighting equipment to units of local government (fire department, fire protection district or township fire department) in Illinois that provide fire suppression within a geographical area. This rulemaking will make fire protection districts and volunteer, non-profit, stand-alone ambulance services to fire departments eligible for grants to purchase small fire-fighting and ambulance equipment. It will make other minor edits to achieve consistency with changes made by PA 96-386 and PA 97-901. This rulemaking will also eliminate the requirement to be compliant with National Fire Incident Reporting System (NFIRS) for two years for fire protection districts formed less than two years ago.
- B) Statutory Authority: Authorized by Section 2.7 of the State Fire Marshal Act [20 ILCS 2905/2.7].
- C) Scheduled Meeting/Hearing Dates: None
- D) Date Agency anticipates First Notice: Unknown.
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Small municipalities or not-for-profit corporations may benefit from these rules by being able to receive financial assistance to purchase ambulance or small firefighting equipment.
- F) Agency Contact Person for Information:
- Ronny J. Wickenhauser
Chief Fiscal Officer
Office of the Illinois State Fire Marshal
1035 Stevenson Drive
Springfield IL 62703
- 217/558-0577
- G) Related rulemakings and other pertinent information: None

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- r) Part(s) (Heading and Code Citations): Furniture Fire Safety Regulations (41 Ill. Adm. Code 300)
- 1) Rulemaking:
- A) Description: As required by statute [425 ILCS 45], this rulemaking will update referenced standards to the current "bulletins" (standards) used by the State of California's Department of Consumer Affairs: Bureau of Home Furnishings and Thermal Insulation for descriptions of the tests that are required to be performed on upholstered furniture components.
- B) Statutory Authority: Implementing and authorized by Section 15 of the Furniture Fire Safety Act [425 ILCS 45/15].
- C) Scheduled Meeting/Hearing Dates: The Agency has not yet scheduled meetings or hearings on this proposal.
- D) Date Agency anticipates First Notice: Unknown
- E) Effect on small businesses, small municipalities or not-for-profit corporations: Any small business or not-for-profit corporation that manufactures upholstered seating furniture used in public occupancies or public assembly areas, or any small business, small municipality or not-for-profit that owns or maintains a public occupancy or public assembly area that contains stuffed or upholstered furniture for specified occupancies. These include assembly occupancies; day care centers; health care occupancies; detention and correctional facilities; and public assembly areas of hotel and motels that contain seating for more than 10 (individual guest rooms are not included). These proposed rules are not anticipated to impose further restriction upon regulated furniture.
- F) Agency Contact Person for Information:
- Catherine Stashak
Division of Technical Services
Office of the State Fire Marshal
100 W. Randolph St., Suite 4-600
Chicago IL 60601

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- G) Related rulemakings and other pertinent information: None

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- a) Part(s) (Heading and Code Citation): Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)
- 1) Rulemaking:
- A) Description: Changes to Part 1 will update the Illinois Learning Standards for the Fine Arts, clarify requirements for the middle grade endorsement and address other technical changes.
- B) Statutory Authority: 105 ILCS 5/2-3.6
- C) Scheduled Meeting/Hearing Date: To be announced
- D) Date Agency anticipates First Notice: February 5, 2016
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777
- 217/782-5270
shelton@isbe.net
fax: 217/524-3911
- G) Related rulemakings and other pertinent information:
- b) Part(s) (Heading and Code Citation): Standards for School Support Personnel Endorsements (23 Ill. Adm. Code 23)
- 1) Rulemaking:

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- A) Description: Part 23 will be amended to include the standards for receipt of an endorsement for family and marriage counseling in response to PA 98-413, effective August 16, 2013.
- B) Statutory Authority: 105 ILCS 5/2-3.6
- C) Scheduled Meeting/Hearing Date: To be announced.
- D) Date Agency anticipates First Notice: July 1, 2016
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: Not-for-profit entities and private postsecondary institutions wishing to offer educator preparation programs would need to meet the standards in order for their programs to be approved.
- F) Agency Contact Person for Information:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777

217/782-5270
shelton@isbe.net
fax: 217/524-8585

- G) Related rulemakings and other pertinent information:

c) Part(s) (Heading and Code Citation): Educator Licensure (23 Ill. Adm. Code 25)

1) Rulemaking:

- A) Description: Proposed changes will address grade level endorsements, ACT writing score, renewal requirements for the provisional career and technical educator endorsement on the educator license with stipulations and other clarifications, as needed.
- B) Statutory Authority: 105 ILCS 5/Art. 21B and 2-3.6

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- C) Scheduled Meeting/Hearing Date: To be announced.
- D) Date Agency anticipates First Notice: May 27, 2016
- E) Effect on small businesses, small municipalities, or not-for-profit corporations: None
- F) Agency Contact Person for Information:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777

217/782-5270
shelton@isbe.net
fax: 217/524-8585

- G) Related rulemakings and other pertinent information:

- d) Part(s) (Heading and Code Citation): Standards for Endorsements in Specific Teaching Fields (23 Ill. Adm. Code 27)
 - 1) Rulemaking:
 - A) Description: The use of national standards for the approval of educator preparation programs will be phased in over a period of several years, and Part 27 will be amended to reflect this change.
 - B) Statutory Authority: 105 ILCS 5/Art. 21B and 2-3.6
 - C) Scheduled Meeting/Hearing Date: To be announced.
 - D) Date Agency anticipates First Notice: July 1, 2016
 - E) Effect on small businesses, small municipalities, or not-for-profit corporations: Not-for-profit entities and private postsecondary institutions

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wishing to offer educator preparation programs would need to meet the standards in order for their programs to be approved.

F) Agency Contact Person for Information:

Shelley Helton
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777

217/782-5270
shelton@isbe.net
fax: 217/524-8585

G) Related rulemakings and other pertinent information:

DEPARTMENT OF STATE POLICE

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- a) Part (Heading and Code Citation): Access to Records of the Illinois State Police; 2 Ill. Adm. Code 1410
- 1) Rulemaking:
- A) Description: The rule will be proposed in order to establish procedures for making records available for reasonable public inspection, obtaining records in the agency's possession, and for claiming and determining which records are exempt from disclosure.
- B) Statutory Authority: 5 ILCS 100/5-15, 5 ILCS 140, and 20 ILCS 2605/2605-15
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Mr. Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703
- 217/782-7658
- G) Related rulemakings and other pertinent information: None
- b) Part (Heading and Code Citation): Expungement Procedures; 20 Ill. Adm. Code 1205
- 1) Rulemaking:

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- A) Description: The rule will be amended to revise and update procedures for court ordered expungements/sealing of records received by the Illinois Department of State Police, Bureau of Identification.
- B) Statutory Authority: 20 ILCS 2605/2605-15 and 20 ILCS 2630/1
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Mr. Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703
- 217/782-7658
- G) Related rulemakings and other pertinent information: None
- c) Part (Heading and Code Citation): Non-Court Ordered Juvenile Record Expungement; 20 Ill. Adm. Code 1206
- 1) Rulemaking:
- A) Description: This rule will be proposed in order to provide requirements and procedures for non-court ordered expungements of juvenile law enforcement records maintained by the Illinois Department of State Police.
- B) Statutory Authority: 20 ILCS 2605/2605-15, 20 ILCS 2630/7, and 705 ILCS 405

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- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Mr. Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703
- 217/782-7658
- G) Related rulemakings and other pertinent information: None
- d) Part (Heading and Code Citation): Individual's Right to Access and Review Criminal History Record Information; 20 Ill. Adm. Code 1210
- 1) Rulemaking:
- A) Description: The rule will be amended in order to revise procedures for allowing certain individuals to view criminal history record information.
- B) Statutory Authority: 20 ILCS 2630/7 and 20 ILCS 2605/2605-15
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not for profit corporations: None

DEPARTMENT OF STATE POLICE

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F) Agency contact person for information:

Mr. Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703

217/782-7658

G) Related rulemakings and other pertinent information: Nonee) Part (Heading and Code Citation): Firearm Owner's Identification Card Act; 20 Ill. Adm. Code 12301) Rulemaking:

A) Description: The rule will be amended to revise and update procedures associated with applying for, or the review of applications, as well as granting, denying, and revoking the Firearm Owner's Identification Card and related activities.

B) Statutory Authority: 20 ILCS 2605/2605-15 and 430 ILCS 65/11

C) Scheduled meeting/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: No date has been determined at this time.

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Mr. Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police

DEPARTMENT OF STATE POLICE

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801 South Seven Street, Suite 1000-S
Springfield IL 62703

217/782-7658

G) Related rulemakings and other pertinent information: None

f) Part (Heading and Code Citation): Firearm Concealed Carry Act Procedures; 20 Ill. Adm. Code 1231

1) Rulemaking:

A) Description: The rule will be amended to revise and update procedures associated with the Firearm Concealed Carry Act.

B) Statutory Authority: 430 ILCS 66

C) Scheduled meeting/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: No date has been determined at this time.

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Mr. Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South Seven Street, Suite 1000-S
Springfield IL 62703

217/782-7658

G) Related rulemakings and other pertinent information: None

DEPARTMENT OF STATE POLICE

JANUARY 2016 REGULATORY AGENDA

g) Part (Heading and Code Citation): Firearm Transfer Inquiry Program; 20 Ill. Adm. Code 1235

1) Rulemaking:

A) Description: The rule will be amended to revise and update procedures associated with the Firearm Transfer Inquiry Program and related activities.

B) Statutory Authority: 20 ILCS 2605/2605-15 and 430 ILCS 65/3.1

C) Scheduled meeting/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: No date has been determined at this time.

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Mr. Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703

217/782-7658

G) Related rulemakings and other pertinent information: None

h) Part (Heading and Code Citation): Sex Offender Registration Act; 20 Ill. Adm. Code 1280

1) Rulemaking:

DEPARTMENT OF STATE POLICE

JANUARY 2016 REGULATORY AGENDA

- A) Description: The rule will be amended to revise and update procedures and policies relating to the implementation of the Sex Offender Registration Act.
- B) Statutory Authority: 20 ILCS 2605/2605-15 and 730 ILCS 150/4
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not for profit corporations: The amendment may effect small businesses, small municipalities and/or not for profit corporations.
- F) Agency contact person for information:

Mr. Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703

217/782-7658

- G) Related rulemakings and other pertinent information: None

i) Part (Heading and Code Citation): Sex Offender and Child Murderer Community Notification Law; 20 Ill. Adm. Code 1282

1) Rulemaking:

- A) Description: The rule will be amended to revise and update procedures and policies relating to the implementation of the Sex Offender Community Notification Law.
- B) Statutory Authority: 20 ILCS 2605/2605-15 and 730 ILCS 152

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- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not for profit corporations: The amendment may effect small businesses, small municipalities and/or not for profit corporations.
- F) Agency contact person for information:
- Mr. Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703
- 217/782-7658
- G) Related rulemakings and other pertinent information: None
- j) Part (Heading and Code Citation): Child Murderer and Violent Offender Against Youth Registration Act; 20 Ill. Adm. Code 1283
- 1) Rulemaking:
- A) Description: The rule will establish policies and procedures for the implementation of the Child Murderer and Violent Offender Against Youth Registration Act.
- B) Statutory Authority: 20 ILCS 2605/2605-15 and 730 ILCS 154
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: No date has been determined at this time.

DEPARTMENT OF STATE POLICE

JANUARY 2016 REGULATORY AGENDA

- E) Effect on small businesses, small municipalities or not for profit corporations: The rule may effect small businesses, small municipalities and/or not for profit corporations.
- F) Agency contact person for information:
- Mr. Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703
- 217/782-7658
- G) Related rulemakings and other pertinent information: None
- k) Part (Heading and Code Citation): Sample Collection for Genetic Marker Indexing; 20 Ill. Adm. Code 1285
- 1) Rulemaking:
- A) Description: The rule will be amended to revise and update procedures and policies relating to Sample Collection for Genetic Marker Indexing.
- B) Statutory Authority: 20 ILCS 2605/2605-15 and 730 ILCS 5/5-4-3
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:
- Mr. Matthew R. Rentschler
Chief Legal Counsel

DEPARTMENT OF STATE POLICE

JANUARY 2016 REGULATORY AGENDA

Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703

217/782-7658

G) Related rulemakings and other pertinent information: None

l) Part (Heading and Code Citation): Testing of Breath, Blood and Urine for Alcohol, Other Drugs, and Intoxicating Compounds; 20 Ill. Adm. Code 1286

1) Rulemaking:

- A) Description: The rule will be amended to revise and update procedures and policies relating to the testing of breath, blood and urine for alcohol, drugs, and intoxicating compounds.
- B) Statutory Authority: 20 ILCS 2605/2605-15, 625 ILCS 5/6-106.1A, 625 ILCS 5/11-501.2, 625 ILCS 5/11-501.5, 625 ILCS 5/11-501.6, 625 ILCS 5/11-501.8, 625 ILCS 40/5-7.5, 625 ILCS 45/5-16b, and 625 ILCS 45/6-1
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not for profit corporations: The amendment may effect small businesses, small municipalities and/or not for profit corporations.
- F) Agency contact person for information:

Mr. Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South Seven Street, Suite 1000-S
Springfield IL 62703

DEPARTMENT OF STATE POLICE

JANUARY 2016 REGULATORY AGENDA

217/782-7658

G) Related rulemakings and other pertinent information: Nonem) Part (Heading and Code Citation): Certification and Training of Electronic Criminal Surveillance Officers; 20 Ill. Adm. Code 12951) Rulemaking:A) Description: The rule will be amended to revise and update procedures for the certification of electronic criminal surveillance officers and the standards relating to the recording of private oral communications.B) Statutory Authority: 20 ILCS 2605/2605-15, 725 ILCS 5/108B-14C) Scheduled meeting/hearing dates: No schedule has been established at this time.D) Date agency anticipates First Notice: No date has been determined at this time.E) Effect on small businesses, small municipalities or not for profit corporations: The amendment may effect small businesses, small municipalities and/or not for profit corporations.F) Agency contact person for information:

Mr. Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South Seven Street, Suite 1000-S
Springfield IL 62703

217/782-7658

G) Related rulemakings and other pertinent information: Nonen) Part (Heading and Code Citation): Consolidation of 9-1-1 Emergency Systems; 83 Ill. Adm. Code 1324

DEPARTMENT OF STATE POLICE

JANUARY 2016 REGULATORY AGENDA

- 1) Rulemaking:
 - A) Description: The rules will be proposed in order establish procedures for the submission and review of consolidation plans and requests for waiver with respect to 9-1-1 emergency systems.
 - B) Statutory Authority: 50 ILCS 750/10
 - C) Scheduled meeting/hearing dates: No schedule has been established at this time.
 - D) Date agency anticipates First Notice: No date has been determined at this time.
 - E) Effect on small businesses, small municipalities or not for profit corporations: These emergency rules may require a local government to establish, expand or modify its activities consistent with the consolidation requirements of the Emergency Telephone System Act [50 ILCS 750]. Depending upon the amount of money available in the Statewide 9-1-1 fund for grants to cover those costs, this may require a unit of local government to make additional expenditures from local revenues.
 - F) Agency contact person for information:

Mr. Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703

217/782-7658
 - G) Related rulemakings and other pertinent information: None
- o) Part (Heading and Code Citation): Standards of Service Applicable to 9-1-1 Emergency Systems; 83 Ill. Adm. Code 1325
 - 1) Rulemaking:

DEPARTMENT OF STATE POLICE

JANUARY 2016 REGULATORY AGENDA

- A) Description: The rules will be proposed in order to set the requirements for operating as a 9-1-1 system, management, and standards of service with respect to 9-1-1 emergency systems.
- B) Statutory Authority: 50 ILCS 750/10
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not for profit corporations: These emergency rules may require a local government to establish, expand or modify its activities consistent with the consolidation requirements of the Emergency Telephone System Act [50 ILCS 750]. Depending upon the amount of money available in the Statewide 9-1-1 fund for grants to cover those costs, this may require a unit of local government to make additional expenditures from local revenues.
- F) Agency contact person for information:
- Mr. Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703
- 217/782-7658
- G) Related rulemakings and other pertinent information: None
- p) Part (Heading and Code Citation): Requirements for Private Business Switch Service to Comply with the Emergency Telephone System Act; 83 Ill. Adm. Code 1326
- 1) Rulemaking:

DEPARTMENT OF STATE POLICE

JANUARY 2016 REGULATORY AGENDA

- A) Description: The rules will be proposed in order to set the requirements for private business switch service to comply with the Emergency Telephone System Act including standards of service, authorization to operate, private emergency answering points, and operating procedures.
- B) Statutory Authority: 50 ILCS 750/15.6
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not for profit corporations: These emergency rules 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.
- F) Agency contact person for information:
- Mr. Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703
- 217/782-7658
- G) Related rulemakings and other pertinent information: None
- q) Part (Heading and Code Citation): 9-1-1 Emergency Systems Consolidation Grants; 83 Ill. Adm. Code 1327
- 1) Rulemaking:
- A) Description: The rules will be proposed in order to define the grant process and criteria for issuing grants to defray or offset non-recurring costs associated with 9-1-1 system consolidation of systems outside a municipality with a population in excess of 500,000.

DEPARTMENT OF STATE POLICE

JANUARY 2016 REGULATORY AGENDA

- B) Statutory Authority: 50 ILCS 750/15.4b
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not for profit corporations: These emergency rules may require a local government to establish, expand or modify its activities consistent with the consolidation requirements of the Emergency Telephone System Act [50 ILCS 750]. Depending upon the amount of money available in the Statewide 9-1-1 fund for grants to cover those costs, this may require a unit of local government to make additional expenditures from local revenues.
- F) Agency contact person for information:
- Mr. Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703
- 217/782-7658
- G) Related rulemakings and other pertinent information: None
- r) Part (Heading and Code Citation): Standards of Service Applicable to Wireless 9-1-1 Emergency Systems; 83 Ill. Adm. Code 1328
- 1) Rulemaking:
- A) Description: The rules will be proposed in order to define the standards of service applicable to wireless 9-1-1 emergency systems, including requirements, implementation, authorization to operate, wireless service provisioning, wireless carrier testing, and authorized wireless 9-1-1 answering point testing.

DEPARTMENT OF STATE POLICE

JANUARY 2016 REGULATORY AGENDA

- B) Statutory Authority: 50 ILCS 751/15
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not for profit corporations: These emergency rules may require a local government to establish, expand or modify its activities consistent with the consolidation requirements of the Emergency Telephone System Act [50 ILCS 750]. Depending upon the amount of money available in the Statewide 9-1-1 fund for grants to cover those costs, this may require a unit of local government to make additional expenditures from local revenues.
- F) Agency contact person for information:
- Mr. Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703
- 217/782-7658
- G) Related rulemakings and other pertinent information: None
- s) Part (Heading and Code Citation): Administration of the Statewide 9-1-1 Fund; 83 Ill. Adm. Code 1329
- 1) Rulemaking:
- A) Description: The rules will be proposed in order to set requirements for the administration of the statewide 9-1-1 fund. This includes eligibility, transmission of subscriber information, transition of surcharge monies, allocation of surcharges, administrative costs, distribution of monies, reimbursement for network costs, surcharge disbursements for subscribers

DEPARTMENT OF STATE POLICE

JANUARY 2016 REGULATORY AGENDA

in overlapping jurisdictions, overpayments/underpayments, resolution of geographic disputes, failure to file financial reports, use of grants/surcharge disbursements, distributions subject to appropriation, records, indemnification, and intergovernmental agreements.

- B) Statutory Authority: 50 ILCS 750/10
- C) Scheduled meeting/hearing dates: No schedule has been established at this time.
- D) Date agency anticipates First Notice: No date has been determined at this time.
- E) Effect on small businesses, small municipalities or not for profit corporations: These emergency rules may require a local government to establish, expand or modify its activities consistent with the consolidation requirements of the Emergency Telephone System Act [50 ILCS 750]. Depending upon the amount of money available in the Statewide 9-1-1 fund for grants to cover those costs, this may require a unit of local government to make additional expenditures from local revenues.
- F) Agency contact person for information:

Mr. Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South Seventh Street, Suite 1000-S
Springfield IL 62703

217/782-7658
- G) Related rulemakings and other pertinent information: None

STATE UNIVERSITIES RETIREMENT SYSTEM

JANUARY 2016 REGULATORY AGENDA

- a) Part (Heading and Code Citations): Universities Retirement (80 Ill. Adm. Code 1600)
- 1) Rulemaking:
- A) Description: The System anticipates rulemaking affecting the following:
- Revise Section 1600.130 Procurement to modify existing procedures.
- Revise Section 1600.205 Earnings Subject to Withholding and Crediting to address compensation paid under the Public Employee Disability Act (5 ILCS 345/) and unused sick leave paid at the time of termination of employment.
- Revise Section 1600.300 Effective Beneficiary Designations to address electronic execution and submission of beneficiary designation forms.
- Revise Section 1600.320 Disability Claims Procedure to clarify the treatment of vacation pay with respect to initial eligibility for benefit payments.
- Revise Section 1600.420 Making Preliminary Estimated Payments to include procedures for holding payments when the member has not responded to informational requests, and to terminate the benefit after a period of non-compliance with the request.
- Revise Section 1600.450 Overpayment Recovery to address de minimis revisions to benefit calculations and deductions for overpayments of less than \$100.
- Promulgate rules to establish acceptable documentary evidence for demographic information such as birth dates and marital status.
- B) Statutory Authority: Article 15 of the Illinois Pension Code, 40 ILCS 5/15-177.
- C) Scheduled Meeting/Hearing Dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. No public hearings are anticipated.

STATE UNIVERSITIES RETIREMENT SYSTEM

JANUARY 2016 REGULATORY AGENDA

- D) Date Agency anticipates First Notice: Spring 2016
- E) Effect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Bianca T. Green, General Counsel
State Universities Retirement System
1901 Fox Drive
Champaign IL 61820
- 217/378-8825
email: bgreen@surs.org
fax: 217/378-9801
- G) Related rulemakings and other pertinent information: Other Amendments may be necessary based on emergent issues.

ILLINOIS STUDENT ASSISTANCE COMMISSION

JANUARY 2016 REGULATORY AGENDA

- a) Part (Heading and Code Citations): Grant Program for Medical Assistants in Training (23 Ill. Adm. Code 2742)
- 1) Rulemaking:
- A) Description: PA 99-359 created the new Medical Assistant Grant Program providing tuition and fee assistance to students in training at community colleges to become medical assistants starting with 2016-17 through the 2020-21 academic year. Payment of grants would be subject to appropriation of funds by the General Assembly, and up to 2% of the appropriation would be available to ISAC to support administration of the program.
- B) Statutory Authority: Implementing and authorized by Section 65.90(g) of the Higher Education Student Assistance Act [110 ILCS 947/65.90(g)].
- C) Scheduled Meeting/Hearing Dates: At this time, ISAC has not scheduled a hearing or a meeting specifically to solicit comments on this anticipated rulemaking. Nonetheless, members of the public may submit views or comments in writing to the individual identified in item F, below.
- D) Date Agency anticipates First Notice: January 2016
- E) Affect on small businesses, small municipalities or not-for-profit corporations: None
- F) Agency Contact Person for Information:
- Lynn Hynes
Agency Rules Coordinator
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015
- 847/948-8500, ext. 18032
email: lynn.hynes@isac.illinois.gov
fax: 847-831-8299
- G) Related rulemakings and other pertinent information: None

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Heading of the Part: Reports of Child Abuse and Neglect

Code Citation: 89 Ill. Adm. Code 300

Section Numbers: 300.20 300.120

Date Originally Published in the Illinois Register: 1/2/15
39 Ill. Reg. 1

At its meeting on 12/15/15, the Joint Committee on Administrative Rules objected to the Department of Children and Family Services' failure to adopt the rulemaking titled Reports of Child Abuse and Neglect (89 Ill. Adm. Code 300; 36 Ill. Reg. 1) by the statutorily required 1/1/13 promulgation date.

Failure to respond by 1/1/16, the last day before the one year expiration of the rulemaking, will result in expiration of this proposed rulemaking in its entirety. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Heading of the Part: Placement and Visitation Services

Code Citation: 89 Ill. Adm. Code 301

Section Numbers: 301.20 301.60 301.70 301.80
301.220 301.230 301.250 301.255

Date Originally Published in the Illinois Register: 1/2/15
39 Ill. Reg. 19

At its meeting on 12/15/15, the Joint Committee on Administrative Rules objected to the Department of Children and Family Services' failure to adopt the rulemaking titled Placement and Visitation Services (89 Ill. Adm. Code 301; 36 Ill. Reg. 19) by the statutorily required 1/1/13 promulgation date.

Failure to respond by 1/1/16, the last day before the one year expiration of the rulemaking, will result in expiration of this proposed rulemaking in its entirety. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Heading of the Part: Services Delivered by the Department of Children and Family Services

Code Citation: 89 Ill. Adm. Code 302

Section Numbers: 302.20 302.40

Date Originally Published in the Illinois Register: 1/2/15
39 Ill. Reg. 47

At its meeting on 12/15/15, the Joint Committee on Administrative Rules objected to the Department of Children and Family Services' failure to adopt the rulemaking titled Services Delivered by the Department of Children and Family Services (89 Ill. Adm. Code 301; 36 Ill. Reg. 47) by the statutorily required 1/1/13 promulgation date.

Failure to respond by 1/1/16, the last day before the one year expiration of the rulemaking, will result in expiration of this proposed rulemaking in its entirety. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Heading of the Part: Access to and Eligibility for Child Welfare Services

Code Citation: 89 Ill. Adm. Code 304

Section Numbers: 304.2

Date Originally Published in the Illinois Register: 1/2/15
39 Ill. Reg. 62

At its meeting on 12/15/15, the Joint Committee on Administrative Rules objected to the Department of Children and Family Services' failure to adopt the rulemaking titled Access to and Eligibility for Child Welfare Services (89 Ill. Adm. Code 304; 36 Ill. Reg. 62) by the statutorily required 1/1/13 promulgation date.

Failure to respond by 1/1/16, the last day before the one year expiration of the rulemaking, will result in expiration of this proposed rulemaking in its entirety. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Heading of the Part: Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible

Code Citation: 89 Ill. Adm. Code 309

Section Numbers: 309.20 309.30 309.35 309.40 309.100
309.110 309.130 309.135 309.140

Date Originally Published in the Illinois Register: 1/2/15
39 Ill. Reg. 74

At its meeting on 12/15/15, the Joint Committee on Administrative Rules objected to the Department of Children and Family Services' failure to adopt the rulemaking titled Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible (89 Ill. Adm. Code 309; 39 Ill. Reg. 74) by the statutorily required 1/1/13 promulgation date.

Failure to respond by 1/1/16, the last day before the one year expiration of the rulemaking, will result in expiration of this proposed rulemaking in its entirety. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Heading of the Part: Permanency Planning

Code Citation: 89 Ill. Adm. Code 315

Section Numbers: 315.20 315.30 315.45 315.70
315.120 315.125 315.130

Date Originally Published in the Illinois Register: 1/2/15
39 Ill. Reg. 98

At its meeting on 12/15/15, the Joint Committee on Administrative Rules objected to the Department of Children and Family Services' failure to adopt the rulemaking titled Permanency Planning (89 Ill. Adm. Code 315; 39 Ill. Reg. 98) by the statutorily required 1/1/13 promulgation date.

Failure to respond by 1/1/16, the last day before the one year expiration of the rulemaking, will result in expiration of this proposed rulemaking in its entirety. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Heading of the Part: Interstate Placement of Children

Code Citation: 89 Ill. Adm. Code 328

Section Numbers: 328.2

Date Originally Published in the Illinois Register: 1/2/15
39 Ill. Reg. 137

At its meeting on 12/15/15, the Joint Committee on Administrative Rules objected to the Department of Children and Family Services' failure to adopt the rulemaking titled Interstate Placement of Children (89 Ill. Adm. Code 328; 39 Ill. Reg. 137) by the statutorily required 1/1/13 promulgation date.

Failure to respond by 1/1/16, the last day before the one year expiration of the rulemaking, will result in expiration of this proposed rulemaking in its entirety. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Heading of the Part: Service Appeal Process

Code Citation: 89 Ill. Adm. Code 337

Section Numbers: 337.20

Date Originally Published in the Illinois Register: 1/2/15
39 Ill. Reg. 143

At its meeting on 12/15/15, the Joint Committee on Administrative Rules objected to the Department of Children and Family Services' failure to adopt the rulemaking titled Service Appeal Process (89 Ill. Adm. Code 337; 39 Ill. Reg. 143) by the statutorily required 1/1/13 promulgation date.

Failure to respond by 1/1/16, the last day before the one year expiration of the rulemaking, will result in expiration of this proposed rulemaking in its entirety. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Heading of the Part: Appeal of Foster Family Home License Denials by Relative Caregivers

Code Citation: 89 Ill. Adm. Code 338

Section Numbers: 338.20

Date Originally Published in the Illinois Register: 1/2/15
39 Ill. Reg. 153

At its meeting on 12/15/15, the Joint Committee on Administrative Rules objected to the Department of Children and Family Services' failure to adopt the rulemaking titled Appeal of Foster Family Home License Denials by Relative Caregivers (39 Ill. Adm. Code 338; 39 Ill. Reg. 153) by the statutorily required 1/1/13 promulgation date.

Failure to respond by 1/1/16, the last day before the one year expiration of the rulemaking, will result in expiration of this proposed rulemaking in its entirety. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Heading of the Part: Authorized Child Care Payments

Code Citation: 89 Ill. Adm. Code 359

Section Numbers: 359.2

Date Originally Published in the Illinois Register: 1/2/15
39 Ill. Reg. 159

At its meeting on 12/15/15, the Joint Committee on Administrative Rules objected to the Department of Children and Family Services' failure to adopt the rulemaking titled Authorized Child Care Payments (89 Ill. Adm. Code 359; 39 Ill. Reg. 159) by the statutorily required 1/1/13 promulgation date.

Failure to respond by 1/1/16, the last day before the one year expiration of the rulemaking, will result in expiration of this proposed rulemaking in its entirety. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Heading of the Part: Licensing Standards for Foster Family Homes

Code Citation: 89 Ill. Adm. Code 402

Section Numbers: 402.2 402.12 402.16

Date Originally Published in the Illinois Register: 1/2/15
39 Ill. Reg. 165

At its meeting on 12/15/15, the Joint Committee on Administrative Rules objected to the Department of Children and Family Services' failure to adopt the rulemaking titled Licensing Standards for Foster Family Homes (89 Ill. Adm. Code 402; 39 Ill. Reg. 165) by the statutorily required 1/1/13 promulgation date.

Failure to respond by 1/1/16, the last day before the one year expiration of the rulemaking, will result in expiration of this proposed rulemaking in its entirety. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION
TO PROPOSED RULEMAKING

DEPARTMENT OF LABOR

Heading of the Part: Job Opportunities for Qualified Applicants Act

Code Citation: 56 Ill. Adm. Code 340

Section Numbers: 340.100 340.110 340.200
340.210 340.220 340.300
340.310 340.320 340.330
340.340 340.400

Date Originally Published in the Illinois Register: 8/14/15
39 Ill. Reg. 11206

At its meeting on 12/15/15, the Joint Committee on Administrative Rules objected to the above-referenced rulemaking because of the Department of Labor's refusal to state in Section 340.210(d) how the Department will define the "reasonable period of time" within which a party to a complaint review can request a Department determination that good cause beyond the party's control caused an untimely submission, allowing the submission to be considered by the Department. Section 5-10 of the Illinois Administrative Procedure Act requires that any agency policy that affects an entity outside the agency be stated in rule.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall constitute withdrawal of this proposed rulemaking. The agency's response will be placed on the JCAR agenda for further consideration.

PROCLAMATIONS

2015-330**#Ilgive for Giving Tuesday**

WHEREAS, Giving Tuesday was established as a national day of giving on the Tuesday following Thanksgiving; and,

WHEREAS, Giving Tuesday is a celebration of philanthropy and volunteerism where residents across Illinois and the country donate to organizations and causes that are meaningful to them; and,

WHEREAS, Giving Tuesday is a day when citizens work together to share commitments, rally for impactful organizations, work to build a stronger community, and give back to their fellow community members; and,

WHEREAS, on #ILGive for Giving Tuesday, and throughout the year, it is important to recognize the tremendous impact of philanthropy, volunteerism, and community service throughout the State of Illinois; and,

WHEREAS, #ILGive for Giving Tuesday is an opportunity to encourage all Illinoisans to serve others throughout this holiday season and during other times of the year;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim December 1, 2015, as **#ILGIVE FOR GIVING TUESDAY** in Illinois, and encourage all citizens to visit ilgive.com to join the giving movement and celebrate together in giving back to the community in the way that is personally meaningful for each Illinoisan.

Issued by the Governor November 23, 2015

Filed by the Secretary of State December 15, 2015

2015-331**Pearl Harbor Remembrance Day**

WHEREAS, on December 7, 1941 Japanese bomber planes attacked unsuspecting American sailors and soldiers stationed at Pearl Harbor; and,

WHEREAS, during that attack more than 2,000 Americans were killed, including approximately 50 servicemen from Illinois, and more than 1,170 were wounded during the bombardment, which outraged Americans as few other events in our nation's history had; and,

WHEREAS, in response, President Franklin Roosevelt and Congress promptly declared war against Japan and its allies, therefore entering World War II; and,

PROCLAMATIONS

WHEREAS, Illinois National Guard soldiers were among the first to engage with enemy forces after the attack on Pearl Harbor as the Maywood, Illinois-based Company B, 192nd Tank Battalion defended the Philippines from Japanese invaders; and,

WHEREAS, many of these soldiers and other service members from Illinois sacrificed their lives or would suffer tremendously at the hands of enemy captors throughout the war; and,

WHEREAS, the United States' sailors, soldiers and airmen performed superbly on all fronts. Together, a Grand Coalition of French, English, Russian, and American servicemen conducted mass campaigns and operations within the Pacific, African, and European theaters; and,

WHEREAS, on May 7, 1945 Germany surrendered, which was soon followed by Japan's surrender on August 14th of that same year; and,

WHEREAS, during the war, more American sailors and soldiers were mobilized than at any other time in our history, and by the war's end, more than eight million Americans were serving in the Army alone; and,

WHEREAS, thanks to the Grand Coalition, our servicemen and women, and all those at home who contributed to the war effort, the world was made safer for liberty and freedom, the rights of all peoples everywhere; and,

WHEREAS, this year marks the 74th anniversary of the attack on Pearl Harbor and the 70th anniversary of the end of the Second World War; and,

WHEREAS, although we can never repay all those who faithfully and honorably served during the war, we will always remember what they did and fought for;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim December 7, 2015 as **PEARL HARBOR REMEMBRANCE DAY** in Illinois and order all persons or entities governed by the Illinois Flag Display Act to fly their flags at half-staff on such day from sunrise until sunset in memory of all the heroes who died in the attack on Pearl Harbor, and in tribute to all the men and women whose sacrifices made the world safer for liberty and freedom.

Issued by the Governor November 23, 2015

Filed by the Secretary of State December 15, 2015

2015-332
Thanksgiving Day

PROCLAMATIONS

WHEREAS, Thanksgiving is a holiday that is traced back to a 1621 celebration in Plymouth, Massachusetts, by early settlers from England and the native Wampanoag people; and,

WHEREAS, the feast and gathering in Plymouth celebrated a plentiful harvest and the English tradition of Days of Fasting and Days of Thanksgiving; and,

WHEREAS, modern Thanksgiving Day invites us to reflect on our blessings and the take part in fellowship with family and friends, just as the early settlers and Wampanoag people joined together in celebration of that bountiful harvest; and,

WHEREAS, Thanksgiving is a uniquely American holiday, built on the comradery created through overcoming hardship and then rejoicing at the fruits of that labor; through this, we are reminded of the limitless opportunities we are granted here in Illinois and across our country;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim November 26, 2015 as **THANKSGIVING DAY** in Illinois and I encourage the people of the Illinois to join together, whether in our homes, places of worship, community centers, or any place of fellowship for friends and neighbors and give thanks for all we have received in the past year, express appreciation to those whose lives enrich our own, and share our bounty with others.

Issued by the Governor November 23, 2015

Filed by the Secretary of State December 15, 2015

2015-333**Environmental Stewardship Day**

WHEREAS, the Illinois Environmental Regulatory Group (IERG) was established on December 2, 1985, in order to help businesses and industries that are regulated by governmental agencies which implement environmental laws, regulations, rules or policies; and,

WHEREAS, the Illinois Environmental Regulatory Group has worked to collect data, perform research, disseminate information, formulate and present business perspectives and positions regarding environmental laws, regulations, rules or policies and the impact of such laws, regulations, rules or policies upon its members and other businesses and industries in Illinois; and,

WHEREAS, the Illinois Environmental Regulatory Group advocates for its members before federal, state, and local governmental agencies and entities which promulgate, enforce, and administer such environmental laws; and,

PROCLAMATIONS

WHEREAS, the Illinois Environmental Regulatory Group promotes and advances the development, establishment, and expansion of industry, commerce, manufacturing, agriculture, trade and transportation in Illinois for the common business interest of its members; and,

WHEREAS, Illinois Environmental Regulatory Group works to improve business conditions in the State of Illinois for the common business interests of its members, and cooperates with other persons or entities formed for similar purposes; and,

WHEREAS, IERG has for 30 years been a valued partner and resource to the State of Illinois and its agencies in crafting Illinois' environmental policies and programs; and,

WHEREAS, those environmental policies and programs have resulted in significant environmental improvements throughout Illinois;

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby proclaim December 2, 2015, as **ENVIRONMENTAL STEWARDSHIP DAY** in Illinois to congratulate and recognize the Illinois Environmental Regulatory Group and its members for their valuable contributions safeguarding the environment while encouraging businesses to continue to operate profitably in the State of Illinois.

Issued by the Governor December 2, 2015

Filed by the Secretary of State December 15, 2015

2015-334**Illinois Flag Display Act – Matteson Firefighter Mark Zielinski**

WHEREAS, we hold the highest esteem and reverence for the men and women who answer the call to serve their friends, family and communities; and,

WHEREAS, firefighters save countless lives every year with their heroic efforts; and,

WHEREAS, firefighters not only demonstrate the desire to serve, but have the courage to act calmly and professionally when faced with dangerous situations; and,

WHEREAS, one of these brave individuals, Matteson Firefighter Mark Zielinski of Illinois, was taken from us at the age of 49; and,

WHEREAS, although firefighter Mark Zielinski is no longer with us, we will not forget the countless lives that were impacted by his service; and,

PROCLAMATIONS

WHEREAS, on Friday, December 11, 2015, a funeral will be held for firefighter Mark Zielinski, who is survived by many loving family members and friends who are grateful for the numerous ways he touched their lives; and,

THEREFORE, I, Bruce Rauner, Governor of the State of Illinois, do hereby order all persons or entities governed by the **ILLINOIS FLAG DISPLAY ACT** to fly their flags at half-staff from sunrise on Wednesday, December 9, 2015 until sunset on Friday, December 11, 2015 in honor and remembrance of Matteson Firefighter Mark Zielinski, whose selfless service and sacrifice is an inspiration.

Issued by the Governor December 7, 2015

Filed by the Secretary of State December 15, 2015

ILLINOIS ADMINISTRATIVE CODE
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