

TABLE OF CONTENTS

February 10, 2017 Volume 41, Issue 6

PROPOSED RULES

COMMERCE COMMISSION, ILLINOIS	
Public Utility Electronic Tariff Filing	
83 Ill. Adm. Code 290.....	1275
FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF	
Pharmacy Practice Act	
68 Ill. Adm. Code 1330.....	1283
POLLUTION CONTROL BOARD	
General Rules	
35 Ill. Adm. Code 101.....	1293
Regulatory and Informational Hearings and Proceedings	
35 Ill. Adm. Code 102.....	1364
Enforcement	
35 Ill. Adm. Code 103.....	1394
Regulatory Relief Mechanisms	
35 Ill. Adm. Code 104.....	1411
Appeals of Final Decisions of State Agencies	
35 Ill. Adm. Code 105.....	1446
Proceedings Pursuant to Specific Rules or Statutory Provisions	
35 Ill. Adm. Code 106.....	1466
Petition to Review Pollution Control Facility Siting Decisions	
35 Ill. Adm. Code 107.....	1524
Administrative Citations	
35 Ill. Adm. Code 108.....	1534
Tax Certifications	
35 Ill. Adm. Code 125.....	1544
Identification and Protection of Trade Secrets and Other	
Non-Disclosable Information	
35 Ill. Adm. Code 130.....	1552
PUBLIC HEALTH, DEPARTMENT OF	
Hospital Licensing Requirements	
77 Ill. Adm. Code 250.....	1572
STATE BOARD OF EDUCATION	
Public Schools Evaluation, Recognition, and Supervision	
23 Ill. Adm. Code 1.....	1645
Standards for Endorsements in Elementary Education	
23 Ill. Adm. Code 20.....	1680
Standards for Endorsements in Early Childhood Education and	
in Elementary Education	
23 Ill. Adm. Code 26.....	1684
Evaluation of Educator Licensed Employees under Articles 24a	

and 34 of the School Code	
23 Ill. Adm. Code 50.....	1690
ADOPTED RULES	
CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF	
Pay Plan	
80 Ill. Adm. Code 310.....	1695
HUMAN SERVICES, DEPARTMENT OF	
Schedule of Controlled Substances	
77 Ill. Adm. Code 2070.....	1801
PUBLIC HEALTH, DEPARTMENT OF	
Control of Sexually Transmissible Infections Code	
77 Ill. Adm. Code 693.....	1815
STATE POLICE, DEPARTMENT OF	
Requirements for Businesses with Private Business Switch Service	
Comply with the Emergency Telephone System Act (Repealer)	
83 Ill. Adm. Code 726.....	1827
Requirements for Non-Businesses with Private Business Switch	
Service Comply with the Emergency Telephone System Act (Repealer)	
83 Ill. Adm. Code 727.....	1829
Standards of Service Applicable to Wireless 9-1-1 Emergency	
Systems (Repealer)	
83 Ill. Adm. Code 728.....	1831
Administration of Funds Created by the Wireless Emergency	
Telephone Safety Act (Repealer)	
83 Ill. Adm. Code 729.....	1833
SECOND NOTICES RECEIVED	
JOINT COMMITTEE ON ADMINISTRATIVE RULES	
Second Notices Received.....	1835

INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2017

Issue#	Rules Due Date	Date of Issue
1	December 27, 2016	January 6, 2017
2	January 3, 2017	January 13, 2017
3	January 9, 2017	January 20, 2017
4	January 17, 2017	January 27, 2017
5	January 23, 2017	February 3, 2017
6	January 30, 2017	February 10, 2017
7	February 6, 2017	February 17, 2017
8	February 14, 2017	February 24, 2017
9	February 21, 2017	March 3, 2017
10	February 27, 2017	March 10, 2017
11	March 6, 2017	March 17, 2017
12	March 13, 2017	March 24, 2017
13	March 20, 2017	March 31, 2017
14	March 27, 2017	April 7, 2017
15	April 3, 2017	April 14, 2017
16	April 10, 2017	April 21, 2017
17	April 17, 2017	April 28, 2017
18	April 24, 2017	May 5, 2017
19	May 1, 2017	May 12, 2017
20	May 8, 2017	May 19, 2017
21	May 15, 2017	May 26, 2017

22	May 22, 2017	June 2, 2017
23	May 30, 2017	June 9, 2017
24	June 5, 2017	June 16, 2017
25	June 12, 2017	June 23, 2017
26	June 19, 2017	June 30, 2017
27	June 26, 2017	July 7, 2017
28	July 3, 2017	July 14, 2017
29	July 10, 2017	July 21, 2017
30	July 17, 2017	July 28, 2017
31	July 24, 2017	August 4, 2017
32	July 31, 2017	August 11, 2017
33	August 7, 2017	August 18, 2017
34	August 14, 2017	August 25, 2017
35	August 21, 2017	September 1, 2017
36	August 28, 2017	September 8, 2017
37	September 5, 2017	September 15, 2017
38	September 11, 2017	September 22, 2017
39	September 18, 2017	September 29, 2017
40	September 25, 2017	October 6, 2017
41	October 2, 2017	October 13, 2017
42	October 10, 2017	October 20, 2017
43	October 16, 2017	October 27, 2017
44	October 23, 2017	November 3, 2017
45	October 30, 2017	November 13, 2017
46	November 6, 2017	November 17, 2017
47	November 13, 2017	November 27, 2017
48	November 20, 2017	December 1, 2017
49	November 27, 2017	December 8, 2017
50	December 4, 2017	December 15, 2017
51	December 11, 2017	December 26, 2017
52	December 18, 2017	December 29, 2017

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Public Utility Electronic Tariff Filing
- 2) Code Citation: 83 Ill. Adm. Code 290
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
290.10	New Section
290.20	New Section
290.30	New Section
290.40	New Section
290.50	New Section
290.60	New Section
290.70	New Section
290.80	New Section
290.90	New Section
- 4) Statutory Authority: Implementing and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/10-101]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rules would allow electric, gas, and water and sewer utilities, at their option, to submit, file, distribute, and access new or revised tariffs electronically, as an alternative to paper filings. One of the stated purposes of the Electronic Commerce Security Act is "to facilitate electronic filing of documents with State and local government agencies, and promote efficient delivery of government services by means of reliable electronic records" (5 ILCS 175/1-105(3)). The Act also authorizes State agencies to send and receive electronic records and electronic signatures. Consistent with those provisions, the agency has developed an online system that can be used for the submission, filing, distribution, and accession of tariffs by electronic means. The rules proposed here would govern the use of that system by public utilities that elect to make electronic filings rather than paper filings.
- 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

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: The proposed rulemaking neither creates nor expands any State mandate on units of local government, school districts, or community college districts.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register*, in Docket No. 16-0584 with:
- Elizabeth Rolando, Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701
- 217/782-7434
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. This rulemaking will not affect any small municipalities or not-for-profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance:
Bookkeeping and filing procedures
- C) Types of professional skills necessary for compliance: Managerial and accounting skills
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: The Commission did not anticipate the need for this rulemaking at that time.

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER b: PROVISIONS APPLICABLE TO MORE
THAN ONE KIND OF UTILITYPART 290
PUBLIC UTILITY ELECTRONIC TARIFF FILING

Section

290.10	Overview of Electronic Tariff Filing
290.20	Definitions
290.30	Applicability
290.40	Acceptable Format
290.50	Electronic Tariff Filing System Accounts
290.60	Control Processes
290.70	Required Information
290.80	Submission of Tariffs Electronically
290.90	Notification of Acceptance or Rejection of Tariff Submission

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

SOURCE: Adopted at 41 Ill. Reg. _____, effective _____.

Section 290.10 Overview of Electronic Tariff Filing

One of the stated purposes of the Electronic Commerce Security Act is *to facilitate electronic filing of documents with State and local government agencies, and promote efficient delivery of government services by means of reliable electronic records* [5 ILCS 175/1-105(3)]. The Electronic Commerce Security Act authorizes State agencies to send and receive electronic records and electronic signatures. In addition, the Commission has the authority over its process and proceedings pursuant to Section 10-101 of the Public Utilities Act [220 ILCS 5]. To that end, the Commission is committed to facilitating the filing, distributing and accessing of tariffs electronically through its Electronic Tariff Filing System. Any public utility subject to the provisions of this Part may elect to submit a tariff and all associated documents for filing in an electronic format instead of in hard copy format. However, nothing in this Part should be construed to require any public utility to submit any tariff for filing in an electronic format.

Section 290.20 Definitions

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

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

"Commission" or "ICC" means the Illinois Commerce Commission.

"Electronic Tariff Filing System", "e-Tariff System" or "e-Tariff" means the ICC's system used by public utilities to submit tariffs electronically.

"ICC External User" or "Authorized User" means a person who is not an ICC employee and who has been authorized to use the Commission's electronic tariff filing system.

"ICC External User Account" or "Authorized User Account" means the unique user name and password that are assigned to a person who is authorized to use the Commission's electronic tariff filing system.

"ICC External User Account Application" means the form used to request the creation of an ICC external user account.

"Personally Identifiable Information" includes, but is not limited to, social security numbers, driver's license numbers, credit card numbers, debit card numbers, and medical records.

"PDF" means the Adobe Acrobat Portable Document Format.

"Public Utility" has the meaning ascribed in Sections 3-105(a)(1) and (2) of the Act.

"Staff" means ICC employees.

"Tariff" has the meaning ascribed in the definition of "Schedule" in 83 Ill. Adm. Code 255.10, excluding standard information requirement materials submitted pursuant to 83 Ill. Adm. Code 285.

Section 290.30 Applicability

This Part applies to all public utilities.

Section 290.40 Acceptable Format

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

- a) All tariffs submitted electronically to the Commission shall be in PDF.
- b) All electronic tariff records will be stored by the Commission in PDF.

Section 290.50 Electronic Tariff Filing System Accounts

- a) Each person seeking to submit tariffs electronically must have an active ICC external user account. The ICC external user account application is available on the ICC website or by contacting the Chief Clerk's Office.
- b) A completed ICC external user account application must be delivered to the Chief Clerk's Office in accordance with the instructions provided on the form.
- c) A public utility is responsible for authorizing the persons who may submit tariffs electronically on its behalf. Any user authorized to submit tariffs electronically on behalf of a public utility can see a list of the public utility's authorized users for the electronic tariff filing system.
- d) The public utility shall timely contact the Chief Clerk's Office to request the revocation of an authorized user account if a person is no longer authorized to submit tariffs electronically on behalf of the public utility, or if the public utility becomes aware of a security breach associated with the person or the account.
- e) A person whose ICC external user account application is accepted by the ICC will be assigned a unique user name and password.
- f) An authorized user is responsible for keeping his or her user name and password confidential. The unique user name and password assigned to a person are used to authenticate authorized users and establish authority to submit tariffs electronically on behalf of a public utility. Therefore, safeguarding this information is important to prevent unauthorized electronic submission of tariffs.
- g) The unique user name and password of an authorized user enable the e-Tariff system to trace an electronically submitted tariff to a specific person as if the submission were signed. This shall serve as an electronic signature of the authorized user on those submissions.

Section 290.60 Control Processes

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

- a) The electronic tariff filing system allows only users with an authorized user account to submit tariffs electronically.
- b) If an electronic tariff submission is found to contain malware, the submission will be rejected and the user shall be notified of the rejection.
- c) If an electronic tariff submission is found to contain personally identifiable information, the submission will be rejected and the user shall be notified of the rejection.
- d) A user's web browser must be set to accept cookies in order for authorized users to submit tariffs electronically. Cookies identify authorized users and enable the server to send customized data to the user. Cookies also submit account information for the authorized user. A privacy statement is available on the ICC website.
- e) The electronic tariff filing system logs every electronic tariff submission with the ICC external user account, public utility name, filing description, tracking number, date and time.
- f) Any problems or errors experienced during an electronic tariff submission should be reported to the ICC Chief Clerk's Office.

Section 290.70 Required Information

- a) Tariffs submitted electronically shall consist of a letter of transmittal, tariff pages and work papers, if applicable. Letters of transmittal and tariff pages will be publicly viewable. Work papers will be viewable only by the public utility representatives that submitted the work papers and Staff. The work papers represent information the public utility believes is necessary to facilitate the understanding of the tariff submission.
- b) The letter of transmittal shall contain the following information:
 - 1) The name of the public utility on record with the ICC.
 - 2) The tariff pages that are being changed.

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

- 3) A signature of a representative of the public utility.
- c) The letter of transmittal and tariff pages shall contain the information required by, and, except for page size and hard copy form, shall be in the format prescribed by, 83 Ill. Adm. Code 255.30(a) through (l)(3).
- d) The work papers, if applicable, shall:
 - 1) Be submitted in a separate file from the letter of transmittal and tariff pages file.
 - 2) Use the following naming convention for the work paper file: Company Name – Tariff – WP.
 - 3) For each page heading of the work paper file, provide the following minimum information:
 - A) Public utility name;
 - B) Tariff name;
 - C) Sheet No.; and
 - D) WP (or Work Paper) page x of x.
 - 4) Be retained by the ICC as confidential and proprietary in accordance with Section 4-404 of the Act.

Section 290.80 Submission of Tariffs Electronically

- a) An authorized user must verify that the tariff documents submitted electronically do not contain personally identifiable information.
- b) Upon submission of an electronic tariff, the electronic tariff filing system will provide the authorized user with a tracking number for the submission. The tracking number should be retained for any inquiries related to the submission.
- c) An authorized user can locate and view electronic tariff submissions made by the account in the electronic tariff filing system by tracking number or date range.

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

The entry for the tariff submission will indicate whether the submission is publicly viewable, the status of the submission (pending, accepted or rejected) and a description of the submission. An authorized user may also view all electronic tariff documents submitted on behalf of his or her public utility.

- d) Submission of a tariff electronically does not constitute acceptance of the tariff. An electronically submitted tariff is deemed accepted when the Chief Clerk's Office designates the tariff as accepted on the electronic tariff filing system.
- e) In order for an electronically submitted tariff to be considered filed on a particular date, it must be accepted by the ICC Chief Clerk's Office before 5:00 PM Central Time on that date. It is the responsibility of the public utility to ensure that its submission is made in such a manner that acceptance of the submission by the ICC Chief Clerk's Office for filing occurs on the date that is shown on the applicable tariff documents the public utility submitted for filing.

Section 290.90 Notification of Acceptance or Rejection of Tariff Submission

- a) An authorized user will be able to create an e-mail notification list for each electronic tariff submitted. The user and any associated e-mail notification list will be notified automatically by email for each electronic tariff submission.
- b) When an electronic tariff submission is accepted or rejected by the Chief Clerk's Office, an e-mail is sent to the user and the notification list for the tariff submission.
- c) It is the responsibility of the public utility to monitor electronic tariff submissions and verify acceptance or rejection of the tariff.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Pharmacy Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1330
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1330.30	Amendment
1330.700	Amendment
- 4) Statutory Authority: Implementing the Pharmacy Practice Act [225 ILCS 85] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking mandates pharmacists to counsel patients on pertinent medication information, including potential drug interactions (This changes the current 'offer' to counsel). It also adds a requirement for signage notifying customers of the above requirement and provides that failure of a pharmacist to provide counseling or attempts to circumvent counseling requirements constitutes unprofessional and unethical conduct. The purpose of this proposed rulemaking is to help reduce medication error rates, including the harmful effects of adverse medication interactions that may result in admission to long-term care facilities, hospitals, and emergency rooms.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking 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.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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

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

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Licensed pharmacists, pharmacy technicians, and pharmacies may be affected.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Licensure pursuant to the Pharmacy Practice Act.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because it was not anticipated at the time agendas were prepared.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1330

PHARMACY PRACTICE ACT

SUBPART A: GENERAL PROVISIONS

Section	
1330.10	Definitions
1330.20	Fees
1330.30	Unprofessional and Unethical Conduct
1330.40	Violations
1330.50	Vaccinations/Immunizations
1330.60	Internet Pharmacies
1330.70	Granting Variances
1330.80	Renewals
1330.90	Restoration of a Pharmacist License
1330.100	Continuing Education
1330.110	Confidentiality

SUBPART B: PHARMACY TECHNICIAN

Section	
1330.200	Application for Certificate of Registration as a Pharmacy Technician
1330.210	Pharmacy Technician Training
1330.220	Application for Certificate of Registration as a Certified Pharmacy Technician

SUBPART C: PHARMACIST

Section	
1330.300	Approval of Pharmacy Programs
1330.310	Graduates of Programs Outside the United States
1330.320	Application for Examination
1330.330	Examination for Licensure
1330.340	Application for Licensure on the Basis of Examination
1330.350	Endorsement

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

SUBPART D: PHARMACY LICENSURE

Section

- 1330.400 Application for a Pharmacy License
- 1330.410 Pharmacy Licenses
- 1330.420 Emergency Remote Temporary Pharmacy License

SUBPART E: TYPES OF PHARMACIES

Section

- 1330.500 Community Pharmacy Services
- 1330.510 Telepharmacy
- 1330.520 Offsite Institutional Pharmacy Services
- 1330.530 Onsite Institutional Pharmacy Services
- 1330.540 Nuclear Pharmacy Services
- 1330.550 Nonresident Pharmacies
- 1330.560 Remote Prescription/Medication Order Processing

SUBPART F: PHARMACY STANDARDS

Section

- 1330.600 Security Requirements
- 1330.610 Pharmacy Structural/Equipment Standards
- 1330.620 Electronic Equipment Requirements for Remote Pharmacies
- 1330.630 Sanitary Standards
- 1330.640 Pharmaceutical Compounding Standards
- 1330.650 Pharmacy Computer Regulations
- 1330.660 Pharmacist-in-Charge
- 1330.670 Compounded Sterile Preparation Standards
- 1330.680 Automated Dispensing and Storage Systems

SUBPART G: PHARMACY OPERATIONS

Section

- 1330.700 Patient Counseling
- 1330.710 Reporting Theft or Loss of Controlled Substances
- 1330.720 Transfer of Prescription
- 1330.730 Drug Prepackaging
- 1330.740 Multi-Med Dispensing Standards for Community Pharmacies
- 1330.750 Return of Drugs

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1330.760	Electronic Transmission of Prescriptions
1330.770	Centralized Prescription Filling
1330.780	Change of Ownership of a Pharmacy
1330.790	Closing a Pharmacy
1330.800	Pharmacy Self-Inspection

AUTHORITY: Implementing the Pharmacy Practice Act [225 ILCS 85] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Pharmacy Practice Act, effective August 20, 1975; amended March 8, 1977; amended at 4 Ill. Reg. 1234, effective July 11, 1980; amended at 5 Ill. Reg. 2997, effective March 11, 1981; codified at 5 Ill. Reg. 11049; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 7 Ill. Reg. 6496, effective June 30, 1983; amended at 9 Ill. Reg. 16918, effective October 23, 1985; amended at 10 Ill. Reg. 21913, effective December 17, 1986; transferred from Chapter I, 68 Ill. Adm. Code 330 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1330 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2957; amended at 12 Ill. Reg. 17394, effective October 14, 1988; amended at 16 Ill. Reg. 19811, effective December 7, 1992; amended at 21 Ill. Reg. 12600, effective August 29, 1997; amended at 22 Ill. Reg. 21959, effective December 1, 1998; amended at 23 Ill. Reg. 14131, effective November 18, 1999; amended at 24 Ill. Reg. 8548, effective June 9, 2000; amended at 26 Ill. Reg. 18338, effective December 13, 2002; amended at 27 Ill. Reg. 19389, effective December 11, 2003; emergency amendment at 29 Ill. Reg. 5586, effective April 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 13639, effective August 25, 2005; amended at 30 Ill. Reg. 14267, effective August 21, 2006; amended at 30 Ill. Reg. 16930, effective October 12, 2006; emergency amendment at 31 Ill. Reg. 16045, effective November 19, 2007, for a maximum of 150 days; amended at 32 Ill. Reg. 3262, effective February 21, 2008; amended at 32 Ill. Reg. 7116, effective April 16, 2008; old Part repealed at 34 Ill. Reg. 6688, effective April 29, 2010; new Part adopted at 34 Ill. Reg. 6690, effective April 29, 2010; amended at 39 Ill. Reg. 6267, effective April 23, 2015; amended at 41 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 1330.30 Unprofessional and Unethical Conduct

Unprofessional and unethical conduct by a licensee or registrant shall include, but not be limited to:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- a) Failing to establish and maintain effective controls against diversion of prescription drugs.
- b) Committing theft or diversion, or attempting to commit theft or diversion, by a registrant or licensee.
- c) Making or filing a report or record that a pharmacist or pharmacy knows to be false or intentionally or negligently failing to file a report or keep records as required by the Act or this Part.
- d) Knowingly dispensing a prescription drug after the death of the person for whom the prescription was written.
- e) Billing or charging for quantities of drugs greater than that which was delivered or charging patients for a brand drug when a generic is dispensed.
- f) Submitting fraudulent billing or reports to a third party payer or claiming a fee for a service that is not performed or earned.
- g) Filling a prescription when a pharmacist knows, or reasonably should know, that no valid physician-patient relationship exists or failing to exercise sound professional judgment with respect to the accuracy and authenticity of any prescription/drug order dispensed.
- h) Failing to provide ensure that patient counseling in accordance with this Part, failing to respond to requests for patient counseling, attempting to circumvent patient counseling requirements, or otherwise discouraging patients from receiving patient counseling concerning their prescription medications~~is offered or refusing to respond to requests for patient counseling.~~
- i) Discriminating in any manner against a person or group based upon that person or group's religion, race, creed, color, gender, sexual orientation, age or national origin.
- j) Knowingly dispensing a prescription drug without a valid prescription. Dispensing or offering to dispense any drug not approved by the Food and Drug Administration (FDA), found in the USP-NF, or found on the list promulgated by the FDA for bulk drug substances that may be used to compound drug products.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- k) Failing to keep one's self and one's apparel clean or to wear identification bearing name and designation.
- l) Directly or indirectly furnishing to a medical practitioner prescription order-blanks that refer to a specific pharmacist or pharmacy in any manner.
- m) Actively or passively participating in any arrangement or agreement in which a prescription order-blank is prepared, written, or issued in a manner that refers to a specific pharmacist or pharmacy. Pharmacy-branded enrollment forms, when a patient requests his or her prescriptions be filled at a specific pharmacy, and Risk Evaluation and Mitigation Strategies documents containing prescription information are not prohibited by this subsection.
- n) Dividing a prescription order unless directed by the prescriber, payer or patient or when the full quantity of that prescription medication is not available at that location.
- o) Committing dispensing errors that result in hospitalization of a patient or demonstrating a pattern and practice of dispensing errors.
- p) Committing an act or acts that are of a flagrant and obvious nature so as to constitute conduct of such a distasteful nature that accepted codes of behavior or codes of ethics are breached.
- q) Committing an act or acts in a relationship with a patient that violate common standards of decency or propriety.
- r) Willfully violating, or knowingly assisting in the violation of, any law relating to the use of habit-forming controlled substances.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART G: PHARMACY OPERATIONS

Section 1330.700 Patient Counseling

- a) Upon receipt of a new or refill prescription, a prospective drug regimen review or drug utilization evaluation shall be performed. [Prior to dispensing a prescription](#)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

to a new patient, a new medication to an existing patient, or a medication that has had a change in the dose, strength, route of administration or directions for use, the pharmacist, or a student pharmacist directed and supervised by the pharmacist, shall provide verbal counseling to the patient or patient's agent on pertinent medication information. An offer to counsel shall be made on all other prescriptions.~~An offer to counsel shall be made on all prescriptions. If the offer to counsel is accepted, the pharmacist or the student pharmacist, as directed and supervised by the pharmacist, shall counsel the patient or patient's agent using his or her professional judgment.~~ Counseling shall include, but is not limited to:

- 1) Name and description of medication;
 - 2) Dosage form and dosage;
 - 3) Route of administration;
 - 4) Duration of therapy;
 - 5) Techniques for self-monitoring;
 - 6) Proper storage;
 - 7) Refill information;
 - 8) Actions to be taken in cases of missed doses;
 - 9) Special directions and precautions for preparation, administration and use;
 - 10) Common severe side effects, adverse effects, or interactions and therapeutic contraindications that may be encountered, including their avoidance and the action required if they occur.
- b) If, in the pharmacist's professional judgment, oral counseling is not practicable for the patient or patient's agent, the pharmacist shall use alternative forms of patient information. When used in place of oral counseling, alternative forms of patient information shall advise the patient or agent that the pharmacist may be contacted for consultation in person at the pharmacy or by toll-free or collect telephone service.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- c) Every licensed pharmacy directly serving patients at a physical location must conspicuously post a sign provided by the Division containing a statement that the patient has the right to counseling, the Division's consumer hotline number, information on how to file a complaint for failure to counsel, and any other information the Division deems appropriate. The sign must be printed in color ink or displayed electronically in color, measure at least 8½ x 11 inches in size, and be posted at either a cashier counter or waiting area clearly visible to patients. Licensed pharmacies that do not maintain a physical location directly serving patients must include a copy of the sign within any dispensed prescriptions. The sign will be available to download on the Division's website.
- d)e) The pharmacist is responsible for maintaining patient profiles as defined in Section 3(s) of the Act. A reasonable effort shall be made to obtain information, including, but not limited to, the following:
- 1) Name, date of birth (age), gender, address and telephone number;
 - 2) Individual history, when significant, including disease state, known allergies, drug interactions, and a comprehensive list of medications and relevant devices; and
 - 3) Pharmacist's comments relevant to the individual's therapy.
- e)d) Patient identifiable information obtained by the pharmacist or the pharmacist's designee for the purpose of patient record maintenance, prospective drug review, drug utilization review and patient counseling shall be considered protected health information, as defined in Section 3(cc) of the Act. A pharmacist shall provide counseling related to protected health information in a discreet, supportive and informative manner.
- f)e) A pharmacist at an institutional pharmacy shall provide patient counseling as required in this Section when drugs are dispensed by the pharmacy upon a patient's discharge from the institution.
- g)f) Nothing in this Section shall be construed as requiring a pharmacist to provide counseling when a patient or patient's agent refuses such counseling. When a patient or patient's agent refuses to accept patient counseling as provided in this Section, that refusal shall be documented. ~~The absence of any record of a refusal~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~to accept the offer to counsel shall be presumed to signify that the offer was accepted and that counseling was provided.~~

- ~~h)g)~~ A pharmacist operating a remote pharmacy shall comply with the requirements of this Section. Counseling in those circumstances shall be done by both video and audio means.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
101.106	Amendment
101.108	Amendment
101.110	Amendment
101.112	Amendment
101.114	Amendment
101.202	Amendment
101.300	Amendment
101.302	Amendment
101.304	Amendment
101.306	Amendment
101.308	Amendment
101.400	Amendment
101.402	Amendment
101.404	Amendment
101.500	Amendment
101.502	Amendment
101.504	Amendment
101.510	Amendment
101.514	Amendment
101.516	Amendment
101.518	Amendment
101.520	Amendment
101.610	Amendment
101.612	Amendment
101.616	Amendment
101.618	Amendment
101.620	Amendment
101.622	Amendment
101.626	Amendment
101.628	Amendment
101.902	Amendment
101.904	Amendment
101.906	Amendment
101.1000	Amendment

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

101.1010	Amendment
101.1020	Amendment
101.1030	Amendment
101.1040	Amendment
101.1050	Amendment
101.1060	Amendment
101.1070	Amendment
101.Appendix A	
101.Illustration L	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: Prompted by a recognition that some of its rules were no longer current due to changing technology and the passage of time, the Board began planning a broad review of all its rules, with a view of streamlining, updating and overhauling its regulation. Governor Rauner's Executive Order 2016-13 has provided additional impetus to the Board's initiative. The proposal makes technical changes to the rule as well as changes in response to recently passed legislation. The proposal also makes mandatory e-mail service for attorneys that file an appearance before the Board.
- 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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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 R17-18 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 R17-18 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.

- 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: January 2017

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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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DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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

SUBPART G: ORAL ARGUMENT

- Section
- 101.700 Oral Argument

SUBPART H: SANCTIONS

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

SUBPART I: REVIEW OF FINAL BOARD OPINIONS AND ORDERS

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

SUBPART J: ELECTRONIC FILING AND E-MAIL SERVICE

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

- 101.APPENDIX A Captions

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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,

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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. 7912, effective May 20, 2016; amended in R17-18 at 41 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 101.106 Board Authority

- a) The Board has the authority to *determine, define and implement the environmental control standards applicable in the State of Illinois and may adopt rules and regulations in accordance with Title VII of the Act* [415 ILCS 5/5(b)].
- b) The Board has the *authority to conduct proceedings upon complaints charging violations of the Act, any rule or regulation adopted under the Act, any permit or term or condition of a permit, or any Board order; upon administrative citations; upon petitions for variances or adjusted standards; upon petitions for review of the Agency's final determinations on permit applications in accordance with Title X of the Act; upon petitions to remove seals under Section 34 of the Act; upon other petitions for review of final determination which are made pursuant to the Act or Board rules and which involve a subject which the Board is authorized to regulate. The Board may also conduct other proceedings as may be provided by the Act or any other statute or rule.* [415 ILCS 5/5(d)]
- c) In addition to subsections (a) and (b) ~~of this Section~~, the Board has the authority to act as otherwise provided by law.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.108 Board Proceedings

- a) Board proceedings can generally be divided into two categories: rulemaking proceedings and adjudicatory proceedings.
- b) The following are examples of Board rulemaking proceedings: Identical-in-Substance, Clean Air Act/Fast Track, Federally Required Rulemaking, General Rulemaking, and Site-Specific Rulemaking. Procedural rules for these types of proceedings can be found at 35 Ill. Adm. Code 102.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- c) The following are examples of Board adjudicatory proceedings: Enforcement Proceedings (35 Ill. Adm. Code 103), Variance Petitions (35 Ill. Adm. Code 104), Adjusted Standard Petitions (35 Ill. Adm. Code 104), Permit Appeals (35 Ill. Adm. Code 105), Leaking Underground Storage Tank Appeals (35 Ill. Adm. Code 105), Pollution Control Facility Siting Appeals (35 Ill. Adm. Code 107), and Administrative Citations (35 Ill. Adm. Code 108).
- d) Board decisions will be made at meetings open to the public. Except as provided in subsection (e) ~~of this Section~~, 34 members of the Board constitute a quorum, and 3 affirmative votes are required to adopt a Board decision.
- e) At a hearing ~~underpursuant to~~ Section 34(d) of the Act to determine whether a seal should be removed, *at least one Board Member shall be present, and those Board Members present may render a final decision without regard to the requirements of Section 5(a) of the Act [415 ILCS 5/34(d)].*

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.110 Public Participation

- a) General. The Board encourages public participation in all of its proceedings. The extent to which the law allows for the participation varies, depending on the type of Board proceeding involved, the party status of the person or persons seeking to participate, and the rules governing that type of proceeding. Public participation in particular proceedings may be more specifically delineated by Board or hearing officer order consistent with the provisions of applicable law and the Board's procedural rules. (See Sections 101.114 and 101.628 ~~of this Part.~~)
- b) Party/Non-Party Status. The issue of who constitutes a proper party in each type of adjudicatory proceeding before the Board is addressed in the rules. A person who wishes to participate in a Board adjudicatory proceeding and is not a party will be deemed a participant and will have only those rights specifically provided in these rules. A person who wishes to participate in a Board regulatory proceeding will be deemed a participant and will have only those rights specifically provided in these rules.
- c) Amicus Curiae Briefs. Amicus curiae briefs may be filed in any adjudicatory proceeding by any interested person, provided permission is granted by the Board.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Response briefs may be allowed by permission of the Board, but not as of right. The briefs must consist of argument only and may not raise facts that are not in evidence in the relevant proceeding. Amicus curiae briefs, and any responses, will be considered by the Board only as time allows. The briefs will not delay decision-making of the Board. (See also Section 101.302(k) ~~of this Part.~~)

- d) Public Remarks at a Board Meeting. During the time period designated for public remarks ~~at a Board meeting~~, any person physically present ~~at the meeting~~, once recognized by the Chairman, may make public remarks to the Board concerning a proceeding listed on that meeting's agenda.
- 1) Sign-In Sheet. Beginning at least 15 minutes before the scheduled start of each Board meeting, a public remarks sign-in sheet will be available to the public at the meeting. Anyone who wishes to make public remarks at the meeting must provide the following information on the sign-in sheet:
 - A) Full name;
 - B) Any person he or she is representing; and
 - C) The docket number of the proceeding on which he or she would like to make public remarks.
 - 2) Time Limits. A time period of up to 30 minutes at the beginning of each Board meeting, as designated on the meeting agenda, is reserved for public remarks. The Chairman may extend the duration of the public remarks portion of the meeting as necessary to accommodate persons who signed in underpursuant to subsection (d)(1) ~~of this Section~~. A person's public remarks on a given proceeding must not exceed five minutes in length, but this time period may be extended with the Chairman's permission.
 - 3) Nature of Public Remarks. Public remarks are not made under oath or affirmation and are not subject to cross-examination. Public remarks that are relevant to the proceeding for which they are made may be considered by the Board, but factual statements made during public remarks do not constitute evidence in the proceeding. The public remarks portion of a Board meeting is not a hearing and cannot be used to offer documentary or other physical evidence to the Board. The Chairman may direct persons to

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

cease public remarks that are irrelevant, repetitious, or disruptive. Persons engaging in disorderly conduct may be asked by the Chairman to leave the meeting.

- 4) Transcription. The Board will arrange for public remarks to be transcribed. Transcripts of public remarks will be made a part of the record of the proceeding to which the remarks correspond. (See 5 ILCS 120/2.06(g).)

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.112 Bias and Conflict of Interest

- a) No Board Member or Board employee may represent any other person in any Board proceeding.
- b) No former Board Member or Board employee may represent any other person in any Board proceeding in which he or she participated personally and substantially as a Board Member or Board employee, unless the Board and, as applicable, all parties or proponents in the proceeding consent in writing after disclosure of the participation. For purposes of subsections (a) and (b) ~~of this Section~~, representation includes consulting on legal or technical matters, and Board employee means a person the Board employs on a full-time, part-time, contract, or intern basis.
- c) The Board, on its own motion or the motion of any party, may disqualify a hearing officer for bias or conflict of interest as provided by Section 10-30(b) of the IAPA [5 ILCS 100/10-30(b)].

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.114 Ex Parte Communications

- a) For the purposes of this Section, "interested person or party" *means a person or entity whose rights, privileges, or interests are the subject of or are directly affected by a regulatory, quasi-adjudicatory, investment, or licensing matter* [5 ILCS 430/5-50(d)].
- b) For the purposes of this Section, "Executive Ethics Commission" means the

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

commission created by the State Officials and Employees Ethics Act [5 ILCS 430].

- c) Adjudicatory and Regulatory Proceedings. Board Members and Board employees ~~must~~^{should} not engage in an ex parte communication designed to influence their action with respect to an adjudicatory or regulatory proceeding pending before or under consideration by the Board. (See definition of "ex parte communication" in Section 101.202 ~~of this Part.~~) Whenever practicable, an interested person or party or his or her official representative or attorney should make all communications with respect to an adjudicatory or regulatory proceeding pending before or under consideration by the Board in writing and address them to the Clerk rather than to individual Board Members or Board employees. (See Sections 101.110 and 101.628 ~~of this Part.~~)
- d) Nothing in this Section precludes Board Members or Board employees from receiving informal complaints about individual pollution sources, or forbids the administrative contacts as would be appropriate for judges and other judicial officers. Information about a pollution source included in the record of a regulatory proceeding is not an ex parte communication with respect to any adjudicatory proceeding concerning the pollution source.
- e) When the Clerk on behalf of the Board, a Board member, or a Board employee receives an ex parte communication from an interested person or party or his or her official representative or attorney, the recipient, in consultation with the Board's ethics officer or his or her designee, must promptly memorialize the communication and make it part of the record of the proceeding. To make an oral ex parte communication part of the record, the substance of the oral communication, along with the identity of each person involved in the communication, will be either set forth in a memorandum and placed in the record or announced on the record at a public hearing.
- f) When the Clerk on behalf of the Board, a Board member, or a Board employee receives an ex parte communication, other than an ex parte communication received from an interested person or party or his or her official representative or attorney, that communication must be promptly reported to the Board's ethics officer or his or her designee *by the recipient of the communication and by any other employee of the Board who responds to the communication* [5 ILCS 430/5-50(c)].

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) *The ethics officer or his or her designee, in consultation with the recipient of the ex parte communication, must ensure that the ex parte communication is promptly made part of the record of the proceeding [5 ILCS 430/5-50(c)].*
- 2) *The ethics officer or his or her designee, in consultation with the recipient of the ex parte communication, must promptly file the ex parte communication with the Executive Ethics Commission, including:*
 - A) *All written communications;*
 - B) *All written responses to the communications;*
 - C) *A memorandum prepared by the ethics officer stating the nature and substance of all oral communications;*
 - D) *The identity and job title of the person to whom each communication was made;*
 - E) *All responses made;*
 - F) *The identity and job title of the person making each response;*
 - G) *The identity of each person from whom the written or oral ex parte communication was received;*
 - H) *The individual or entity represented by that person;*
 - I) *Any action the person requested or recommended; and*
 - J) *Any other pertinent information.*
- 3) *The disclosure shall also contain the date of any ex parte communication. [5 ILCS 430/5-50(c)]*

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART B: DEFINITIONS

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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 ~~underpursuant 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 ~~underpursuant 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 Section 4 of the Act.

"Agency recommendation" means the document filed by the Agency ~~underpursuant 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.)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

"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 ~~underpursuant 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 ~~underpursuant to~~ Section 5(a) of the Act in which the Board makes its decisions and determinations.

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

"Brief" means a written statement that contains a summary of the facts of a

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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 ~~underpursuant to~~ Section 5(a) of the Act.

"Citizen's enforcement proceeding" means an enforcement action brought before the Board ~~underpursuant 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 ~~underpursuant to~~ Section 31 of the Act and 35 Ill. Adm. Code 103.

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

"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 ~~underpursuant to~~ Section 4(r) of the Act.

"Digital signature" *means a type of electronic signature created by transforming an electronic document using a message digest function and encrypting the resulting transformation with an asymmetric cryptosystem using the signer's private key such that any person having the initial untransformed electronic document, the encrypted transformation, and the signer's corresponding public key can accurately determine whether the transformation was created using the private key that corresponds to the signer's public key and whether the initial*

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

electronic document has been altered since the transformation was made. A digital signature is a security device. [5 ILCS 175/5-105]

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

"DNR" means the Illinois Department of Natural Resources.

"DOA" means the Illinois Department of Agriculture.

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

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

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

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

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

"Enforcement proceeding" means an adjudicatory proceeding brought upon a complaint filed ~~underpursuant 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.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

"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-judicatory, 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 ~~underpursuant to~~ Section 28.5 of the Act.

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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

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

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

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

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

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

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

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

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

"Interlocutory appeal" means an appeal of a Board decision to the appellate court that is not dispositive of all the contested issues in the proceeding. (See Section

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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 [permission/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 [permission/leave](#) of the Board. (See Section 101.402 ~~of this Part.~~)

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

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

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

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

"Movant" means the person who files a motion.

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

"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 ~~underpursuant to~~ Title XVI of the Act.

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

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

"Party" means the person by or against whom an adjudicatory proceeding is brought or who is granted party status by the Board through intervention or joinder.

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

"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 ~~underpursuant 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.

"Pollution control facility siting appeal" means an appeal of a decision made by a unit of local government filed with the Board ~~underpursuant 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.)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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

"Proceeding" means an action conducted before the Board ~~underpursuant 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 ~~underpursuant 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 ~~underpursuant to~~ Section 21(f) of the Act.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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

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

"Regulatory hearing" or "proceeding" means a hearing or proceeding held ~~under~~^{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.).

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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

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

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

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

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

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

"Stay" means a temporary suspension of the regular progress of a proceeding ~~underpursuant 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.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(See Section 101.516 ~~of this Part.~~)

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

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

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

"USEPA" means the United States Environmental Protection Agency.

"Underground storage tank appeal" or "UST appeal" means an appeal of an Agency final decision made ~~underpursuant 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 ~~underpursuant 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 41 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

SUBPART C: COMPUTATION OF TIME, FILING, SERVICE
OF DOCUMENTS, AND STATUTORY DECISION DEADLINES**Section 101.300 Computation of Time**

- a) **Computation of Time.** Computation of any period of time prescribed in the Act, other applicable law, or this Subpart will begin with the first calendar day following the day on which the act, event or development occurs and will run until the close of business on the last day, or the next business day if the last day is a Saturday, Sunday or national or State legal holiday.
- b) **Date 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 ~~underpursuant 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,

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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.

- 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 signed 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.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- A) The presumption applies only if an affidavit or certificate of service, signed by the party to the proceeding who is serving the document, states the following: the date, the time by when, and the place ~~where~~ the document was provided to the U.S. Postal Service or the third-party commercial carrier; the address appearing on the envelope or package containing the document; and that proper postage or the delivery charge was prepaid.
- B) The presumption can be rebutted by proper proof, which may include delivery tracking information from the website of the U.S. Postal Service or the website of the third-party commercial carrier.
- d) Date of Board Decision 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 a final Board order 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 of service of the final decision is the date on which the party receives the Board's certified mailing of the decision. ~~In Or, in~~ the event of a timely filed motion for reconsideration filed ~~underpursuant to~~ Section 101.520, the date of service of the final decision is the date on which the party receives the Board's certified mailing of the Board order ruling upon the motion.
 - 3) For purposes of appealing a final rulemaking decision of the Board in which a rule is adopted, amended, or repealed, a person is deemed to have been served with the final decision on the date on which the new rule, the amendment, or the repealer becomes effective under the IAPA. For purposes of appealing a final rulemaking decision in which no rule is adopted, amended, or repealed, the date of service of the final decision is the date on which the participant receives the Board's mailing of the decision. Or, in the event of a timely filed motion for reconsideration filed ~~underpursuant to~~ the Board's procedural rules (35 Ill. Adm. Code 102.700 and 102.702), the date of service of the final decision is the date on which the participant receives the Board's mailing of the Board order ruling upon the motion.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 41 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) If allowed by the Board, the hearing officer, the Clerk, or the procedural rules to be filed in paper under subsection (h), documents must be filed~~Documents may be filed~~ at the following address:

Pollution Control Board, Attn: Clerk
100 West Randolph Street
James R. Thompson Center, Suite 11-500
Chicago, Illinois 60601-3218
 - 2) All documents filed with the Clerk must provide the name and signature of the person seeking to file the document and identify the name of the person on whose behalf the document is being filed. If a paper document is submitted for filing, the original must bear the original pen-and-ink signature of the person seeking to file the document. Signatures for purposes of electronic filings through COOL are addressed in Section 101.1010.
 - 3) Each document being filed with the Clerk (~~e.g., enforcement complaint, petition for review~~) must be accompanied by a notice of filing (see Appendix D) and documentation of service (see Section 101.304(d)).
 - 4) The date on which a document is considered to have been filed is determined ~~under~~pursuant to Section 101.300(b).

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 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) Electronic documents may be filed through COOL under Subpart J. Paper documents~~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 ~~underpursuant to~~ Section 40 of the Act, \$75;
 - 4) Petition to Review Pollution Control Facility Siting Decisions, ~~underpursuant to~~ Section 40.1 of the Act, \$75; and
 - 5) Petition for Adjusted Standard, ~~underpursuant 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 8½ x 11 inch paper, except as provided in subsection (j). Paper documents must

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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, the Clerk, or the 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), (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 copies of the document (three 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 following documents must be filed through COOL or on compact disk or other portable electronic data storage device and, to the extent technically feasible, in text-searchable Adobe PDF and meet the requirements of Section 101.1030(g):
 - A) The Agency record required by 35 Ill. Adm. Code 105.212 ~~(permit decision or other final decision)~~, 105.302 ~~(CAAPP permit application)~~, or 105.410 ~~(leaking UST decision)~~, or 35 Ill. Adm. Code 125.208 (recommendation on tax certification) (see 35 Ill. Adm. Code 105.116);
 - B) The OSFM record required by 35 Ill. Adm. Code 105.508 ~~(UST Fund eligibility and deductibility)~~ (see 35 Ill. Adm. Code 105.116);
 - C) The local siting authority record required by 35 Ill. Adm. Code 107.302 ~~(pollution control facility siting)~~ (see 35 Ill. Adm. Code 107.304); and

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- D) A petition filed under 35 Ill. Adm. Code 104 (~~regulatory relief mechanisms~~) or 35 Ill. Adm. Code 106 (~~proceedings pursuant to specific rules or statutory provisions~~)-(see 35 Ill. Adm. Code 104.106 and 35 Ill. Adm. Code 106.106), ~~unless the petition is for a variance or adjusted standard and the petition states that it is not reasonably practicable for petitioner to file the petition electronically, in which case the petition must be filed in paper pursuant to subsection (h)(1)(B).~~
- 3) A document containing information claimed or determined to be a trade secret, or other non-disclosable information ~~underpursuant 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 ~~underpursuant to~~ 35 Ill. Adm. Code 130 ~~must~~may be filed through COOL.
- 4) When filing a rulemaking proposal, if any document protected by copyright law (17 USC 101 et seq.) is proposed ~~underpursuant 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).~~
- 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, 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; or
 - ii) The proponent's representation that it will, at its own expense, promptly acquire and deliver to the Clerk's Office no more than a total of two paper originals of the copyrighted document if the Clerk's Office notifies the proponent in writing that the Board is required by State law

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

to furnish a copy to JCAR, a court, or a member of the public during or after the rulemaking; ~~or~~

- B) File a license or similar documentation of access that, at no charge to the Board, gives the Board the rights, during and after the rulemaking, to do the following: electronically access the copyrighted document from the sole designated computer at the Board's Chicago office; print a single copy of the copyrighted document to maintain at the Board's Chicago office; and print no more than a total of two 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.
- i) No written discovery, including interrogatories, requests to produce, and requests for admission, or any response to written discovery, may be filed with the Clerk of the Board except ~~with permission~~ ~~upon leave~~ or direction of the Board or hearing officer. Any discovery request under these rules to any nonparty must be filed with the Clerk of the Board in accordance with subsection (h).
- j) Oversized Exhibits. When reasonably practicable, oversized exhibits must be reduced to conform to or be formatted to print on 8½ x 11 inch paper for filing with the Clerk's Office. However, even when an oversized exhibit is so reduced or formatted, the original oversized exhibit still must be filed with the Clerk's Office. In accordance with 2 Ill. Adm. Code 2175.300, the original oversized exhibit may be returned to the person who filed it.
- k) Page Limitation. No motion, brief in support of ~~a~~ 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; ~~however, materials that may be readily available to the Board, such as prior Board opinions and orders, federal regulations, and statutes, need not be included in appendices.~~
- l) Documents filed that do not meet the requirements of 35 Ill. Adm. Code. Subtitle A may be rejected by the Clerk or the hearing officer. Any rejection of a filing must include a description of the Board's rules that have not been met.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 101.304 Service of Documents

- a) Service Requirements. This Section contains the Board's general service requirements. However, the more specific Part for a proceeding type may contain additional requirements.
- b) Duty to Serve and When to Initiate Service. A party filing a document with the Clerk ~~underpursuant to~~ Section 101.302 must also serve one copy of the document upon each of the other parties to the adjudicatory proceeding and, if a hearing officer has been assigned, upon the assigned hearing officer. Service of a document must be initiated concurrently with submitting the document to the Clerk for filing.
 - 1) Service of a document upon a party must be made upon a person authorized by law to receive service on behalf of the party. If a party is represented by an attorney who has filed an appearance, service upon the party is made by serving the document upon the party's attorney. If more than one attorney appears for a party, service upon one of the party's attorneys is sufficient.
 - 2) Each document being served (e.g., enforcement complaint, petition for review) must be accompanied by a notice of filing (see Appendix D) and a copy of the documentation of service (see subsection (d)).
 - 3) The date on which service of a document is considered to have been completed is determined ~~underpursuant to~~ Section 101.300(c).
 - 4) A proceeding is subject to dismissal, and the filing party is subject to sanctions, if service is not timely initiated or completed.
 - 5) Whether service of a document was proper may be challenged by the party allegedly served. To avoid waiving the right to contest personal jurisdiction, any challenge to service must be made ~~underpursuant to~~ Section 101.400(a)(5).
- c) Methods of Service. A document must be served in one of the following ways:
 - 1) Except as provided in subsection (c)(2), service of documents may be made by any of the following methods:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- A) Personal service;
 - B) U.S. Mail;
 - C) Third-party commercial carrier;
 - D) E-mail in accordance with Subpart J; and
 - E) Facsimile, but only if the party being served has filed a notice consenting to receipt of facsimile service and not filed a notice revoking that consent.
- 2) Service of enforcement complaints and EMSA statements of deficiency upon respondents must be made [byas follows](#):
 - A) [Personal](#)~~By personal~~ service;
 - B) [By](#)U.S. Mail with a recipient's signature recorded by the U.S. Postal Service upon delivery; or
 - C) [A](#)~~By a~~ third-party commercial carrier with a recipient's signature recorded by the third-party commercial carrier upon delivery.
 - 3) Service of administrative citations must be made as required under [35 Ill. Adm. Code](#)~~Part~~ 108.
- d) Documentation of Service and When to File Documentation of Service. A party serving a document upon another party must also file documentation of that service. A proceeding is subject to dismissal, and the filing party is subject to sanctions, if documentation of service is not timely filed with the Clerk. Documenting service and filing that documentation must be done as follows:
- 1) For personal service of a document, either an affidavit or certificate of service signed by the person who made personal delivery or a declaration of service signed by the process server who made personal delivery must accompany the document being filed with the Clerk. However, if the signed affidavit, certificate, or declaration is not available to the filing

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

party when the document (~~e.g., enforcement complaint, petition for review~~) is filed with the Clerk, the filing must include~~submitted for filing~~:

- A) An affidavit or certificate of service, signed by the filing party, ~~stating must accompany the document being filed with the Clerk. The affidavit or certificate of service must state~~ that service has been initiated, but not yet completed. ~~The, and the following:~~ the date, the time by when, and the place ~~where~~, the document was provided to the person making personal delivery; the address appearing on the envelope or package containing the document; and that the delivery charge was prepaid must also be included; and
 - B) Within seven days after it becomes available to the filing party, the affidavit or certificate of service containing the signature of the person who made personal delivery or the declaration of service containing the signature of the process server ~~must be filed with the Clerk~~, accompanied by a notice identifying the filed document (~~e.g., enforcement complaint, petition for review~~) to which the signed affidavit, certificate, or declaration corresponds. A copy of the signed affidavit, certificate, or declaration and the notice must be served ~~under pursuant to~~ subsection (a).
- 2) For service of a document by U.S. Mail or third-party commercial carrier with a recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery, the delivery confirmation containing the recipient's signature must accompany the document being filed with the Clerk. However, if the delivery confirmation containing the recipient's signature is not available to the filing party when the document is filed with the Clerk, the filing must include~~(e.g., enforcement complaint, petition for review) is submitted for filing~~:
- A) An affidavit or certificate of service, signed by the filing party, ~~stating must accompany the document being filed with the Clerk. The affidavit or certificate of service must state~~ that service has been initiated, but not yet completed. ~~The, and the following:~~ the date, the time by when, and the place ~~where~~, the document was provided to the U.S. Postal Service or the third-party commercial carrier; the address appearing on the envelope or package

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

containing the document; and that proper postage or the delivery charge was prepaid must also be included; and

- B) Within seven days after it becomes available to the filing party, the delivery confirmation containing the recipient's signature ~~must be filed with the Clerk~~, accompanied by a notice identifying the filed document (~~e.g., enforcement complaint, petition for review~~) to which the signed delivery confirmation corresponds. A copy of the delivery confirmation and the notice must be served ~~underpursuant to~~ subsection (a).
- 3) For service of a document by e-mail or facsimile, an affidavit or certificate of service must accompany the document being filed with the Clerk. An affidavit or certificate of e-mail service must comply with Section 101.1060. An affidavit or certificate of facsimile service must include the date and time of the facsimile transmission, the telephone number to which the transmission was sent, the number of pages transmitted, and a statement that the document was served by facsimile.
- 4) For service of a document by U.S. Mail or a third-party commercial carrier without a recipient's signature recorded by the U.S. Postal Service or the third-party commercial carrier upon delivery, an affidavit or certificate of service must accompany the document being filed with the Clerk. The affidavit or certificate must state the following: the date, the time by when, and the place ~~where~~ the document was provided to the U.S. Postal Service or the third-party commercial carrier; the address appearing on the envelope or package containing the document; and that proper postage or the delivery charge was prepaid.
- 5) An affidavit of service must be notarized and is for use by a non-attorney. A certificate of service is for use by an attorney. Sample forms of an affidavit of service and a certificate of service are available in Appendices E and H.
- 6) A certificate of service must bear an attorney's ~~handwritten or typographical~~ signature. Signatures in affidavits of service, declarations of service, and delivery confirmations must be written by hand. A handwritten signature in documentation of service filed with the Clerk may be a facsimile or digitized electronic signature.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- e) Service of Amicus Curiae Briefs. Any person who files an amicus curiae brief with the Board in any proceeding must serve copies of that brief on all parties in accordance with this Section.
- f) Service of Comments of Participants in an Adjudicatory Proceeding. Participants are required to serve ~~their~~ comments upon the parties to the proceeding. The Board will consider the comments as time and the Act or other applicable law allow.
- g) Service on Agencies. Service must be at the addresses listed below unless a specific person has an appearance on file with the Board or has, in accordance with Section 101.1070, consented to e-mail service.
- 1) Service on the Illinois Environmental Protection Agency. The Agency must be served at ~~the following address~~:
- Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276
- 2) Service on Office of State Fire Marshal. The OSFM must be served at ~~the following address~~:
- Division of Petroleum and Chemical Safety
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield IL 62703
- 3) Service on the Illinois Attorney General. The Office of the Attorney General must be served at ~~the following address~~:
- Division Chief of Environmental Enforcement
Office of the Attorney General
100 West Randolph St., Suite 1200
Chicago IL 60601

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 4) Service on the Illinois Department of Natural Resources. DNR must be served at ~~the following address~~:

Office of Legal Services
Illinois Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

- 5) Service on the Illinois Department of Transportation. IDOT must be served at ~~the following address~~:

Office of Chief Counsel
DOT Administration Building
2300 S. Dirksen Parkway, Room 300
Springfield IL 62764

- 6) Service on Region V of the United States Environmental Protection Agency. USEPA Region V must be served at ~~the following address~~:

USEPA, Region V
77 West Jackson
Chicago IL 60604

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.306 Incorporation of Documents from Another Proceeding

- a) Upon the separate written request of any person or on its own initiative, the Board or hearing officer may incorporate materials from the record of another Board docket into any proceeding. The person seeking incorporation must file the material to be incorporated with the Board in accordance with Section 101.302(h) ~~of this Subpart~~. The person seeking incorporation must demonstrate to the Board or the hearing officer that the material to be incorporated is authentic, credible, and relevant to the proceeding. Notice of the request must be given to all identified participants or parties by the person seeking incorporation.
- b) The Board will give the incorporated matter the appropriate weight in light of the following factors: the standard of evidence under which the material was previously presented to the Board; the present purpose for incorporating the

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

material; and the past and current opportunity for cross-examination of the matters asserted within the incorporated material.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.308 Statutory Decision Deadlines and Waiver of Deadlines

- a) Petitions in the following proceedings each have a 120-day statutory decision deadline: Variances (Section 38 of the Act), Permit Appeals and UST appeals (Section 40 of the Act), and Pollution Control Facility Siting Review (Section 40.1 of the Act). Other adjudicatory proceedings may be subject to decision deadlines as provided by law.
- b) Where the petitioner does not waive the decision deadline, the Board will proceed expeditiously to establish all hearing and filing requirements. Willful or unexcused failure to follow Board requirements on the deadlines will subject the party to sanctions ~~underpursuant to Subpart H of this Part~~. This Section will be strictly construed where there is a decision deadline unless the Board receives a waiver as set out in subsection (c).
- c) All waivers of a deadline for Board action must be filed as a separate document. Waivers must be ~~clearly~~-titled and state which type of waiver it is, identify the proceeding by name and docket number, and be signed by the party or by ~~an~~his authorized representative or attorney. A waiver of a statutory deadline does not preclude the Board from issuing an opinion or order prior to any decision deadline, nor does it preclude the filing of a motion seeking a decision on the matter.
 - 1) ~~An open waiver waives~~~~Open Waiver. Waives~~ the decision deadline completely and unequivocally until the petitioner elects to reinstate the 120-day decision period by filing a notice to reinstate. Upon proper filing of the notice, the decision period is reinstated. In accordance with Section 101.300(b)(4) ~~of this Part~~, the decision period recommences as of the date the notice to reinstate is filed with the Board.
 - 2) ~~A time certain waiver must~~~~Time Certain Waiver. Waives the decision deadline until a time certain. The time certain may~~ be expressed in length of days or to a specific calendar date. If expressed in length of days, day one will be the first day after the date upon which the current time clock

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

expires. If the petitioner files a time certain waiver before the hearing date, the waiver must be for at least 40 days. If the extension is not renewed for at least 40 days prior to the decision deadline, the Board will set the matter for hearing.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION

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

- a) Appearances. A person who is a party in a Board adjudicatory proceeding may appear as follows:
- 1) Individuals may appear on their own behalf or through an attorney-at-law licensed and registered to practice law. (See Section 1 of the Attorney Act [705 ILCS 205/1].)
 - 2) When appearing before the Board, any person other than individuals must appear through an attorney-at-law licensed and registered to practice law. (See Section 1 of the Corporation Practice of Law Prohibition Act [705 ILCS 220/1] and Section 1 of the Attorney Act [705 ILCS 205/1].)
 - 3) An out-of-state attorney may appear as counsel and provide legal services in a particular proceeding before the Board only if the attorney has permission to do so ~~underpursuant to~~ Illinois Supreme Court Rule 707. No Board order is required for an out-of-state attorney to appear and no motions to appear pro hac vice ~~is necessary~~~~need be filed with the Board~~. The out-of-state attorney's appearance must include the following:
 - A) A representation that the out-of-state attorney is in, and will maintain throughout the proceeding, compliance with Supreme Court Rule 707; and
 - B) Identification of the active status Illinois attorney associated with the out-of state attorney ~~underpursuant to~~ Supreme Court Rule 707 and the date on which the active status Illinois attorney filed an appearance in the proceeding.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 4) Any attorney appearing in a representative capacity must file a separate written appearance with the Clerk, together with documentation of service of the appearance ~~underpursuant to~~ Section 101.304(d) and notice of filing of the appearance ~~underpursuant to~~ Section 101.304(b)(2). The appearance must include:
- A) For law~~Law~~ firms, the Agency, and the Attorney General's Office, ~~when appearing before the Board must designate~~ a lead attorney must be designated for purposes of phone and mail contact pertaining to the proceeding. Absent written notice, the Board will designate the attorney whose signature appears first on the party's first filing as the lead attorney.
- B) The attorney's business address and designation of a primary e-mail address for service by e-mail.
- 5) Any person seeking to contest personal jurisdiction must do so by filing a motion with the Board in accordance with Section 2-301 of the Code of Civil Procedure [735 ILCS 5/2-301].
- b) Withdrawals. An attorney who has appeared in a representative capacity and who wishes to withdraw from that representation must file a notice of withdrawal with the Clerk, together with documentation of service and notice of filing on all parties or their representatives.
- c) Substitution. Any attorney who substitutes for an attorney of record must file a written appearance ~~underpursuant to~~ subsection (a). That appearance must identify the attorney for whom the substitution is made. However, no attorney will be considered withdrawn from a proceeding until a formal withdrawal is filed in accordance with subsection (b).
- d) Any person may appear on behalf of himself or others in a rulemaking proceeding in accordance with 35 Ill. Adm. Code 102.100(b).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.402 Intervention of Parties

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- a) The Board may permit any person to intervene in any adjudicatory proceeding. If a person seeks to intervene in an adjudicatory proceeding, the person must file a motion to do so with the Clerk and serve a copy of the motion on all parties to the proceeding. The motion must set forth the grounds for intervention.
- b) In determining whether to grant a motion to intervene, the Board will consider the timeliness of the motion and whether intervention will unduly delay ~~the~~ materially prejudice ~~the proceeding~~ or otherwise interfere with an orderly or efficient proceeding.
- c) Subject to subsection (b) ~~of this Section~~, the Board will permit any person to intervene in any adjudicatory proceeding if:
- 1) The person has an unconditional statutory right to intervene in the proceeding; or
 - 2) It may be necessary for the Board to impose a condition on the person.
- d) Subject to subsection (b) ~~of this Section~~, the Board may permit any person to intervene in any adjudicatory proceeding if:
- 1) The person has a conditional statutory right to intervene in the proceeding;
 - 2) The person may be materially prejudiced absent intervention; or
 - 3) The person is so situated that the person may be adversely affected by a final Board order.
- e) An intervenor will have all the rights of an original party to the adjudicatory proceeding, except that the Board may limit the rights of the intervenor as justice may require. The limits may include providing that: the intervenor is bound by Board and hearing officer orders already issued or by evidence already admitted; that the intervenor does not control any decision deadline; and that the intervenor cannot raise issues that were raised or might more properly have been raised at an earlier stage of the proceeding.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.404 Agency as a Party in Interest

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~Under Pursuant to~~ Section 30 of the Act, the Board may request that the Agency investigate any alleged violation of the Act, the regulations, any permit granted by the Agency, or any term or condition of any such permit and any such other investigations as the Board may deem advisable. Upon such request, the Board may designate the Agency as a party in interest in any ongoing proceeding in that matter. The designation of the Agency as a party in interest does not require the Agency to take a position on the merits of the proceeding.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART E: MOTIONS

Section 101.500 Filing of Motions and Responses

- a) The Board may entertain any motion the parties wish to file that is permissible under the Act or other applicable law, these rules, or the Illinois Code of Civil Procedure.
- b) All motions must be in writing, unless made orally on the record during a hearing or during a status conference, and must state whether directed to the Board or to the hearing officer. Oral motion to the Board made at hearing must be filed in writing within 14 days after the hearing or the motion is deemed waived. Motions that should be directed to the hearing officer are set out in Section 101.502 ~~of this Part~~. All motions ~~must~~should be filed and served in conformance with ~~Subparts~~Subpart C and J of this Part.
- c) Motions may be filed at any time unless otherwise specifically provided.
- d) Within 14 days after service of a motion, a party may file a response to the motion. If no response is filed, the party will be deemed to have waived objection to the granting of the motion, but the waiver of objection does not bind the Board or the hearing officer in its disposition of the motion. Unless undue delay or material prejudice would result, neither the Board nor the hearing officer will grant any motion before expiration of the 14 day response period except in deadline driven proceedings where no waiver has been filed. Parties may request that the Board grant more time to respond by filing a motion for extension of time.
- e) The moving person will not have the right to reply, except as permitted by the

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Board or the hearing officer to prevent material prejudice. A motion for ~~permission~~~~leave~~ to file a reply must be filed with the Board within 14 days after service of the response.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.502 Motions Directed to the Hearing Officer

- a) The hearing officer has the authority to rule on all motions that are not dispositive of the proceeding. ~~Dispositive~~~~Examples of~~ motions ~~include~~~~that hearing officers may not rule upon~~ are motions to dismiss, motions to decide a proceeding on the merits, motions to strike any claim or defense for insufficiency or want of proof, motions claiming lack of jurisdiction, motions for consolidation, motions for summary judgment, and motions for reconsideration. Oral motions directed to a hearing officer at a status conference will be summarized in a written hearing officer order. The duties and authorities of the hearing officer are further set out in Section 101.610 ~~of this Part~~.
- b) An objection to a hearing officer ruling made at hearing ~~or any oral motion to the Board made at hearing~~ will be deemed waived if not filed within 14 days after the Board receives the hearing transcript.
- c) Unless otherwise ordered by the Board, neither the filing of a motion, nor any appeal to the Board of a hearing officer order will stay the proceeding or extend the time for the performance of any act. Unless otherwise provided, all hearing officer orders will remain in effect during the pendency of any appeal to the Board.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.504 Contents of Motions and Responses

All motions and responses must ~~clearly~~ state the grounds upon which the motion is made and must contain a concise statement of the position or relief sought. Facts asserted that are not of record in the proceeding must be supported by oath, affidavit, or certification in accordance with Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109]. A brief or memorandum in support of the motion or response may be included.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 101.510 Motions to Cancel Hearing

- a) Time to File. Unless the Board or the hearing officer orders otherwise the hearing officer may grant motions to cancel hearings that are filed no fewer than 10 days or, if all parties agree to the motion, 5 days before the scheduled hearing date. The hearing officer may grant a motion filed after the prescribed time only if the movant demonstrates that the movant will suffer material prejudice if the hearing is not canceled.
- b) Contents. All motions to cancel a hearing must set forth a proposed date to reschedule the hearing and must be supported by an affidavit of the person or persons with knowledge of the facts that support the motion. The affidavit must include the factual basis for the request to cancel and a complete status report that describes the progress of the proceeding and sets forth the number of cancellation requests previously granted to the movant. The hearing officer will grant the motion only if the movant demonstrates that the request to cancel is not the result of the movant's lack of diligence.
- c) In a proceeding for which there is a decision deadline, the hearing officer will deny a motion to cancel a hearing if the decision deadline does not allow enough time for the Board to reschedule the hearing, provide the required notice of the rescheduled hearing, complete the hearing, and deliberate and decide the matter.
- d) If the hearing officer grants a motion to cancel a hearing, the hearing officer will revise the schedule to complete the record in accordance with Section 101.612 ~~of this Part~~. The hearing officer also will file the revised schedule with the Clerk and serve a copy of the revised schedule on all parties in accordance with Subpart C ~~of this Part~~.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.514 Motions to Stay Proceedings

- a) Motions to stay a proceeding must be directed to the Board and must be accompanied by sufficient information detailing why a stay is needed, and in decision deadline proceedings, by a waiver of any decision deadline. A status report detailing the progress of the proceeding must be included in the motion. (See also Section 101.308 ~~of this Part~~.)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- b) If the motion to stay is granted, at the close of the stay, the parties must file a status report in accordance with Subpart C ~~of this Part~~. Additional requests for stay of the proceedings must be directed to the hearing officer.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.516 Motions for Summary Judgment

- a) Any time after the opposing party has appeared (or after the expiration of time within which any party is required to appear), but no fewer than 30 days prior to the regularly scheduled Board meeting before the noticed hearing date, a party may move the Board for summary judgment for all or any part of the relief sought. Any response to a motion for summary judgment must be filed within 14 days after service of the motion for summary judgment. The hearing officer may extend the filing and response deadlines contained in this subsection upon written motion by a party, consistent with any statutory deadlines.
- b) If 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, the Board will enter summary judgment.
- c) Any party wishing to cancel a hearing pending decision on a motion for summary judgment must file a motion to cancel hearing ~~underpursuant to~~ Section 101.510 ~~of this Part~~.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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 filing a 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 ~~hearing~~~~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.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.520 Motions for Reconsideration

- a) Any motion for reconsideration or modification of a ~~final~~ Board order must be filed within 35 days after the receipt of the order. (See Section 101.902 ~~of this Part.~~)
- b) Any response to a motion for reconsideration or modification must be filed within 14 days after the filing of the motion.
- c) A timely-filed motion for reconsideration or modification stays the effect of the ~~final~~ order until final disposition of the motion in accordance with Section 101.300(d)(2) ~~of this Part.~~

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART F: HEARINGS, EVIDENCE, AND DISCOVERY

Section 101.610 Duties and Authority of the Hearing Officer

The hearing officer has the duty to manage proceedings assigned, to set hearings, to conduct a fair hearing, to take all necessary action to avoid delay, to maintain order, and to ensure development of a clear, complete, and concise record for timely transmission to the Board. The hearing officer has all powers necessary to these ends, including the authority to:

- a) Require parties to proceed to hearing and establish a schedule for, and notice and service of, any prefiled submission of testimony and written exhibits;
- b) Administer oaths and affirmations;
- c) Allow for the examination of or examine witnesses to ensure a clear and complete record;
- d) Regulate the course of the hearing, including controlling the order of proceedings;
- e) Establish reasonable limits on the duration of the testimony and questioning of any witness, and limit repetitive or cumulative testimony and questioning;

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- f) Determine that a witness is adverse, hostile, or unwilling ~~underpursuant to~~ Section 101.624 ~~of this Part~~;
- g) Issue an order compelling the answers to interrogatories or responses to other discovery requests;
- h) Order the production of evidence ~~underpursuant to~~ Section 101.614 ~~of this Part~~;
- i) Order the filing of any required record or recommendation in a manner which provides for a timely review and development of issues prior to the hearing and consistent with any statutory decision deadline;
- j) Initiate, schedule, and conduct a pre-hearing conference;
- k) Order a briefing and comment schedule and exclude late-filed briefs and comments from the record;
- l) Rule upon objections and evidentiary questions;
- m) Order discovery ~~underpursuant to~~ Sections 101.614 and 101.616 ~~of this Part~~;
- n) Rule on any motion directed to the hearing officer or deferred to the hearing officer by the Board in accordance with Section 101.502 ~~of this Part~~;
- o) Set status report schedules;
- p) Require all participants in a rulemaking proceeding to state their positions with respect to the proposal; and
- q) Rule upon offers of proof and receive evidence and rule upon objections to the introduction of evidence.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.612 Schedule to Complete the Record

- a) The hearing officer must establish a schedule to complete the record by hearing officer order. The schedule may provide dates and deadlines for pre-hearing

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

conferences, discovery completion, and hearing and post-hearing submissions (including public comments). The schedule must provide for a completed record at least 30 days before the decision date, unless the hearing officer orders otherwise to prevent material prejudice. ~~The schedule must be in the form of a hearing officer order.~~ The hearing officer must file the schedule with the Clerk and serve a copy of the schedule on all parties in accordance with Subpart C ~~of this Part.~~

- b) The hearing officer may rule upon any motion to revise the schedule to complete the record. The hearing officer may grant the motion to the extent that the revised schedule provides for a completed record at least 30 days before the decision date or to prevent material prejudice. If the hearing officer grants a motion to revise the schedule, the hearing officer must file the revised schedule with the Clerk and serve a copy of the revised schedule on all parties in accordance with Subpart C ~~of this Part.~~ (See also Section 101.510(d) ~~of this Part.~~)

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.616 Discovery

The assigned hearing officer will set all time deadlines for discovery not already provided for in this Subpart consistent with Board deadlines. For purposes of discovery, the Board may look to the Code of Civil Procedure and the Supreme Court Rules for guidance where the Board's procedural rules are silent (see Section 101.100(b)). All discovery disputes will be handled by the assigned hearing officer.

- a) All relevant information and information calculated to lead to relevant information is discoverable, excluding those materials that would be protected from disclosure in the courts of this State ~~underpursuant to~~ statute, Supreme Court Rules or common law, and materials protected from disclosure under 35 Ill. Adm. Code 130.
- b) If the parties cannot agree on the scope of discovery or the time or location of any deposition, the hearing officer has the authority to order discovery or to deny requests for discovery.
- c) All discovery must be completed at least 10 days prior to the scheduled hearing in the proceeding unless the hearing officer orders otherwise.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- d) The hearing officer may, on his or her own motion or on the motion of any party or witness, issue protective orders that deny, limit, condition or regulate discovery to prevent unreasonable expense, or harassment, to expedite resolution of the proceeding, or to protect non-disclosable materials from disclosure consistent with Sections 7 and 7.1 of the Act and 35 Ill. Adm. Code 130.
- e) Unless a claim of privilege is asserted, it is not a ground for objection that the testimony of a deponent or person interrogated will be inadmissible at hearing, if the information sought is reasonably calculated to lead to relevant information. Any appeals of rulings by the hearing officer regarding discovery must be in writing and filed with the Board prior to hearing.
- f) Failure to comply with any order regarding discovery may subject the offending persons to sanctions ~~underpursuant to~~ Subpart H ~~of this Part~~.
- g) If any person serves any request for discovery or answers to discovery for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation, or knowingly gives a false answer to discovery questions, the Board, on its own motion or the motion of a party, may impose sanctions ~~underpursuant to~~ Subpart H ~~of this Part~~.
- h) A party must amend any prior responses to interrogatories, requests for production, or requests for admission if the party learns that the response is in some material respect incomplete or incorrect, and the additional or corrected information has not otherwise been made known to the other parties during the discovery process or in writing.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.618 Admissions

- a) General. All requests to admit must be served upon a party no later than 35 days before hearing. All answers or objections to requests to admit must be served upon the party requesting the admission within 28 days after the service of the request.
- b) Extension of Time. In accordance with Sections 101.522 and 101.610 ~~of this Part~~, the hearing officer may extend the time for filing any request, answer, or objection either before or after the expiration of time.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- c) Request to Admit. Any party serving a request to admit in accordance with subsection (d) or (e) must include the following language in the first paragraph of the request. "Failure to respond to the following requests to admit within 28 days may have severe consequences. Failure to respond to the following requests will result in all the facts requested being deemed admitted as true for this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding or an attorney."
- d) Request for Admission of Fact. A party may serve a written request for admission of the truth of specific statements of fact on any other party.
- e) Request for Admission of Genuineness of Document. A party may serve a written request for admission of the genuineness of documents on any other party. Copies of the document must be served unless the document has already been furnished in the present proceeding.
- f) Admission in the Absence of Denial. Each of the matters of fact and the genuineness of each document of which admission is requested is admitted unless, within 28 days after service ~~thereof~~, the party to whom the request is directed serves upon the party requesting the admission either a sworn statement denying specifically the matters of which admission is requested or setting forth in detail the reasons why the party cannot truthfully admit or deny those matters, or written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part. If written objections to a part of the request are made, the remainder of the request must be answered within the period designated in the request. A denial must fairly address the substance of the requested admission.
- g) Partial Denial or Qualification. If good faith requires that a party deny a part of a matter for which an admission is requested, or if a part requires qualification, the party must specify the part which is denied or qualified and admit only the remainder.
- h) Objection. Any objection to a request or to any answer must be stated with specificity, and will be heard by the hearing officer upon notice and motion of the party making the request.
- i) Effect of Admission. Any admission made by a party ~~underpursuant to~~ a request

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

under this Section is for the purpose of the pending proceeding only. It does not constitute an admission by the party for any other purpose and may not be used against him in any other proceeding.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.620 Interrogatories

- a) Unless ordered otherwise by the hearing officer, a party may serve a maximum of 30 written interrogatories, including subparts, on any other party, no later than 35 days before hearing.
- b) Within 28 days after service ~~thereof~~, the party to whom the interrogatory is directed must serve the answers and objections, if any, upon the party submitting the interrogatories. Each interrogatory must be answered separately and fully in writing under oath, unless it is objected to. Answers must be signed by the person making them and objections must be signed by the attorney making them or, in the event of an individual representing himself or herself, the individual making them.
- c) Grounds for an objection to an interrogatory must be stated with specificity, and be accompanied by a copy of the interrogatory. Any ground that is not stated in a timely objection is waived unless it results in material prejudice or good cause for the delay is shown.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.622 Subpoenas and Depositions

- a) Upon request by any party to a contested proceeding, the Clerk will issue subpoenas for the attendance of witnesses at a hearing or deposition. Subpoena forms are available at the Board's Chicago office. The person requesting the subpoena is responsible for completing the subpoena and serving it upon the witness.
- b) Service of the subpoena on the witness must be completed no later than 10 days before the date of the required appearance. A copy of the subpoena must be filed with the Clerk and served upon the hearing officer within 7 days after service upon the witness. Failure to serve both the Clerk and the hearing officer will

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

render the subpoena null and void. Service and filing must be in accordance with Subpart C ~~of this Part~~.

- c) Subpoenas may include a command to produce books, papers, documents, or other tangible things designated therein and relevant to the matter under consideration.
- d) The hearing officer, upon motion made promptly and in any event at or before the time specified in the subpoena for compliance, may quash or modify the subpoena if it is unreasonable or irrelevant. The hearing officer will rule upon motions to quash or modify material requested in the subpoena ~~underpursuant to~~ subsection (c) ~~of this Section~~ in accordance with the standards articulated in Section 101.614 ~~of this Part~~.
- e) Each witness subpoenaed by a party under this Section is entitled to receive witness fees from that party as provided in Section 4.3 of the Circuit Courts Act [705 ILCS 35/4.3].
- f) Unless the hearing officer orders otherwise, any witness subpoenaed for a deposition may be required to attend only in the county in which he resides or maintains an office address. In accordance with Supreme Court Rule 206(d), all depositions must be limited to 3 hours in length unless the parties and the non-party deponent by stipulation agree to a longer time frame or unless the hearing officer orders otherwise after a showing of good cause. (See Ill. S. Ct. Amended Rule 206(d).)
- g) Failure of any witness to comply with a subpoena will subject the witness to sanctions under this Part, or the judicial enforcement of the subpoena. The Board may, upon proper motion by the party requesting the subpoena, request the Attorney General to pursue judicial enforcement of the subpoena on behalf of the Board.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.626 Information Produced at Hearing

In accordance with Section 10-40 of the IAPA, the hearing officer will admit evidence that is admissible under the rules of evidence as applied in the civil courts of Illinois, except as otherwise provided in this Part.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- a) Evidence. The hearing officer may admit evidence that is material, relevant, and would be relied upon by prudent persons in the conduct of serious affairs, unless the evidence is privileged.
- b) Admissibility of Evidence. When the admissibility of evidence depends upon a good faith argument as to the interpretation of substantive law, the hearing officer will admit the evidence.
- c) Scientific Articles and Treatises. Relevant scientific or technical articles, treatises, or materials may be introduced into evidence by a party. The materials are subject to refutation or disputation through introduction of documentary evidence or expert testimony.
- d) Written Testimony. Written testimony may be introduced by a party in a hearing only if provided to all other parties of record prior to the date of the hearing and only after the opposing parties have had an opportunity to object to the written testimony and to obtain a ruling on the objections prior to its introduction. Written testimony may be introduced by a party only if the persons whose written testimony is introduced are available for cross-examination at hearing.
- e) Admission of Business Records. A writing or record, whether in the form of any entry in a book or otherwise made as a memorandum or record of any act, transaction, occurrence, or event, may be admissible as evidence of the act, transaction, occurrence, or event. To be admissible, the writing or record ~~must~~ will have been made in the regular course of business, provided it was the regular course of business to make the memorandum or record at the time of the act, transaction, occurrence, or event, or within a reasonable time ~~afterwards~~ thereafter. All other circumstances of the making of the writing or record, including lack of personal knowledge by the entrant or maker, may be admitted to affect the weight of the evidence, but will not affect admissibility. The term "business," as used in this subsection (e), includes businesses, professions, occupations, and callings of every kind.
- f) Prior Inconsistent Statements. Prior statements made under oath may be admitted to impeach a witness if the statement is inconsistent with the witness' testimony at hearing.
- g) Oral and Written Statements. Oral and written statements from participants may

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

be taken at hearing in accordance with Section 101.628 ~~of this Part~~.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.628 Statements from Participants

- a) Oral Statements. The hearing officer may permit a participant to make oral statements on the record when time, facilities, and concerns for a clear and concise hearing record so allow. The oral statements must be made under oath and are subject to cross-examination. (See Sections 101.110 and 101.114 ~~of this Part~~.)
- b) Written Statements. Any participant may submit written statements relevant to the subject matter at any time prior to hearing or at hearing. Participants submitting such a statement will be subject to cross-examination by any party. Written statements submitted without the availability of cross-examination will be treated as public comment in accordance with subsection (c) ~~of this Section~~ and will be afforded lesser weight than evidence subject to cross-examination.
- c) Public Comments or Amicus Curiae Briefs. Oral public comment may be made on the record at a hearing and is not subject to cross-examination. Additionally, participants ~~Participants~~ may file written public comments subject to the requirements of this Section and the hearing officer's schedule for completion of the record. The Board also allows for the filing of amicus curiae briefs by non-party participants. Amicus curiae briefs will be allowed in accordance with Section 101.110 ~~of this Part~~.
 - 1) Written public ~~Public~~ comments must be filed within 14 days after the close of the last hearing unless the hearing officer specifies a different date for submission of post-hearing comments. However, all public comments must be filed with the Board no later than 30 days before the decision date, unless the hearing officer orders otherwise to prevent material prejudice. Consistent with the burden of proof in a proceeding, the hearing officer may provide for differing filing deadlines with respect to post-hearing comments by different persons. Under ~~Pursuant to~~ hearing officer order, rebuttal public comments may be submitted.
 - 2) All public comments must present arguments or comments based on evidence contained in the record. The comments may also present legal

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

argument citing legal authorities.

- 3) Comments must be filed with the Board. Comments will be distributed to parties and the hearing officer by the Clerk's office.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART I: REVIEW OF FINAL BOARD OPINIONS AND ORDERS

Section 101.902 Motions for Reconsideration

In ruling upon a motion for reconsideration, the Board will consider factors including new evidence, or a change in the law, to conclude that the Board's decision was in error. (See also Section 101.520 ~~of this Part.~~) A motion for reconsideration of a final Board order is not a prerequisite for the appeal of the final Board order.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.904 Relief from Final Opinions and Orders

- a) Upon its own motion or motion of any party, the Board may correct clerical mistakes in orders or other parts of the record and errors therein arising from oversight or omission. ~~The mistakes may be so corrected by the Board~~ before the appeal is docketed in the appellate court. ~~After~~ ~~Thereafter, while~~ the appeal is pending, the mistakes may be corrected only with ~~permission~~ ~~leave~~ of the appellate court. Any corrected order will be mailed to all parties and participants in that proceeding.
- b) On written motion, the Board may relieve a party from a final order entered in a contested proceeding, for the following:
 - 1) Newly discovered evidence that existed at the time of hearing and that by due diligence could not have been timely discovered;
 - 2) Fraud (whether intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; or
 - 3) Void order, such as an order based upon jurisdictional defects.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- c) A motion under this Section does not affect the finality of a Board order or suspend the operation of a Board order. The motion must be filed in the same proceeding in which the order was entered but is not a continuation of the proceeding. The motion must be supported by oath or affidavit or other appropriate showing as to matters not of record. All parties or participants in the proceeding must be notified by the movant as provided by Section 101.304 ~~of this Part~~.
- d) A motion under subsection (b) ~~of this Section~~ must be filed with the Board within one year after entry of the order, except that a motion ~~underpursuant to~~ subsection (b)(3) ~~of this Section~~ must be filed within a reasonable time after entry of the order.
- e) Any response to a motion under this Section must be filed within 14 days after the filing of the motion.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.906 Judicial Review of Board Orders

- a) ~~Underpursuant 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, ~~underpursuant 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 appealable as of the date of service of the final order upon the appealing person (see Section 101.300(d)).
- 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 41 Ill. Reg. _____, effective _____)

SUBPART J: ELECTRONIC FILING AND E-MAIL SERVICE

Section 101.1000 Electronic Filing and E-Mail Service

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 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), (h)(4), and (j) ~~of this Part~~ and Section 101.1050 ~~of this Subpart~~, all documents may be filed through COOL. However, if filing through COOL is not reasonably practicable, the Board, the hearing officer, or the Clerk may grant permission to file in paper. 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) Generally, the Clerk's Office will not accept paper documents for filing; however, the Clerk's Office will convert paper-filed documents into electronic documents and place them on COOL, when permission to file a paper document is granted under subsection (c).
- 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~~.)

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.1010 Electronic Filing Authorization and Signatures

- a) A person seeking to upload a document on COOL for filing must have been issued a State of Illinois digital signature certificate ~~underpursuant to~~ Section 15-310 of the Electronic Commerce Security Act. (See 5 ILCS 175/15-310.) A link to the subscriber agreement and application for a State of Illinois digital signature certificate is available through COOL.
 - 1) Maintaining digital signature confidentiality is the responsibility of the holder of the digital signature certificate. The certificate holder is

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

responsible for any document electronically filed by anyone using his or her digital signature certificate.

- 2) The digital signature certificate holder is responsible for keeping his or her contact information current.
- b) Each electronic document uploaded on COOL for filing must bear a facsimile electronic signature (i.e., scanned image of original pen-and-ink signature) or typographical electronic signature (i.e., "/s/ typed name") of the person authorizing the filing (e.g., attorney, participant, pro se party). However, if this electronic signature is absent, the document will be deemed to have been signed by the holder of the digital signature certificate used to upload the document and the certificate holder will be deemed to have authorized the filing. (See 5 ILCS 175/5-120.) To file an electronic document on behalf of another person in an adjudicatory proceeding, an electronic signature of a licensed and registered attorney is required. (See Section 101.400(a) ~~of this Part.~~)
- c) If an electronic document or portion thereof requires the signatures of any persons in addition to those specified in subsection (b) ~~of this Section~~ (e.g., settlement agreement, witness' affidavit), the person authorizing the filing must:
- 1) Confirm that the additional persons have approved the document or corresponding portion thereof and obtain their original pen-and-ink signatures before the document is uploaded on COOL for filing;
 - 2) Ensure that the document or corresponding portion thereof bears the facsimile electronic signatures of, and indicates the identity of, the additional persons;
 - 3) Upload the document on COOL as a scanned image containing the necessary signatures; and
 - 4) Retain the paper original of the document, including the original pen-and-ink signatures of the additional persons, for one year after the later of the following:
 - A) The date on which the time period expires for appealing the final order of the Board; or

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- B) If the final order of the Board is appealed, the date on which the time period expires for seeking any further review in the courts.
- d) ~~In lieu of complying with subsection (e) of this Section, the person authorizing the filing may file the paper original of the document, including the original pen and ink signatures of the additional persons, and separately file the document through COOL without the facsimile electronic signatures of the additional persons (see Section 101.1020(e)(2) of this Subpart).~~

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.1020 Filing Electronic Documents

- a) COOL. To file an electronic document through COOL, the document must first be uploaded on COOL.
- b) Digital Signature Certificate. Uploading a document on COOL requires a valid State of Illinois digital signature certificate.
- c) Uploading Hours. Electronic documents may be uploaded on COOL 24 hours per day, every day.
- d) E-Mail Receipt. Uploading a document on COOL will generate an e-mail receipt for the digital signature certificate holder. The receipt will verify the date and time when the document was uploaded on COOL.
- e) Time of Filing. Subject to subsection (f) ~~of this Section~~, an electronic document uploaded on COOL will be considered filed as of the date and time specified on the e-mail receipt generated ~~underpursuant to~~ subsection (d) ~~of this Section~~, except that:
- 1) A document uploaded on a Saturday or Sunday, on a national or State legal holiday, or after 4:30 p.m. on a weekday is deemed filed the next business day.
 - 2) A document uploaded without one or more portions of the filing (e.g., oversized exhibit; trade secret or non-disclosable information; copyrighted document proposed for incorporation by reference in a rule) or without a

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

required oath, affidavit, notarization, signature, or filing fee is considered filed:

- A) On the date that the Clerk receives the document's last missing item; or
 - B) On the postmark date of the document's last missing item if that item was sent by U.S. Mail, was received after the date of a filing deadline, and has a postmark date that precedes or is the same as the deadline date.
- 3) A document consisting of multiple electronic files is considered filed as of the date and time specified on the e-mail receipt generated ~~underpursuant to~~ subsection (d) ~~of this Section~~ for the last file uploaded to complete the document.
- f) Review by the Clerk. The Clerk will review electronically each document uploaded on COOL, validate the proceeding information provided, and accept or reject the document for filing.
- 1) If the Clerk accepts an uploaded document, the Clerk's Office will e-mail a notice of acceptance to the digital signature certificate holder, indicating that the filed document may be viewed on COOL.
 - 2) If the Clerk rejects an uploaded document, the Clerk's Office will e-mail a notice of rejection to the digital signature certificate holder. The Clerk may reject an uploaded document because the document is prohibited from being filed electronically ~~underpursuant to~~ Section 101.302(h)(3) or (h)(4) ~~of this Part~~, the document fails to comply with file size or naming requirements of Section 101.1030(c) ~~of this Subpart~~, or the document is corrupted or otherwise cannot be readily opened. If an uploaded document is rejected by the Clerk, the Board may, upon good cause shown, enter an order deeming the document filed as of the date and time specified when the document was uploaded on COOL, subject to subsections (e)(1) through (e)(3) ~~of this Section~~.
- g) Technical Failure. If an electronic document is not uploaded, or is materially delayed in uploading, on COOL due to a technical failure, the Board may, upon good cause shown, enter an order deeming the document uploaded ~~underpursuant~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~to~~ subsection (d) ~~of this Section~~ as of the date and time of the first attempted uploading. "Technical failure" as used in this subsection is limited to a system outage of COOL or other malfunction of the hardware, software, or telecommunications facilities of the Board or the Board's electronic filing provider. "Technical failure", therefore, does not include any malfunction of the equipment used by the person authorizing the filing or the digital signature certificate holder.

- h) Clerk's Electronic Stamp. An electronic document uploaded on COOL and accepted by the Clerk for filing will be endorsed by the Clerk with a file stamp setting forth the date of filing. This file stamp will be merged with the electronic document and visible when the document is viewed on COOL. Electronically filed documents so endorsed have the same legal effect as paper documents file-stamped by the Clerk conventionally in accordance with Section 101.300(b) ~~of this Part~~.
- i) Decision Deadlines. For purposes of Board decision deadlines, the decision period does not begin until the date on which the electronic document constituting the initial filing is considered filed under this Section.
- j) Filing Deadlines. The electronic filing of a document does not alter any applicable filing deadlines.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.1030 Form of Electronic Documents for Filing

- a) In addition to complying with the formatting requirements of Section 101.302(g) and (j) ~~of this Part~~, electronic documents uploaded on COOL for filing must be in one of the following electronic formats:
 - 1) Adobe Portable Document Format (PDF), version 2.0 or greater;
 - 2) Microsoft Word for Windows, version 6.0 or greater;
 - 3) Corel WordPerfect for Windows, version 6.0 or greater; or
 - 4) Microsoft Excel for Windows, version 4.0 or greater.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- b) Generally, electronic documents filed in accordance with this Subpart will be posted to COOL by the Clerk's Office in text-searchable Adobe PDF. When practicable, persons should:
- 1) Upload their electronic documents on COOL in text-searchable Adobe PDF; and
 - 2) Convert their electronic documents to a text-searchable Adobe PDF directly from the program used to create the document, rather than from a scanned image of the paper document.
- c) No single electronic file uploaded on COOL, whether constituting all or part of an electronic document, may contain more than 10 megabytes (MB) of data. To comply with this requirement, an electronic document may be divided into parts and submitted as multiple electronic files, each file being 10 MB or less. The person authorizing the filing is responsible for dividing the document into appropriately-sized files and naming each file to reflect its place within the electronic document.
- d) Multiple electronic documents, whether for the same proceeding or different proceedings, must be uploaded separately on COOL and, therefore, must not be combined into a single electronic file for filing through COOL.
- e) Electronic documents may contain links to material external to the filed document. However, links to external material are for convenience purposes only. The external material behind the link is not considered part of the filing or the record of the proceeding in which the document was filed.
- f) All documents uploaded on COOL must be free of viruses or other harmful processes. If an electronic document containing a virus or other harmful process is uploaded on COOL, the Board may, consistent with Section 101.800(b) and (c) ~~of this Part~~, impose sanctions, including barring the document from being filed in any manner and barring the person authorizing the filing or the digital signature certificate holder from any further electronic filing through COOL.
- g) Documents filed under Section 101.302(h)(2) must:
- 1) Include bookmarks, immediately viewable when the document is opened, to individual documents in the same order as they appear in the

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

[corresponding Table of Contents to facilitate navigation and location of specific contents within the record; and](#)

- 2) [Pagination must be displayed on each document in the bottom right-corner.](#)

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.1040 Filing Fees

- a) Filing fees are specified in Section 101.302(e) ~~of this Part~~. The Clerk's Office imposes no additional fee to file a document electronically.
- b) A person seeking to file an electronic document that requires a filing fee must either:
 - 1) Pay the fee with a valid credit card through COOL when the document is uploaded on COOL; or
 - 2) Deliver payment to the Clerk's Office in the form of government voucher, money order, or check made payable to the Illinois Pollution Control Board.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 101.1050 Documents Required in Paper or Excluded from Electronic Filing

- a) A document containing information claimed or determined to be a trade secret, or other non-disclosable information ~~underpursuant to~~ 35 Ill. Adm. Code 130, is prohibited from being filed electronically and must instead be filed only in paper ~~underpursuant to~~ Section 101.302(h)(3) ~~of this Part~~. The version of the document that is redacted ~~underpursuant to~~ 35 Ill. Adm. Code 130 may be filed through COOL.
- b) If a rulemaking proposal contains a document that is protected by copyright law (17 USC 101 et seq.) and proposed ~~underpursuant 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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

~~underpursuant to~~ Section 101.302(h)(4) ~~of this Part~~. The remainder of the rulemaking proposal may be filed through COOL.

(Source: Amended at 41 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 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.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 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 ~~underpursuant 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 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 41 Ill. Reg. _____, effective _____)

Section 101.1070 Consenting to Receipt of E-Mail Service

- a) In any proceeding, a person consents to e-mail service of documents in lieu of receiving paper documents by:
- 1) Filing a "Consent to Receipt of E-Mail Service" (see sample form of consent in Appendix I);
 - 2) Providing the hearing officer, during a hearing or conference, with an e-mail address that is designated for receiving service;
 - 3) Filing an attorney's appearance ~~containing an e-mail address that is designated for receiving service~~; or
 - 4) Appearing on a notice list or service list and providing the Clerk's Office with an e-mail address that is designated for receiving service.
- b) At any time during a proceeding, consent to e-mail service may be provided as set forth in subsection (a). 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. However, an attorney who filed an appearance may not revoke consent unless the appearance is withdrawn.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- d) Upon a change in the e-mail address of a recipient of e-mail service, the recipient must notify 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 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 101.APPENDIX A Captions

Section 101.ILLUSTRATION L Site-specific Rulemaking

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

IN THE MATTER OF:)	
)	
PROPOSED SITE SPECIFIC WATER	)	Rxx-xxx
POLLUTION REGULATIONS	)	(Site-Specific Rulemaking-X)
APPLICABLE TO XYZ)	
UTILITIES COMPANY OF ILLINOIS)	
DISCHARGE TO XYZ CREEK:)	
35 Ill. Adm. Code)	

BOARD NOTE: The Board notes that all docket numbers consist of letter(s) followed by two numbers. The first two digit number is the fiscal year the matter was filed. Then the second number is the sequential number for that type of filing the Board has received that year. Persons making filings are not responsible for the Board docket number on the original filing. The Clerk of the Board will assign the appropriate docket number when the matter is filed. All filings in a matter that has been assigned a docket number ~~must~~ contain a docket number located as indicated on the examples above. The Board will also be designating its opinion and orders with the type of case and media involved in the matter. Where the above examples have the type of case followed by "X", the Board will, for example if the case is dealing with a variance from certain water regulations, put the media, water, after variance to become "Variance-Water". Again, persons making filings need not place this on original filings. However, all filings in a matter that has been assigned the media ~~must~~ indicate that media in the location as in the above examples. Where there are specific procedural rules developed for specific types of cases, as in a "UST Appeal", persons making filings ~~must~~ follow those examples.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

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>
102.100	Amendment
102.106	Amendment
102.108	Amendment
102.110	Repealed
102.112	Amendment
102.114	Amendment
102.202	Amendment
102.204	Amendment
102.206	Amendment
102.210	Amendment
102.211	Amendment
102.212	Amendment
102.300	Amendment
102.302	Amendment
102.306	Amendment
102.400	Amendment
102.402	Amendment
102.408	Amendment
102.410	Amendment
102.412	Amendment
102.414	Amendment
102.416	Amendment
102.418	Amendment
102.422	Amendment
102.424	Amendment
102.502	Amendment
102.504	Amendment
102.604	Amendment
102.606	Amendment
102.608	Amendment
102.614	Amendment
102.706	Amendment
102.820	Amendment
102.830	Amendment

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 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: Prompted by a recognition that some of its rules were no longer current due to changing technology and the passage of time, the Board began planning a broad review of all its rules, with a view of streamlining, updating and overhauling its regulation. Governor Rauner's Executive Order 2016-13 has provided additional impetus to the Board's initiative. The proposal makes technical changes to the rule as well as changes in response to recently passed legislation.
- 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 R17-18 and be addressed to:

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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 R17-18 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.

- 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: January 2017

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 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 (Repealed)
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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 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 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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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), 22.7(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), 22.7(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. 7955, effective May 20, 2016; amended in R17-18 at 41 Ill. Reg. _____, effective _____.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART A: GENERAL PROVISIONS

Section 102.100 Applicability

- a) This Part applies to all regulatory and informational hearings and proceedings, and must be read in conjunction with 35 Ill. Adm. Code 101. Hearings conducted ~~under pursuant to~~ this Part are quasi-legislative in nature and the purpose of the hearings is to gather information and comments to guide the Board in its rulemaking process. All testimony must be sworn.
- b) All persons taking part in these hearings are participants, rather than parties as in contested cases. Non-attorneys may represent themselves and others at regulatory hearings and may ask questions of witnesses or give testimony or comment as allowed by the hearing officer.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.106 Types of Regulatory Proposals

- a) The Act provides for 5 types of regulatory proposals:
 - 1) Identical-in-substance rulemakings, as defined in Sections 7.2, 13.3, 28.2 and 28.4 of the Act [415 ILCS 5/7.2, 13.3, 28.2, and 28.4];
 - 2) Federally required rules, as defined in Section 28.2 of the Act [415 ILCS 5/28.2];
 - 3) Other regulatory proposals, both of general applicability and not of general applicability as allowed by Sections 26, 27 and 28 of the Act [415 ILCS 5/26, 27, and 28];
 - 4) Clean Air Act fast track rulemakings as defined by Section 28.5 of the Act [415 ILCS 5/28.5]; and
 - 5) Rulemakings to update incorporations by reference, as allowed by Section 28.6 of the Act [415 ILCS 5/28.6].
- b) The IAPA provides for three types of rulemakings:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) General rulemaking ~~under pursuant to~~ Section 5-40 of the IAPA [5 ILCS 100/5-40];
- 2) Emergency rulemaking ~~under pursuant to~~ Section 5-45 of the IAPA [5 ILCS 100/5-45]; and
- 3) Peremptory rulemaking ~~under pursuant to~~ Section 5-50 of the IAPA [5 ILCS 100/5-50].

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.108 Public Comments

- a) The Board will accept written comments from any person concerning a regulatory proposal during the first notice period as defined in Section 102.604 ~~of this Part~~. However, when adopting identical-in-substance regulations, the Board will accept written comments from USEPA and other persons for at least 45 days after the date of publication of the proposed regulations or amendments in the Illinois Register in accordance with Section 102.610 ~~of this Part~~.
- b) Any person may submit written comments on any proposal within 14 days after the receipt of the hearing transcript in Board offices unless otherwise specified by the hearing officer or the Board.
- c) Comments must be filed with the Clerk and served in accordance with 35 Ill. Adm. Code 101.Subpart C; upon the ~~Environmental Protection Agency (Agency), Department of Natural Resources (DNR)~~, the Attorney General (if a participant), the proponent, and the participants on any service list established by the hearing officer ~~under pursuant to~~ Section 102.422 ~~of this Part~~ unless otherwise specified by the hearing officer or the Board.
- d) Comments that are not timely filed or properly served will not be considered, except as allowed by the hearing officer or the Board to prevent material prejudice.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.110 Waiver of Requirements (Repealed)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~The Board may waive any of the non-statutory requirements of this Part upon a showing by a person that a particular requirement would create an undue burden on that person such as where the burden of compliance imposes financial costs that would preclude further participation, or where compliance would result in the provision of information already provided in that proceeding.~~

(Source: Repealed at 41 Ill. Reg. _____, effective _____)

Section 102.112 Other Proceedings

~~Under Pursuant to~~ Section 5(d) of the Act or other applicable law, the Board may conduct such other noncontested or informational hearings as may be necessary to accomplish the purposes of the Act or other applicable law. The hearings may include inquiry hearings to gather information on any subject the Board is authorized to regulate.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.114 Hearings

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

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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

Section 102.202 Proposal Contents for Regulations of General Applicability

~~A Each proponent must set forth the following in its proposal~~ must include:

- a) The language of the proposed rule, including any existing regulatory language proposed to be amended or repealed. Language being added must be indicated by underscoring, and language being deleted must be indicated by strike-outs. The proposed rule must be drafted in accordance with 1 Ill. Adm. Code 100.Subpart C;
- b) A statement of the reasons supporting the proposal, including a statement of the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

facts that support the proposal, and a statement of the purpose and effect of the proposal, including environmental, technical, and economic justification. The statement must discuss the applicable factors listed in Section 27(a) of the Act. The statement must include, to the extent reasonably practicable, all affected sources and facilities and the economic impact of the proposed rule;

- c) A synopsis of all testimony to be presented by the proponent at hearing;
- d) Any material to be incorporated by reference within the proposed rule under ~~pursuant to~~ Section 5-75 of the IAPA [5 ILCS 100/5-75];
- e) *A descriptive title or other description of any published study or research report used in developing the rule, the identity of the person who performed such study, and a description of where the public may obtain a copy of any such study or research report. If the study was performed by an agency or by a person or entity that contracted with the agency for the performance of the study, the agency shall also make copies of the underlying data available to members of the public upon request if the data are not protected from disclosure under the Freedom of Information Act [5 ILCS 140]. [5 ILCS 100/5-40(3.5)];*
- f) Documentation of service upon all persons required to be served under pursuant ~~to~~ Section 102.422 ~~of this Part~~;
- g) Unless the proponent is the Agency or DNR, a petition signed by at least 200 persons, under pursuant to Section 28 of the Act and Section 102.410(b) ~~of this Part~~;
- h) When the Agency proposes a rule it believes is federally required, a certification in accordance with Section 102.500 ~~of this Part~~;
- i) For a proposed rule that amends an existing Board rule, a written statement or certification that the proposal amends the most recent version of the rule as published on the Board's Web site or as obtained from the Clerk;
- j) An ~~When the proponent is a State agency, an~~ electronic version of the proposed rule language information required under subsection (a) ~~of this Section~~ in the format specified in 35 Ill. Adm. Code 101.1030 ~~Microsoft Word for Windows, version 6.0 or greater~~; and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- k) When any information required under this Section is inapplicable or unavailable, a complete justification for the inapplicability or unavailability.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.204 Proposal of RCRA Amendments

In addition to satisfying the requirements of Section 102.202 ~~of this Part~~, any proposal to amend the RCRA regulations must:

- a) Indicate whether it is made ~~under pursuant to the provisions of~~ Section 22.4(a), 22.4(b) or 22.4(c) of the Act;
- b) Include a listing of all amendments to the corresponding federal regulations since the period encompassed by the last amendment of the Board's RCRA rules; and
- c) Include a certificate of service indicating that a copy of the proposal has been served on the USEPA. Service must be made at the following address:

Director, Waste Management Division
USEPA, Region V
77 W. Jackson Street
Chicago, Illinois 60604

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.206 Notice of Site-Specific RCRA Proposals

- a) Public notice of hearings on site-specific RCRA proposals will be given at least 30 days before the date of the hearing.
- b) In addition to the requirements of Section 28 of the Act, the Board, at a minimum, will give notice of hearings on a site-specific RCRA proposal to the following persons:
- 1) Federal agencies as designated by the USEPA;
 - 2) Illinois Department of Transportation;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 3) ~~DNR 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 closest population center to the facility.
- c) In addition to the methods of notice by publication of Section 28 of the Act and Section 102.416 ~~of this Part~~, the Board will give notice by broadcast over at least one radio station in the area of the facility containing the information required by ~~Section 102.416 subsections (d)(2) and (d)(4) through (d)(8) of this Section~~.
- d) A hearing notice on a site-specific RCRA proposal will include the following information:
- 1) The address of the Board office;
 - 2) Name and address of the proponent and, if different, of the facility for which the site-specific rule is sought;
 - 3) A brief description of the business conducted at the facility and the activity described in the proposal;
 - 4) A description of the relief requested in the proposal;
 - 5) 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 proposal;
 - 6) The name, address, e-mail address, and telephone number of the Agency's representative in the rulemaking;
 - 7) A description of any written comment period or a statement that a comment period will be established in the future;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 8) A statement that the record in the rulemaking is available at the Board office for inspection, except those portions that are claimed or determined to be trade secrets, and that procedures are available whereby disclosure may be sought by the public. Any such claim must be made in accordance with 35 Ill. Adm. Code 130;
- 9) A statement that site-specific rules may be adopted ~~under pursuant to~~ 415 ILCS 5/27 and Section 102.202 ~~of this Part~~, and a citation to the Board regulations sought to be modified; and
- 10) Any additional information considered necessary or proper.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.210 Proposal Contents for Site-Specific Regulations

Proponents of site-specific regulations other than those relating to RCRA must comply with the requirements of Section 102.202 ~~of this Part~~ in addition to the following requirements:

- a) ~~The proposal must set forth the language of the proposed site-specific rule, including any existing regulatory language proposed to be amended or repealed. Language being added must be indicated by underlining and language being deleted must be indicated by strike-outs.~~ If the proposed site-specific rule seeks an exemption from or modification of a rule of general applicability, the proposed site-specific rule may not be proposed as an amendment to the general rule. Instead, the site-specific rule must be proposed as its own Section;
- b) In the event that the proposed rule would replace the applicability of a general rule to the pollution source, the proposal must specify, with supporting documentation, the reasons why the general rule is not technically feasible or economically reasonable for the person or site. The documentation must include relevant information on other similar persons' or sites' ability to comply with the general rule. Where relevant to the Board's consideration, the proposal must also include information pertaining to *existing physical conditions, the character of the area involved, including the character of surrounding land uses, zoning classifications, and the nature of the existing air quality or receiving body of water* [415 ILCS 5/27(a)];
- c) *A descriptive title or other description of any published study or research report*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

used in developing the rule, the identity of the person who performed such study, and a description of where the public may obtain a copy of any such study or research report. If the study was performed by an agency or by a person or entity that contracted with the agency for the performance of the study, the agency shall also make copies of the underlying data available to members of the public upon request if the data are not protected from disclosure under the Freedom of Information Act [5 ILCS 140]. [5 ILCS 100/5-40(3.5)];

- d) The proposal must describe the person or site for which regulatory change is sought and the area affected by the proposed change. The proposal must also include a detailed assessment of the environmental impact of the proposed change, and include a description of available treatment or control options;
- e) The proposal must demonstrate that the Board may grant the requested relief consistent with federal law governing the subject of the proposal (e.g., Underground Injection Control program, Resource Conservation and Recovery Act, etc.); and
- ~~f) When the proponent is a State agency, the proponent also must provide an electronic version of the information required under subsection (a) of this Section in Microsoft Word for Windows, version 6.0 or greater; and~~
- ~~fg) When any information required under this Section is inapplicable or unavailable, the proposal must provide a complete justification for the inapplicability or unavailability.~~

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.211 Proposal to Update Incorporations by Reference

- a) *Any person may file a proposal with the Board to update an incorporation by reference included in a Board rule. The Board or the Agency may also make such a proposal on its own initiative. [415 ILCS 5/28.6(a)] The proposal must be filed with the Clerk in accordance with 35 Ill. Adm. Code 101.302(h) and served on the Agency, DNR, and the Attorney General in accordance with 35 Ill. Adm. Code 101.304(c).*
- b) *A rulemaking to update an incorporation by reference under this Section must:*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) *Be for the sole purpose of replacing a reference to an older or obsolete version of a document with a reference to the current version of that document or its successor document; and*
- 2) *Comply with Sections 5-40 and 5-75 of the IAPA [5 ILCS 100/5-40, 5-75]. [415 ILCS 5/28.6(b), (c)]*
- c) *Sections 27 and 28 of the Act [415 ILCS 5/27, 28] do not apply to rulemaking under this Section. [415 ILCS 5/28.6(c)] Accordingly, for rulemaking under this Section, the Board will not hold any public hearings nor request that the Department of Commerce and Economic Opportunity conduct a study of the economic impact of the proposed amendment.*
- d) A proposal to update an incorporation by reference under this Section must:
 - 1) Include a statement of the reasons supporting the proposal, including a statement of the facts that support the proposal, and a statement of the purpose and effect of the proposal;
 - 2) Comply with subsections (a), (d), (e), (f), (i), and (j) of Section 102.202 ~~of this Part~~; and
 - 3) When any information required under this subsection (d) is inapplicable or unavailable, the proposal must provide a complete justification for the inapplicability or unavailability.
- e) *If an objection to the proposed amendment is filed during the public comment period required under Section 5-40 of the IAPA [5 ILCS 100/5-40], then the proposed amendment cannot be adopted pursuant to this Section. [415 ILCS 5/28.6(d)]*
- f) *Nothing in this Section precludes the adoption of a change to an incorporation by reference through other lawful rulemaking procedures. [415 ILCS 5/28.6(d)]*

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.212 Dismissal

- a) Failure of the proponent to satisfy the content requirements for proposals under

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

this Subpart or failure to respond to Board requests for additional information will render a proposal subject to dismissal for inadequacy.

- b) Failure of the proponent to pursue disposition of the proposal in a timely manner will render a proposal subject to dismissal. In making this determination, the Board will consider factors including the history of the proceeding and the proponent's compliance with any Board or hearing officer orders.
- c) A proposal will be dismissed for inadequacy in cases in which the Board, after evaluating the proposal, cannot determine the statutory authority on which the proposal is made. ~~In all such cases, a statement informing the proponent of the Board's basis for dismissal will be made.~~ Dismissal of a proposal will not bar a proponent from re-submitting a proposal in the absence of any deadline imposed by applicable law or Board regulations.
- d) Any person may file a motion challenging the statutory authority or sufficiency of the proposal ~~under pursuant to~~ 35 Ill. Adm. Code 101.Subpart E.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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

Section 102.300 Applicability

This Subpart applies to ~~the adoption of~~ rules proposed by the Agency and required to be adopted by the State under the Clean Air Act as amended by the Clean Air Act Amendments of 1990 (CAAA). A "fast-track" rulemaking proceeding is a proceeding to promulgate a rule that the CAAA requires to be adopted. For purposes of this Section, "requires to be adopted" refers only to those regulations or parts of regulations for which the United States Environmental Protection Agency is empowered to impose sanctions against the State for failure to adopt such rules. [415 ILCS 5/28.5(a), (c)]

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.302 Agency Proposal

- a) When proposing a regulation required by the CAAA, the Agency proposal must meet the following requirements:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Set ~~The proposal must set~~ forth the proposed rule, which must be drafted in accordance with 1 Ill. Adm. Code 100.Subpart C;
- 2) Include ~~The proposal must have~~ a cover sheet that prominently states that the Agency proposes the rule under Section 28.5 of the Act, *unless another provision of the Act specifies the method for adopting a specific rule* [415 ILCS 5/28.5(c)];
- 3) Clearly ~~The proposal must clearly~~ identify the provisions and portions of the federal statute, regulations, guidance, policy statement, or other documents upon which the rule is based [415 ILCS 5/28.5(e)(3)];
- 4) Include ~~The proposal must include~~ supporting documentation for the rule that summarizes the basis of the rule [415 ILCS 5/28.5(e)(4)];
- 5) Describe ~~The proposal must describe~~ in general the alternative selected and the basis for the alternative [415 ILCS 5/28.5(e)(5)];
- 6) Summarize ~~The proposal must summarize~~ the economic and technical data that the Agency relied upon in drafting the proposed rule;
- 7) Include ~~The proposal must include~~ a list of any documents that the Agency directly relied upon in drafting the proposed rule or that the Agency intends to rely upon at hearing, and copies of the documents;
- 8) Set ~~The proposal must set~~ forth a description of the geographical area to which the rule is intended to apply, a description of the process or processes affected, and identification by classes of the entities expected to be affected, and a list of sources expected to be affected by the rule to the extent known to the Agency [415 ILCS 5/28.5(e)(8)];
- 9) Include a ~~A~~ descriptive title or other description of any published study or research report used in developing the rule, the identity of the person who performed such study, and a description of where the public may obtain a copy of any such study or research report. *If the study was performed by an agency or by a person or entity that contracted with the agency for the performance of the study, the agency shall also make copies of the underlying data available to members of the public upon request if the*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

data are not protected from disclosure under the Freedom of Information Act [5 ILCS 140]. [5 ILCS 100/5-40(3.5)]; and

- 10) ~~Include The proposal must include~~ an electronic version of the information required under subsection (a)(1)~~-of this Section~~ in Microsoft Word for Windows, version 6.0 or greater.
- b) If the proposal fails to meet any of the requirements of subsection (a)~~-of this Section~~, the Board may decide not to accept the proposal for filing.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.306 Prefiled Testimony

- a) The hearing officer will close the service list for purposes of prefiled testimony at 4:30 p.m. 16 days before the date of hearing.
- b) Ten days before the hearing, copies of prefiled testimony must be filed with the Clerk and served upon all people who are on the service list as closed under ~~pursuant to~~ subsection (a)~~-of this Section~~.
- c) The Board may grant a waiver of the prefiling deadline or service requirement for good cause.
- d) Participants who do not pre-file their testimony will only be allowed to testify if time remains in that hearing day. The hearing will not be continued from day to day to accommodate participants who do not prefile.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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

Section 102.400 Service and Filing of Documents

All documents must be served and filed in accordance with 35 Ill. Adm. Code 101.~~Subparts~~Subpart C and J.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.402 Motions, Production of Information, and Subpoenas

Motion practice, production of information and the issuance of subpoenas in regulatory proceedings is governed by 35 Ill. Adm. Code 101. All motions and responses must be filed with the Board and served upon the hearing officer, the proponent, the Agency, and all persons on any service list established ~~under pursuant to~~ Section 102.422(b) ~~of this Part~~.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.408 Prehearing Order

- a) *No record need be kept of the prehearing conference, nor shall any participant or the Board be bound by any discussions conducted at the prehearing conference* [415 ILCS 5/27(d)].
- b) Notwithstanding subsection (a) ~~of this Section~~, *with the consent of all participants in the prehearing conference, the hearing officer may enter a prehearing order delineating issues to be heard, agreed facts, and other matters* [415 ILCS 5/27(d)].
- c) If the participants in the prehearing conference agree to have a prehearing order entered ~~under pursuant to~~ subsection (b) ~~of this Section~~, the hearing officer may require that those participants furnish a draft of a proposed order setting forth the substance of the agreements reached at the prehearing conference. The hearing officer will enter that order if he agrees that it sets forth the substance of the agreement. The order will identify which participants have agreed to the substance of the order.
- d) *A prehearing order will not be binding on non-participants in the prehearing conference* [415 ILCS 5/27(d)].

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.410 Authorization of Hearing

- a) ~~The Clerk will assign a docket number to any proposal.~~ All regulatory proposals will be placed on the Board agenda for determination of adequacy under the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

applicable law and this Part. The proponent must cure any inadequacy identified by Board order before the proposal will proceed to hearing.

- b) The Board will schedule a hearing on a proposal if it finds that the proposal is *supported by an adequate statement of reasons, is accompanied by a petition signed by at least 200 persons, is not plainly devoid of merit and does not deal with a subject on which a hearing has been held within the preceding six months* [415 ILCS 5/28(a)].
- c) In accordance with Section 28(a) of the Act, if a proposal is made by the Agency, or DNR, *the Board shall schedule a public hearing without regard to the above conditions* in subsection (b) ~~of this Section~~ as soon as practicable [415 ILCS 5/28(a)].
- d) ~~Under Pursuant to~~ Section 28 of the Act, *the Board may also in its discretion schedule a public hearing upon any proposal without regard to the above conditions* in subsection (b) ~~of this Section~~ [415 ILCS 5/28(a)].
- e) If the Board determines that a proposal meets the requirements of subsection (b) ~~of this Section~~ or is otherwise adequate under applicable law, and if any required filing fee has been paid, the Board will issue an order accepting the proposal for hearing. Such an order will be construed as starting the time clock for purposes of any first notice publication deadlines ~~underpursuant to~~ Sections 28.2 and 28.5 of the Act.
- f) When the Board authorizes a hearing, the Chairman will designate one or more attending Board members and a qualified hearing officer. A member of the Board may serve as hearing officer if otherwise qualified.
- g) The Board may consolidate proposals for hearing or decision.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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. Except as otherwise provided by applicable law, *in the*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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 ~~under pursuant to~~ Section 102.108, is necessary.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.414 Hearings on the Economic Impact of New Proposals

- a) In accordance with Section 27(b) of the Act, except as otherwise provided by applicable law, before the adoption of any proposed rules, *the Board shall request that the Department of Commerce and ~~Economic Opportunity~~ Economic Opportunity conduct a study of the economic impact of the proposed rules. The Board shall conduct at least one public hearing on the economic impact of those new 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~~ Economic Opportunity's explanation for not producing an economic impact study, available to the public. Such public hearing may be held simultaneously or as a part of any Board hearing considering such new rules. In adopting any such new rule, the Board shall, in its written opinion, make a determination, based upon the evidence in the public hearing record, including, but not limited to, the economic impact study, as to whether the proposed rule has any adverse economic impact on the people of the State of Illinois.* [415 ILCS 5/27(b)]
- b) If information of the economic impact of a proposed regulation is given at a general hearing on the proposal, the Board need not hold a special hearing on only the economic impact.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.416 Notice of Hearing

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) The hearing officer will set a time and place for hearing. The Clerk will give notice 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 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) Hearings that are continued on the hearing record for a period of 45 days or less do not require notice that complies with subsection (a), (b), or (c) ~~of this Section~~.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.418 Record

All oral testimony will be recorded stenographically. The proposal and all attachments, the transcript, all written testimony, all exhibits admitted in connection with the hearing, and all written submissions filed with the Clerk under Section 102.108 ~~of this Part~~ before or after the close of the hearing will constitute the record.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 102.422 Notice and Service Lists

- a) The Clerk's Office will maintain a notice list for each regulatory proceeding. The notice list will consist of those persons who have furnished their names and addresses to the Clerk's Office concerning the proposal. The Clerk will serve a copy of all Board orders and hearing officer orders upon the persons appearing 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 hearing officer, participants must serve copies of all their respective filings upon the persons appearing on the service list. In deciding whether to establish a service list, factors that the hearing officer will consider include 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 41 Ill. Reg. _____, effective _____)

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

- a) The proponent must file all written testimony and any related exhibits 21 days before 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 filing of testimony, questions, responses, and any related exhibits by the proponent or participants other than the proponent if the hearing officer determines that the procedure will provide for a more efficient hearing.
- c) All prehearing testimony, questions, 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 hearing officer, the Agency, the Attorney General's Office, DNR, the proponent, and each participant appearing on any

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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, responses, and any related exhibits must be labeled with the docket number of the proceeding, the name of the witness corresponding to the material, and the title of the material.
- e) The proponent and each participant who has filed testimony, questions, responses, or any related exhibits before hearing must bring to the hearing the number of paper copies of the material that the hearing officer designates.
- f) Testimony, questions, and responses that are timely filed before the 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 read at the hearing. All persons testifying will be sworn and subject to cross-examination. Modifications to prehearing documents may be allowed by the hearing officer at the hearing if the modifications are either nonsubstantive 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 filing of testimony, questions, responses, and any related exhibits is required ~~under pursuant to~~ subsection (a) or (b), material that is not timely filed will be allowed at the hearing only if time permits and the hearing officer determines that allowing the material 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.
- 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 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART E: CERTIFICATION OF REQUIRED RULES

Section 102.502 Challenge to Agency Certification

- a) If any person wishes to challenge the Agency's certification that a proposed rule is a required rule, that person must file an objection to that certification within 21 days after the date of the Board's order accepting a proposal for hearing. The objection must state the reasons that the objector believes that the proposed rule is not a required rule, and must include all arguments that the objector wishes the Board to consider. A copy of the objection must be served upon the Agency, the Attorney General's Office, and DNR.
- b) The Agency may file a response to any objection within 14 days after the service of that objection. No reply by the objector will be allowed, unless the Board orders otherwise to avoid material prejudice.
- c) No hearing will be held on any objection filed ~~under pursuant to~~ this Section.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.504 Board Determination

- a) The Board will rule upon any objection filed ~~under pursuant to~~ this Subpart within 60 days after the date that the Board accepts a proposal for hearing.
- b) In ruling upon an objection to an Agency certification, the Board will consider all information in the record of that proceeding, including the proposal, the objection, and the Agency response to the objection. The burden of proof is on the objector.
- ~~e) The Board will give notice of its determination to the objector, the Agency, DNR, and any person who has asked to be placed on the notice list pursuant to Section 102.422 of this Part for that proposal.~~
- ~~d) Orders entered pursuant to this Section are interlocutory in nature and may be appealed only pursuant to 35 Ill. Adm. Code 101.308.~~

(Source: Amended at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART F: BOARD ACTION

Section 102.604 First Notice of Proposed Regulations

Except when otherwise directed by applicable law, the Board will give first notice of its proposed adoption, amendment, or repeal of regulations ~~under pursuant to~~ Section 5-40 of the IAPA [5 ILCS 100/5-40]. The first notice period will be at least 45 days, and will begin on the day that first notice is published in the Illinois Register. The Board will accept written comments from any person concerning the proposed regulations during the first notice period.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.606 Second Notice of Proposed Regulations

- a) Except when otherwise directed by applicable law, the Board will give second notice of its proposed adoption, amendment, or repeal of regulations to JCAR. The second notice period will begin on the date written notice is received by JCAR, and will expire 45 days after that date, except as provided by Section 5-40 of the IAPA [5 ILCS 100/5-40]. The Board will accept comments only from JCAR during the second notice period.
- b) After the beginning of the second notice period, no substantive changes will be made to the proposed regulation, except in response to objections or suggestions from JCAR. Those changes will be made ~~under pursuant to~~ Section 102.600 ~~of this Part~~.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.608 Notice of Board Final Action

The Board will give notice of its final action on a proposal to the proponent, the Agency, DNR, the Attorney General, and all persons on the notice list. The Board will publish notice of its final action ~~in the Environmental Register and~~ on its ~~website~~ ~~Web site~~, and will enter a written opinion stating the reasons in support of its final action.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.614 Adoption of Peremptory Regulations

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) When the Board finds that a peremptory rulemaking is necessary ~~under pursuant to~~ Section 5-50 of the IAPA, and states in writing its reasons for that finding, the Board will adopt that peremptory rulemaking upon filing a notice of rulemaking with the Secretary of State ~~under pursuant to~~ Section 5-70 of the IAPA.
- b) Notice of the peremptory rulemaking will be published in the Illinois Register in accordance with Section 5-50 of the IAPA.

(Source: Amended at 41 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)), ~~under pursuant to~~ Sections 29 and 41 of the Act [415 ILCS 5/29 and 41].

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART H: OUTSTANDING RESOURCE WATER DESIGNATION

Section 102.820 Petition Contents

Each proponent must set forth the following information in its proposal:

- a) The language of the proposed rule, amendment, or repealer identifying the surface water body or water body segment being proposed for designation, amendment, or repeal as an ORW. Language being added must be indicated by underscoring, and language being deleted must be indicated by strike-outs. The proposed rule must be drafted in accordance with 1 Ill. Adm. Code 100.Subpart C;
- b) A statement describing the specific surface water body or water body segment for which the ORW designation, amendment, or repeal is requested and the present designation of the surface water body or water body segment;
- c) A statement describing the area in which the specific surface water body or water body segment exists, including:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) The existence of wetlands or natural areas;
- 2) The living organisms in that area, including endangered or threatened species of plants, aquatic life or wildlife listed ~~under pursuant to~~ the Endangered Species Act (16 USC 1531 et seq.) or the Illinois Endangered Species Protection Act [41 ILCS 10];
- d) A statement supporting the designation, the amendment, or the repeal, including the health, environmental, recreational, aesthetic or economic benefits of the designation, the amendment, or the repeal ~~thereof~~;
- e) A statement identifying the anticipated impact on economic and social development of the ORW designation, amendment, or repeal. This statement ~~must should~~ include:
 - 1) Impacts on the regional economy;
 - 2) Impacts on regional employment;
 - 3) Impacts on the community;
 - 4) A comparison of the health and environmental impacts to the economic impact of an ORW designation;
- f) A statement describing the existing and anticipated uses of the specific surface water body or water body segment for which the ORW designation, amendment, or repeal is requested;
- g) A statement describing the existing water quality of the specific surface water body or water body segment warranting the ORW designation, amendment, or repeal;
- h) A synopsis of all testimony to be presented by the proponent at hearing;
- i) Any material to be incorporated by reference within the proposed designation ~~under pursuant to~~ Section 5-75 of the Administrative Procedure Act [5 ILCS 100/5-75];
- j) *A descriptive title or other description of any published study or research report*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

used in developing the rule, the identity of the person who performed such study, and a description of where the public may obtain a copy of any such study or research report. If the study was performed by an agency or by a person or entity that contracted with the agency for the performance of the study, the agency shall also make copies of the underlying data available to members of the public upon request if the data are not protected from disclosure under the Freedom of Information Act [5 ILCS 140]. [5 ILCS 100/5-40(3.5)];

- k) Documentation of service upon all persons required to be served ~~under pursuant to~~ Section 102.810 ~~of this Part~~;
- l) Unless the proponent is the Agency or ~~DNR Illinois Department of Natural Resources~~ or receives a waiver by the Board, a petition signed by at least 200 persons, ~~under pursuant to~~ Section 28 of the Act and Section 102.160(a); and
- m) Where any information required by this Section is inapplicable or unavailable, a complete justification for such inapplicability or unavailability.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 102.830 Board Action

- a) Dismissal
 - 1) Failure of the proponent to satisfy the content requirements for proposals under this Subpart or failure to respond to Board requests for additional information will render a proposal subject to dismissal for inadequacy.
 - 2) Failure of the proponent to pursue disposition of the petition in a timely manner will render a petition subject to dismissal. In making this determination, the Board may consider factors, including the history of the proceeding and the proponent's compliance with any Board or hearing officer orders.
 - 3) Any person may file a motion challenging the sufficiency of the petition ~~under pursuant to~~ 35 Ill. Adm. Code 101.Subpart E.
- b) Designation of ORW. The Board must designate a surface water body or water body segment as an ORW and list it in 35 Ill. Adm. Code 303.206 if it finds:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) The surface water body or water body segment is of exceptional ecological or recreational significance; and
- 2) The benefits of protection of the surface water body or water body segment from future degradation outweigh the benefits of economic or social opportunities that will be lost if the surface water body or water body segment is designated as an ORW.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
103.100	Amendment
103.106	Amendment
103.108	Amendment
103.200	Amendment
103.202	Amendment
103.204	Amendment
103.206	Amendment
103.208	Amendment
103.210	Amendment
103.212	Amendment
103.300	Amendment
103.301	Amendment
103.304	Amendment
103.306	Amendment
103.402	Amendment
103.408	Amendment
103.410	Amendment
103.412	Amendment
103.502	Amendment
103.504	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: Prompted by a recognition that some of its rules were no longer current due to changing technology and the passage of time, the Board began planning a broad review of all its rules, with a view of streamlining, updating and overhauling its regulation. Governor Rauner's Executive Order 2016-13 has provided additional impetus to the Board's initiative. The proposal makes technical changes to the rule as well as changes in response to recently passed legislation.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 7) Will this rulemaking replace an emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other 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 R17-18 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 R17-18 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.
- 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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2017

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 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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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. 7966, effective May 20, 2016; amended in R17-18 at 41 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 103.100 Applicability

- a) This Part applies to proceedings before the ~~Illinois Pollution Control Board (Board)~~ concerning complaints alleging violations of the ~~Environmental Protection Act (Act)~~, regulations, and orders of the Board ~~underpursuant to~~ Section 31 of the Act [415 ILCS 5/31].
- 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 41 Ill. Reg. _____, effective _____)

Section 103.106 General

Enforcement proceedings may be initiated by any person *against any person allegedly violating the Act, any rule or regulation adopted under the Act, any permit or term or condition of a permit, or any Board order [415 ILCS 5/31(d)(1)]*. Complaints filed by persons other than the Attorney General or a State's Attorney will be known as citizen's complaints.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 103.108 Hearings

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

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART B: COMPLAINT, REQUEST FOR INFORMAL AGENCY
INVESTIGATION, SERVICE, AND AUTHORIZATION OF HEARING**Section 103.200 Who May File**

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~Under Pursuant to~~ Section 31 of the Act, an enforcement proceeding may be commenced by any person.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 103.202 Parties

- a) The person initiating an enforcement proceeding must be named the complainant. Any adverse party must be named the respondent. If the Agency is requested by the Board to conduct an investigation ~~underpursuant to~~ Section 30 of the Act, the Board will name the Agency as a "party in interest" ~~underpursuant to~~ 35 Ill. Adm. Code 101.404. Upon motion of the Agency, the Board may align the Agency with any other party or parties as appropriate.
- b) With ~~permissionleave~~ of the Board and in accordance with Section 103.206 of this Part, cross-complainants, counter-complainants, and third-party complainants may be named as parties.
- c) Misnomer of a party is not a ground for dismissal; the name of any party may be corrected at any time.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 103.204 Notice, Complaint, and Answer

- a) An enforcement proceeding will be commenced by the service of a notice and complaint by U.S. Mail with a recipient's signature recorded, a third-party commercial carrier with a recipient's signature recorded, or personal service upon all respondents and the filing of the notice and complaint with the Clerk. (See 35 Ill. Adm. Code 101.300(b) and (c), 101.302(h) and 101.304(c)(2).)
- b) The notice must be directed to the respondents notifying them of the filing of the accompanying complaint and that they may be required to attend a hearing at a date set by the Board.
- c) The complaint must be captioned in accordance with 35 Ill. Adm. Code 101.Appendix A, Illustration A and contain:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) A reference to the provision of the Act and regulations that the respondents are alleged to be violating;
 - 2) The dates, location, events, nature, extent, duration, and strength of discharges or emissions and consequences alleged to constitute violations of the Act and regulations. The complaint must advise respondents of the extent and nature of the alleged violations to reasonably allow preparation of a defense; and
 - 3) A concise statement of the relief that the complainant seeks.
- d) Except as provided in subsection (e), the respondent ~~must~~ may file an answer within 60 days after receipt of the complaint if respondent wants to deny any allegations in the complaint. All material allegations of the complaint will be taken as admitted if no answer is filed or if not specifically denied by the answer, unless respondent asserts a lack of knowledge sufficient to form a belief. Any facts constituting an affirmative defense must be plainly set forth before hearing in the answer or in a supplemental answer, unless the affirmative defense could not have been known before hearing.
- e) If the respondent timely files a motion under Section 103.212(b) or 35 Ill. Adm. Code 101.506, the 60-day period to file an answer described in subsection (d) ~~of this Section~~ will be stayed. The stay will begin when the motion is filed and end when the Board disposes of the motion.
- f) Any party serving a complaint upon another party must include the following language in the notice: "Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney."

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 103.206 Adding Parties; Filing Counter-, Cross-, or Third-Party Complaints; Filing New or Modified Claims

- a) The Board, on its own motion or the motion of a respondent, may order a person to be added as a respondent if a complete determination of a controversy cannot

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

be had without the presence of the person who is not already a party to the proceeding.

- b) If the Board orders a person to be added as a respondent ~~underpursuant to~~ subsection (a), the Board will grant the complainant ~~permission~~leave to file an amended complaint that sets forth a claim against the added respondent. The amended complaint must meet the requirements of Section 103.204.
- c) Misjoinder and nonjoinder of parties with respect to enforcement proceedings are governed by 35 Ill. Adm. Code 101.403(b).
- d) If a party wishes to file a counter-complaint, cross-complaint, or third-party complaint, the party must move the Board for ~~permission~~leave to file the pleading. If a party wishes to file an amendment to a complaint, counter-complaint, cross-complaint, or third-party complaint that sets forth a new or modified claim against another person, the party who wishes to file the pleading must move the Board for ~~permission~~leave to file the pleading.
- e) The pleading sought to be filed ~~underpursuant to~~ subsection (d) must:
 - 1) Set forth a claim that arises out of the occurrence or occurrences that are the subject of the proceeding; and
 - 2) Meet the requirements of Section 103.204 of this Subpart, including the requirement to serve the pleading by U.S. Mail with a recipient's signature recorded, a third-party commercial carrier with a recipient's signature recorded, or personal service upon the respondent, counter-respondent, cross-respondent, or third-party respondent.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 103.208 Request for Informal Agency Investigation

- a) Any person may request an informal Agency investigation by submitting a request to the Board.
- b) The Board will forward the request to the Agency with a copy to the person requesting the investigation. The Agency must send an acknowledgment of receipt of the informal investigation request to the Board.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- c) The Board will take no further action upon the request for informal investigation beyond the action described in subsection (b) ~~of this Section.~~

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 103.210 Notice of Complaint

- a) In addition to the notice of hearing requirements set forth in 35 Ill. Adm. Code 101, ~~if the complainant is~~ the Office of the Attorney General or the State's Attorney of the county in which the alleged violation occurred, ~~the~~~~when~~ complainant, must give notice of each complaint and hearing at least 21 days before the hearing to:
- 1) ~~Any~~~~any~~ person that has complained to the Agency respecting the respondent within the six months preceding the date of the complaint; and
 - 2) ~~Any~~~~to any~~ person in the county in which the offending activity occurred that has requested notice of enforcement proceedings [415 ILCS 5/31(c)(1)].
- b) Failure to comply with the provisions of this Section may not be used as a defense to an enforcement proceeding, but any person adversely affected by the failure of compliance may upon motion to the hearing officer have the hearing postponed if prejudice is shown.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 103.212 Hearing on Complaint

- a) *Any person may file with the Board a complaint against any person allegedly violating the Act, any rule or regulation adopted under the Act, any permit or term or condition of a permit, or any Board order. When the Board receives a citizen's complaint, unless the Board determines that such complaint is duplicative or frivolous, it shall schedule a hearing. [415 ILCS 5/31(d)(1)]* The ~~definitions~~~~definition~~ for duplicative and frivolous can be found at 35 Ill. Adm. Code 101.Subpart B.
- b) Motions made by respondents alleging that a citizen's complaint is duplicative or

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

frivolous must be filed no later than 30 days following the date of service of the complaint upon the respondent. Motions under this subsection may be made only with respect to citizen's enforcement proceedings. Timely filing the motion will, ~~underpursuant to~~ Section 103.204(e) ~~of this Subpart~~, stay the 60 day period for filing an answer to the complaint.

- c) The Board will automatically set for hearing all complaints filed by the Attorney General or a State's Attorney on behalf of the People of the State of Illinois.
- d) The Board in its discretion may hold a hearing on the violation and a separate hearing on the remedy.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART C: SETTLEMENT PROCEDURE

Section 103.300 Request for Relief from Hearing Requirement in State Enforcement Proceeding

- a) *Whenever a complaint has been filed on behalf of the Agency or by the People of the State of Illinois, the parties may file with the Board a proposed stipulation and settlement accompanied by a request for relief from the requirement of a hearing pursuant to Section 31(c)(2) of the Act [415 ILCS 5/31(c)(2)]. The proposed stipulation and settlement agreement must conform to the statement required for settlement submissions at hearing in Section 103.302 ~~of this Part~~.*
- b) Unless the Board, ~~in its discretion~~, concludes that a hearing will be held, the Board will cause notice of the proposed stipulation and settlement, and request for relief, to be published and sent, as is required for hearing, by the Clerk's office. The notice will include a statement that any person may file with the Clerk ~~of the Board~~ a written demand for a hearing within 21 days after publication of the notice. The written demand for hearing must ~~clearly~~ state that a public hearing is requested and ~~must~~~~should~~ indicate the assigned Board Docket number and respondent's name in the matter.
- c) *If any person files a timely written demand for a hearing, the Board will deny the request for relief from a hearing and will hold a hearing in accordance with the notice provisions of Section 31(c)(1) of the Act. [415 ILCS 5/31(c)(2)] A copy of the proposed stipulation and settlement will be entered into and presented for the*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

record.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 103.301 Request for Relief from Hearing Requirement in Citizen's Enforcement Proceeding

- a) *Whenever a complaint has been filed by a person other than the Attorney General or State's Attorney, the parties may file with the Board a stipulation and proposed settlement accompanied by a request for relief from the hearing requirement of Section 31(c)(1) of the Act [415 ILCS 5/31(c)(1)]. [415 ILCS 5/31(d)(2)] The stipulation and proposed settlement agreement must conform to the statement required for settlement submissions at hearing in Section 103.302 ~~of this Part.~~*
- b) *Unless the Board, in its discretion, concludes that a hearing should be held, no hearing on the stipulation and proposal for settlement is required. [415 ILCS 5/31(d)(2)]*

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 103.304 Hearing on Proposed Stipulation and Settlement Agreement

When the parties submit a proposed stipulation and settlement agreement to the hearing officer at hearing, or when the Board orders that a hearing be held in accordance with Section 103.300(c) or 103.301(b) ~~of this Part~~, the hearing officer will conduct a hearing in which interested persons may make statements with respect to the nature of the alleged violation and its impact on the environment, together with their views on the proposed stipulation and settlement agreement. The statements must be in accordance with 35 Ill. Adm. Code 101.628.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 103.306 Board Order on Proposed Stipulation and Settlement Agreement

- a) The Board will consider the proposed settlement and stipulation agreement and the hearing record, if any. The Board may accept, suggest revisions in, or reject the proposed settlement and stipulation agreement, or direct initial or further hearings as it deems appropriate. ~~Where a National Pollutant Discharge Elimination System (NPDES) permit is involved in the settlement, notice of settlement must be published in the Environmental Register at least 30 days prior~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~to the settlement.~~

- b) If the Board determines that a settlement involves or may involve the issuance or modification of a Resource Conservation Recovery Act (RCRA) permit, it will enter an interim order ~~underpursuant to~~ Section 103.402 ~~of this Part.~~

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART D: PROCEEDINGS INVOLVING RCRA PERMITS

Section 103.402 Interim Order

- a) The Board will enter an interim order invoking the procedures of this Subpart on its own motion or on the motion of any party. Before the Board enters an interim order the parties must develop, through hearings or admissions ~~underpursuant to~~ 35 Ill. Adm. Code 101.Subpart F, a sufficient record to support the findings that the Board must make in subsection (b) ~~of this Section.~~
- b) An interim order invoking the procedures of this Subpart will include:
- 1) A finding or proposed finding of violation and any penalty or proposed monetary penalty;
 - 2) A finding that the proceeding is an enforcement action that involves or may involve the issuance or modification of a RCRA permit;
 - 3) Joinder of the Agency if it is not already a party; and
 - 4) A time schedule for filing by the Agency of a partial draft permit.
- c) The interim order is not a final order and may be appealed only with ~~permission~~~~leave~~ of the Board.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 103.408 Stipulated Draft Remedy

- a) The parties may agree to a stipulated draft remedy.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- b) A stipulated draft remedy must include the following:
- 1) Proposed mandatory orders that the parties agree should be included in the Board's final order, which may include one or more of the following:
 - A) An order to cease and desist conducting regulated activities;
 - B) An order to close a facility or unit;
 - C) An order to execute a post-closure care plan;
 - D) A compliance plan, including a time schedule to assure compliance with regulations in the shortest possible time;
 - E) An order to provide a performance bond or other financial assurance;
 - F) An order to apply for a permit or permit modification; and
 - G) An order revoking a permit.
 - 2) A partial draft permit or statement as provided by Section 103.406 ~~of this Part.~~
 - 3) A statement as to whether or not the stipulation is divisible for purposes of Board determinations.
- c) All parties, including the Agency, must sign the stipulated draft remedy before notice is given ~~underpursuant to~~ Section 103.410 ~~of this Part.~~

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 103.410 Contents of Public Notice

- a) In addition to serving 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, the Agency must, at a minimum, give notice of the filing of a partial draft permit to the following

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

persons:

- 1) Federal agencies as designated by USEPA;
 - 2) Illinois Department of Transportation;
 - 3) ~~DNR~~[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 population center that is closest to the facility.
- c) 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;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 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 ~~underpursuant to~~ 415 ILCS 5/30; and
- 10) Any additional information considered necessary or proper.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 103.412 Public Comment

Any person, including USEPA, may comment on the partial draft permit or stipulated draft remedy within 45 days after it has been filed with the Board and notice given ~~underpursuant to~~ Section 103.410 ~~of this Part~~. Parties will receive distributions from the Clerk's Office in accordance with 35 Ill. Adm. Code 101.628(c)(3).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART E: IMPOSITION OF PENALTIES

Section 103.502 Civil Penalties

Civil penalties will be determined ~~underpursuant to~~ Sections 33(c) and 42 of the Act- [415 ILCS 5/33(c) and 42].

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 103.504 Civil Penalties Method of Payment

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) Payment of the penalty must be made by certified or cashier's check, money order, [electronic funds transfer](#), or in installments by the foregoing means after execution of a promissory note containing an agreement for judgment.
- b) All remittances must be made payable to the Environmental Protection Trust Fund or ~~such~~ other fund as specified by the Board.
- c) Any such penalty not paid within the time prescribed in the Board order will incur interest at the rate set forth in Section 1003(a) of the Illinois Income Tax Act [35 ILCS 5/1003(a)].

(Source: Amended at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 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>
104.100	Amendment
104.106	Amendment
104.200	Amendment
104.202	Amendment
104.204	Amendment
104.206	Amendment
104.208	Amendment
104.210	Amendment
104.212	Amendment
104.214	Amendment
104.216	Amendment
104.218	Amendment
104.220	Amendment
104.224	Amendment
104.226	Amendment
104.228	Amendment
104.230	Amendment
104.232	Amendment
104.234	Amendment
104.236	Amendment
104.238	Amendment
104.240	Amendment
104.248	Amendment
104.300	Amendment
104.304	Amendment
104.400	Amendment
104.402	Amendment
104.404	Amendment
104.406	Amendment
104.408	Amendment
104.414	Amendment
104.416	Amendment
104.418	Amendment
104.419	New Section

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

104.420	Amendment
104.422	Amendment
104.424	Amendment
104.426	Amendment
104.428	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: Prompted by a recognition that some of its rules were no longer current due to changing technology and the passage of time, the Board began planning a broad review of all its rules, with a view of streamlining, updating and overhauling its regulation. Governor Rauner's Executive Order 2016-13 has provided additional impetus to the Board's initiative. The proposal makes technical changes to the Part as well as changes in response to recently passed legislation.
- 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 R17-18 and be addressed to:

Clerk's Office
Illinois Pollution Control Board

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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 R17-18 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.

- 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: January 2017

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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
104.419	Insufficient Petition
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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

SOURCE: Subpart B: Originally adopted as Chapter I: Procedural Rules, Part IV: Variances, in R70-4, at 1 PCB 43, October 8, 1970; amended in R77-16, 29 PCB 503, at 2 Ill. Reg. 16, p. 3, effective May 1974; amended in R79-9, 35 PCB 433, at 3 Ill. Reg. 51, p. 128, effective December 7, 1979; amended in R80-12, 40 PCB 451, at 5 Ill. Reg. 2763, effective March 2, 1981; codified at 6 Ill. Reg. 8357; amended in R84-10, 62 PCB 87, at 9 Ill. Reg. 1409, effective January 16, 1985; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 613, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8803, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2357, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. 12905, effective September 8, 2015; amended in R16-17 at 40 Ill. Reg. 7973, effective May 20, 2016; amended in R17-18 at 41 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 104.100 Applicability

- a) This Part applies to mechanisms for obtaining relief from environmental regulations under ~~certain circumstances as set forth in~~ Titles VII and IX of the Act, ~~such as: Specifically, this Part applies to regulatory relief mechanisms, meaning~~ variances, provisional variances and adjusted standards.
- 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 41 Ill. Reg. _____, effective _____)

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.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART B: VARIANCES

Section 104.200 General

- a) Description:
- 1) General Variance. A variance is a temporary exemption from any specified rule, regulation, requirement or order of the Board, which may be granted by the Board with or without conditions for a period of time not to exceed five years, *upon presentation of adequate proof*, by the petitioner *that compliance with any rule, regulation, requirement or order of the Board would impose an arbitrary or unreasonable hardship* [415 ILCS 5/35(a)].
 - 2) Resource Conservation and Recovery Act (RCRA) Variance. A RCRA variance is an exemption from 35 Ill. Adm. Code 703, 720, 721, 722, 723, 724 or 725 or which allows the Illinois Environmental Protection Agency (Agency) to issue or modify any provision of a RCRA permit required ~~underpursuant to~~ Section 21(f) of the Act.
- b) Effect of Filing:
- 1) The filing of a petition for a variance does not stay enforcement of a regulation except as provided in subsection (b)(2) ~~of this Section~~.
 - 2) *If any person files a petition for variance from a rule or regulation within 20 days after the effective date of such rule or regulation, the operation of such rule or regulation shall be stayed as to such person pending the disposition of the petition; provided, however, that the operation of any rule or regulation adopted by the Board which implements, in whole or in part, a State RCRA, Underground Injection Control (UIC), or National Pollutant Discharge Elimination System (NPDES) program shall not be stayed. The Board may hold a hearing upon said petition 5 days from the*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

date of notice of such hearing or thereafter. [415 ILCS 5/38(b)]

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.202 Filing Requirements

- a) Who May File. Any person seeking a variance from any rule or regulation, requirement or order of the Board that would otherwise be applicable to that person may file a variance petition.
- b) General Filing and Service Requirements. All general filing and service requirements for Board filings, including the form of filing and the fee requirements for filing, apply to the filing of a petition for variance. These general requirements are found at 35 Ill. Adm. Code 101.~~Subparts~~Subpart C and J.
- c) Special Filing and Service Requirements. In addition to the general requirements found at 35 Ill. Adm. Code 101.~~Subpart C~~, a person filing a petition for variance must meet the following requirements:
 - 1) One copy of the petition and all related documents must be served on the Agency. The service on the Agency must be initiated on or before the date the petition is filed with the Board. Additionally, all RCRA variance petitions must be served on the ~~United States Environmental Protection Agency (USEPA)~~ Region V Director of Waste Management. An affidavit of service of the petition and related documents must accompany the filing with the Board; and
 - 2) The petition must contain all information or documents necessary to satisfy the petition content requirements found in Sections 104.204, 104.206, and 104.208 ~~of this Part.~~

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.204 Petition Content Requirements

The petition must include the information required by subsections (a) through (n) ~~of this Section.~~ Additionally, there are specific content requirements set forth at Section 104.206 ~~of this Part~~ for RCRA variance petitions. If the petitioner believes that any of these requirements are not

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

applicable to the specific variance requested, the petitioner must so state and explain the reasoning.

- a) A statement describing the regulation, requirement, or order of the Board from which a variance is sought. If variance from a regulation is sought, the statement must include the Illinois Administrative Code citation to the regulation as well as the effective date of that regulation. If variance from a requirement or order of the Board is sought, the statement must include the citation to that requirement or order of the Board promulgating that requirement, including docket number;
- b) A complete and concise description of the nature of petitioner's activity that is the subject of the proposed variance, including:
 - 1) The location of, and area affected by, the petitioner's activity;
 - 2) The location of points of discharge, and, as applicable, the identification of the receiving waterway or land, or, if known, the location of the nearest air monitoring station maintained by the Agency;
 - 3) An identification, including docket number, of any prior variance issued to the petitioner and, if known, the petitioner's predecessors, concerning similar relief;
 - 4) An identification, including number, of the environmental permits held by petitioner for the activity which may be affected by grant of variance;
 - 5) The number of persons employed by the petitioner's facility at issue and the age of that facility;
 - 6) The nature and amount of the materials used in the process or activity for which the variance is sought and a full description of the particular process or activity in which the materials are used;
 - 7) A description of the relevant pollution control equipment already in use; and
 - 8) The nature and amount of emissions, discharges or releases of the constituent in question currently generated by the petitioner's activity;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- c) Data describing the nature and extent of the present or anticipated failure to meet the regulation, requirement, or order of the Board from which variance is sought and facts that support petitioner's argument that compliance with the regulation, requirement, or order of the Board was not or cannot be achieved by any required compliance date;
- d) A description of the efforts that would be necessary for the petitioner to achieve immediate compliance with the regulation, requirement, or Board order at issue. All possible compliance alternatives, with the corresponding costs for each alternative, must be set forth and discussed. The discussion of compliance alternatives must include the availability of alternate methods of compliance, the extent that the methods were studied, and the comparative factors leading to the selection of the control program proposed for compliance. The discussion of the costs of immediate compliance may include the overall capital costs and the annualized capital and operating costs;
- e) Facts that set forth the reasons the petitioner believes that immediate compliance with the regulation, requirement, or order of the Board would impose an arbitrary or unreasonable hardship;
- f) A detailed description of the compliance plan, including:
 - 1) A discussion of the proposed equipment or proposed method of control to be undertaken to achieve full compliance with the regulation, requirement, or order of the Board;
 - 2) A time schedule for the implementation of all phases of the control program from initiation of design to program completion; and
 - 3) The estimated costs involved for each phase and the total cost to achieve compliance;
- g) A description of the environmental impact of the petitioner's activity including:
 - 1) The nature and amount of emissions, discharges, or releases of the constituent in question if the requested variance is granted, compared to that which would result if immediate compliance is required;
 - 2) The qualitative and quantitative description of the impact of petitioner's

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

activity on human health and the environment if the requested variance is granted, compared to the impact of petitioner's activity if immediate compliance is required. Cross-media impacts, if any, must be discussed; and

- 3) A statement of the measures to be undertaken during the period of the variance to minimize the impact of the discharge of contaminants on human, plant, and animal life in the affected area, including the numerical interim discharge limitations that can be achieved during the period of the variance;
- h) Citation to supporting documents or legal authorities whenever they are used as a basis for the petition. Relevant portions of the documents and legal authorities other than Board decisions, reported state and federal court decisions, or state and federal regulations and statutes must be appended to the petition;
- i) If the requested variance involves an existing permit or a pending permit application, a copy of the material portion of the permit or permit application must be appended to the petition;
- j) Any conditions petitioner suggests for the requested variance;
- k) A proposed beginning and ending date for the variance. If the petitioner requests that the term of the variance begin on any date other than the date on which the Board takes final action on the petition, a detailed explanation and justification for the alternative beginning date;
- l) A discussion of consistency with federal law, including an analysis of applicable federal law and facts that may be necessary to show compliance with federal law as set forth in Section 104.208 ~~of this Part~~;
- m) An affidavit verifying any facts submitted in the petition; and
- n) A statement requesting or denying that a hearing should be held in this matter.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

In addition to the requirements of Sections 104.204 and 104.208 ~~of this Part~~, a petition for a RCRA variance must meet the following requirements:

- a) All petitions for RCRA variances must include a showing that the Board can grant the requested relief consistent with, and establish RCRA permit conditions no less stringent than, those that would be required by RCRA and the regulations ~~thereunder~~ promulgated by USEPA (40 CFR 260, 261, 262, 263, 264, 265, 266, 267, 268 and 270). Petitions must indicate whether any federal provisions authorize the relief requested, and must include any facts necessary to show that the petitioner would be entitled to the requested relief ~~underpursuant to~~ federal law;
- b) Persons who have, or are required to have, a RCRA permit and who seek a RCRA variance that could result in modification or issuance of the RCRA permit must have on file with the Agency a RCRA permit application reflecting the requested variance prior to filing the variance petition;
- c) Petitioner must attach to the variance petition a copy of the RCRA permit application, or such portion as may be relevant to the variance request; and
- d) Petitioner must attach to the variance petition documentation of service on USEPA as required by Section 104.202 ~~of this Part~~.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.208 Consistency with Federal Law

- a) All petitions for variances from Title II of the Act or from 35 Ill. Adm. Code.Subtitle B, Ch. I "Air Pollution", must indicate whether the Board may grant the requested relief consistent with the Clean Air Act (CAA) (42 USC 7401 et seq.) and the federal regulations adopted ~~under the CAA pursuant thereto~~. If granting a variance would require revision of the State Implementation Plan, the petition must indicate whether the requirements of Section 110(a) of the CAA (42 USC 7410(a)) and 40 CFR 51 will be satisfied.
- b) All petitions for variances from Title III of the Act, from 35 Ill. Adm. Code.Subtitle C, Ch. I "Water Pollution", or from water pollution related requirements of any other Title of the Act or Chapter of the Board's regulations,

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

must indicate whether the Board may grant the relief consistent with the Clean Water Act (CWA) (33 USC 1251 et seq.), USEPA effluent guidelines and standards, any other federal regulations, or any area-wide waste treatment management plan approved by the Administrator of USEPA ~~underpursuant to~~ Section 208 of the CWA (33 USC 1288).

- c) All petitions for variances from Title IV of the Act or from 35 Ill. Adm. Code.Subtitle F, Ch. I "Public Water Supplies", and to the extent applicable, from Title V of the Act or from 35 Ill. Adm. Code.Subtitle D, Ch. I "Mine Related Water Pollution", must indicate whether the Board may grant the relief consistent with the Safe Drinking Water Act (42 USC 300(f) et seq.), the federal National Primary Drinking Water Regulations (40 CFR 141) and Underground Injection Control Program and other federal regulations adopted pursuant thereto.
- d) All petitions for variances from Title V of the Act or from 35 Ill. Adm. Code.Subtitle G, Ch. I "Waste Disposal" must indicate whether the Board may grant the requested relief consistent with RCRA, and the federal regulations adopted ~~under RCRA pursuant thereto~~.
- e) For all petitions for RCRA variances, petitioner ~~mustshould~~ consult the federal RCRA rules ~~thatwhich~~ contain procedures that are referred to as "Variances" (40 CFR 260, 261, 262, 263, 264, 265, 266, 267, 268 and 270). The petitioner ~~mustshould~~ consult the comparable Board regulations to decide whether the variance procedures of this Part need to be followed.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.210 Petition for Extension of Variance

- a) A variance ~~extension pursuant to Section 36(b) of the Act~~ may be extended from year to year by affirmative action of the Board, but only if satisfactory progress has been shown by the petitioner [415 ILCS 5/36(b)].
- b) A petition to extend a variance ~~is considered granted by the Board is~~ a new petition for variance before the Board, and must be filed in accordance with this Subpart and 35 Ill. Adm. Code 101.Subpart C, including payment of the filing fee ~~underpursuant to~~ Section 104.202(b) ~~of this Part~~ and 35 Ill. Adm. Code 101.302(e)(2).

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- c) If the petitioner desires to have the term of the variance extension be sequential with the term of the prior variance, the petition to extend the variance must be filed with the Board no later than 120 days prior to the termination of the variance, unless the petitioner can demonstrate that the petition for variance extension was filed as soon as practicable after the petitioner learned that it could not meet the compliance time frame under the existing variance.
- d) In addition to the requirements of this Subpart, the petition for extension of variance must contain:
- 1) A detailed statement showing that *satisfactory progress* toward compliance has been or will have been achieved during the term of the prior variance [415 ILCS 5/36(b)];
 - 2) A statement that the conditions of the prior variance have been fully met, or, if any condition or conditions have not been fully met, a detailed explanation of the reason or reasons that the condition or conditions have not been fully met; and
 - 3) A motion to incorporate any material from the record of the prior variance proceeding in accordance with 35 Ill. Adm. Code 101.306.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.212 Motion for Modification of Internal Variance Compliance Dates

- a) The petitioner may request, by written motion modification of internal dates within a compliance schedule of an existing variance, so long as the modification does not extend the length of the existing variance period. The written motion will not be considered to be an extension of the prior variance. The motion must be filed under the docket number of the existing variance, and must be filed with the Clerk and served upon the Agency, and any joined parties ~~underpursuance to~~ 35 Ill. Adm. Code 101.Subpart D. The Agency must, and any joined parties may, file a response to that motion. Any response must be filed within 14 days after receipt of the motion.
- b) A motion for modification that would extend the length of the existing variance period constitutes a Petition for Extension of Variance and must be filed in accordance with Section 104.210 ~~of this Part~~.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.214 Notice of Petition

- a) Within 14 days after the petition is filed, the petitioner must *publish a single notice of such petition in a newspaper of general circulation in the county where the facility or pollution source is located* [415 ILCS 5/37(a)].
- b) Upon filing a petition for variance, the petitioner *shall promptly give written notice of such petition to:*
 - 1) *Any person in the county in which the installation or property for which variance is sought is located who has filed with the Board a written request for notice of variance petitions;*
 - 2) *The State's attorney of such county;*
 - 3) *The Chairman of the County Board of such county; and*
 - 4) *Each member of the General Assembly from the legislative district in which that installation or property is located. [415 ILCS 5/37(a)]*
- c) Upon receipt of a petition for RCRA variance, the Agency must promptly give notice of the petition to:
 - 1) Federal agencies as designated by USEPA;
 - 2) Illinois Department of Transportation;
 - 3) ~~DNR~~Department of Natural Resources;
 - 4) Illinois Department of Public Health;
 - 5) The Governor of any other state adjacent to the county in which the facility or pollution source is located; and
 - 6) Elected officials of any counties, in other states, adjacent to the county in which the facility or pollution source is located, and elected officials in

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

any municipality, in another state, if it is the closest population center to the facility or pollution source.

~~7)d) The general public~~~~In addition to the methods of notice stated in subsection (c) of this Section, in a RCRA variance the Agency must also give notice~~ by broadcast over at least one local radio station in the area of the facility or pollution source containing the information required by subsections ~~(de) and (ef) of this Section.~~

de) All notices required by this Section must include the following:

- 1) *The street address of the facility or pollution source, and if there is no street address, then the legal description or the location with reference to any well-known landmark, highway, road, thoroughfare or intersection [415 ILCS 5/37(a)];*
- 2) A description of the requested relief;
- 3) An indication that any person may request a hearing by filing with the Board a written objection to the grant of the variance within 21 days after the publication of the petitioner's notice, together with a written request for hearing;
- 4) The ~~Clerk's~~~~Clerk of the Board's~~ address and phone number, the Board's website address, and a statement that a copy of the variance petition may be obtained through the Clerk's Office or COOL, located on the Board's website;
- 5) A statement that the Agency is preparing a recommendation and seeking the views of persons who may be adversely affected by the variance. All comments and inquiries should be addressed to the Agency employee responsible for the recommendation within 21 days after publication of the petitioner's notice. The notice must include the date on which the recommendation is to be filed, and the name, address, email address, and telephone number of the Agency employee responsible for the recommendation;
- 6) A statement that a hearing may be held after the filing of the recommendation and that the record will remain open for written

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

comments for 45 days after filing of the recommendation. The notice will include the address of the Board to which the comments must be mailed;

- 7) A statement that the record in the variance proceeding is available at the Board office for inspection, except those portions that are protected from disclosure under 35 Ill. Adm. Code 130, and that procedures are available whereby disclosure may be sought by the public;
 - 8) A statement that variances may be granted ~~underpursuant to~~ Section 35 of the Act [415 ILCS 5/35] and 35 Ill. Adm. Code 104, and a reference to the Board regulations or order from which a variance is sought; and
 - 9) Any additional information considered necessary or proper.
- ef) Within 21 days after the publication of notice, the petitioner must file with the Board a certification of publication that states the date on which the notice was published and must attach a copy of the published notice.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.216 Agency Investigation and Recommendation

- a) Upon receipt of a petition for variance, *the Agency shall promptly investigate such petition and consider the views of persons who might be adversely affected by the grant of a variance* [415 ILCS 5/37(a)].
- b) *The Agency shall make a recommendation to the Board as to the disposition of the petition* [415 ILCS 5/37(a)]. Unless otherwise ordered by the hearing officer or the Board, the recommendation must be filed with the Board within 45 days after the filing of the petition or amended petition, or where there has been a hearing scheduled, at least 30 days before hearing, whichever is earlier. The Agency must serve a copy of its recommendation, in accordance with 35 Ill. Adm. Code 101.304(c), on the petitioner, joined parties, and assigned hearing officer, if applicable. At a minimum, the recommendation must include:
 - 1) A description of the efforts made by the Agency to investigate the facts as alleged and to ascertain the views of persons who might be affected, and a summary of the views so ascertained;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) The location of the nearest air monitoring station maintained by the Agency where applicable;
- 3) A statement of the degree to which, if at all, the Agency disagrees with the facts as alleged in the petition, including facts refuting any allegations in the petition for variance;
- 4) Allegations of any other facts the Agency believes relevant to the disposition of the petition, including any past or pending enforcement actions against petitioner;
- 5) The Agency's estimate of the costs that compliance would impose on the petitioner and on others;
- 6) The Agency's estimate of the injury that the grant of the variance would impose on the public, including the effect that continued discharge of contaminants will have upon the environment;
- 7) The Agency's analysis of applicable federal laws and regulations and an opinion concerning the consistency of the petition with ~~those such~~ federal laws and regulations;
- 8) The status of any permits or pending permit applications that are associated with or affected by the requested variance;
- 9) Allegation of any facts that the Agency believes are relevant to whether the Board should condition a grant of variance on the posting of a performance bond ~~underpursuant to~~ Section 104.246 ~~of this Part~~;
- 10) Citation to supporting documents or legal authorities whenever they are used as a basis for the Agency's recommendation. Relevant portions of the documents and legal authorities, other than Board decisions, reported state and federal court decisions, state and federal regulations and statutes, must be appended to the recommendation if not already in the record of the proceeding;
- 11) The Agency's recommendation of what disposition should be made of the petition, deny or grant, and suggested conditions. If the Agency recommends that variance be granted, a recommended beginning and end

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

date of the requested variance, and any recommended conditions on the variance; and

- 12) An affidavit verifying any facts outside the record referenced in the recommendation.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.218 Agency Recommendation to RCRA Variance

In addition to the recommendation requirements stated in Section 104.216 ~~of this Part~~, the Agency recommendation on petitions for RCRA variances must also include the following and, in addition to the service requirements of Section 104.216 ~~of this Part~~, the Agency must serve its recommendation on USEPA and all persons who have notified the Agency that they intend to comment or have otherwise asked to be served a copy of the recommendation.

- a) The recommendation must include a fact sheet or statement of basis as provided in 35 Ill. Adm. Code 705.141 through 705.143, ~~when~~where relevant.
- b) If the Agency recommends that the variance be granted, a partial draft permit reflecting the variance and recommended conditions must be included with the recommendation.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.220 Response to Agency Recommendation

- a) Within 14 days after service of the Agency recommendation the petitioner may file a response to the Agency recommendation or an amended petition. The petitioner must serve a copy of the response or amended petition upon the hearing officer, the Agency, and any other parties to the proceeding.
- b) The response or amended petition may include a request for hearing. New information in a response or amended petition must be verified by oath or affidavit.
- c) Any amended petition or request for hearing under this Section recommences the decision period ~~underpursuant to~~ Section 104.232 ~~of this Subpart~~.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.224 Objections to Petition, Written Comments and Request for Hearing

- a) A person who files an objection, request for hearing, or comment is a "participant" as defined in 35 Ill. Adm. Code 101.Subpart B.
- b) Except as provided in subsection (e) of this Section for RCRA variances, any person may file with the Clerk, within 21 days after the publication of the ~~petitioner's~~~~Petitioner's~~ notice ~~underpursuant to~~ Section 104.214 ~~of this Part~~, a written objection to the grant of variance. The Clerk will serve a copy of the objection on the petitioner, the Agency, the hearing officer, and any joined parties in accordance with 35 Ill. Adm. Code 101.304(c).
- c) Any person may also file a written request for hearing. The written request must be filed within 21 days after the publication of the ~~petitioner's~~~~Petitioner's~~ notice ~~underpursuant to~~ Section 104.214 ~~of this Part~~ in order for a hearing to be held in accordance with Section 104.236 ~~of this Part~~ and 35 Ill. Adm. Code 101.Subpart F, including any hearing held by videoconference (see 35 Ill. Adm. Code 101.600(b)).
- d) Any person may file written comments in a variance proceeding. If a hearing is held, public comments must be filed within 14 days after the close of the hearing unless the hearing officer specifies a different date. If there is no hearing, comments must be filed no later than 30 days before the decision date, unless the hearing officer orders otherwise to prevent material prejudice. (See 35 Ill. Adm. Code 101.628(c)(1).)
- e) In RCRA variances, subsections (b) and (c) ~~of this Section~~ do not apply. However, persons may file written comments within 45 days after the Agency files its recommendation.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.226 Amended Petition and Amended Recommendation

- a) The petitioner may amend the petition prior to the close of the hearing, if a hearing is held, or prior to the Board's decision, if a hearing is not held, by filing a motion ~~underpursuant to~~ 35 Ill. Adm. Code 101.Subpart E. Amended petitions

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

subsequent to hearing will be accepted only with ~~permission~~leave of the Board. Amended petitions must be in writing and filed with the Board and served in accordance with 35 Ill. Adm. Code 101.Subpart C. If the petitioner substantively amends the petition, the filing of the amended petition recommences the decision period, ~~underpursuant to~~ Section 104.232 ~~of this Part~~.

- b) If the petitioner amends the petition, the Agency must file or give an amended recommendation in writing or orally at hearing, but in any event not later than 45 days after the filing of an amended petition. The Agency may amend its recommendation even if the petitioner has not amended its petition. In such an instance, a recommendation may be amended prior to close of the hearing, if a hearing is held, or 40 days prior to the Board's decision date if a hearing is not held. The petitioner may file a response to an Agency recommendation ~~underpursuant to~~ Section 104.220 ~~of this Part~~.
- c) Written amendments to the petition or recommendation need not repeat the entire unchanged portion of the original filing provided that a sufficient portion of the original filing is repeated so that the context of the amendment is made clear.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.228 Insufficient Petition

If the Board finds the petition fails to contain information as required by Sections 104.204, 104.206, and 104.208 ~~of this Part~~, the Board may order the petitioner to supplement the information contained in the petition. Filings made in response to ~~the such~~ order constitute an amended petition for the purposes of calculating the decision deadline ~~underpursuant to~~ Section 104.232 ~~of this Part~~. Alternatively, ~~underpursuant to~~ Section 104.230 ~~of this Part~~, the Board may dismiss the petition for lack of sufficient information. Failure of the Board to require supplemental information does not preclude a later finding that the information provided is insufficient to support grant of variance, or constitute a Board decision on the merits of the petition.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.230 Dismissal of Petition

A petition is subject to dismissal if the Board determines that:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) The petition requests relief that the Board is not empowered to grant;
- b) The petition fails to comply with the requirements of 35 Ill. Adm. Code 101.Subpart C and Sections 104.202, 104.204, 104.206 and 104.208 ~~of this Part~~;
- c) The petitioner fails to timely comply with any order issued by the Board or the hearing officer, including an order requiring additional information underpursuant ~~to~~ Section 104.228 ~~of this Part~~; or
- d) The petitioner is not subject to the rule or regulation, requirement, or order of the Board at issue.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.232 Calculation of Decision Deadline

- a) UnderPursuant to Section 38(a) of the Act, the Board will render its final decision on the petition within 120 days after the date of filing of the petition or the receipt of a request for hearing underpursuant to Section 37(a) of the Act, whichever is later, except:
 - 1) When the petitioner waives its right to a decision within the prescribed decision period in accordance with 35 Ill. Adm. Code 101.Subpart C;
 - 2) When the petitioner files an amended petition for variance underpursuant ~~to~~ this Subpart, the decision period recommences from the date of filing of the amended petition; or
 - 3) When a hearing is canceled underpursuant to 35 Ill. Adm. Code 101.510.
- b) Time will be computed in accordance with 35 Ill. Adm. Code 101.Subpart C.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.234 Hearing

The Board will order a hearing on a variance petition if:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) A hearing is requested by the petitioner at the time of initial filing on the associated form or in writing, which is filed and served in accordance with 35 Ill. Adm. Code 101.Subpart C;
- b) A hearing is requested in a response or amended petition;
- c) *The Board, in its discretion, concludes that a hearing would be advisable* [415 ILCS 5/37(a)];
- d) *The Agency or any other person files a written objection to the grant of such variance within 21 days after the publication of the ~~petitioner's~~Petitioner's notice ~~underpursuant to~~ Section 104.214 ~~of this Part~~, together with a written request for hearing* [415 ILCS 5/37(a)]; or
- e) The request concerns a RCRA variance.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.236 Hearing Procedures

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

- a) Hearings may be canceled ~~by~~pursuant to a motion filed in accordance with 35 Ill. Adm. Code 101.510 at the discretion of the hearing officer.
- b) If all parties and participants who have requested a hearing ~~underpursuant 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 a 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 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;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 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) ~~DNR~~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 population center that is closest to the facility or pollution source; and
- 10) USEPA's Region V Director of Waste, Pesticides and Toxics Division.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.238 Standard of Review

- a) *The Board may grant individual variances beyond the limitations prescribed by the Act, whenever it is found, upon presentation of adequate proof, that compliance with any rule or regulation, requirement or order of the Board would impose an arbitrary or unreasonable hardship. [415 ILCS 5/35(a)]* The burden of proof in a variance proceeding is on the petitioner.
- b) In addition to subsection (a) ~~of this Section~~ the Board may grant a RCRA variance only to the extent consistent with, and with conditions no less stringent than, those that would be required by RCRA and 40 CFR 260, 261, 262, 263, 264, 265, 266, 267, 268, and 270. Variances must require compliance with the regulations in the shortest practicable time.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 104.240 Certificate of Acceptance

The Board's order granting a variance will include a certificate of acceptance. The certificate constitutes acceptance of the variance and its conditions by the petitioner. A variance and its conditions are not binding upon the petitioner until the executed certificate is filed with the Board and served on the Agency. Failure to timely file the executed certificate with the Board and serve ~~the~~ the Agency renders the variance void. However, execution of the certificate is not necessary prior to seeking reconsideration ~~underpursuant to~~ 35 Ill. Adm. Code 101.Subpart I, or appeal ~~underpursuant to~~ Section 104.244 ~~of this Part~~.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.248 Objection to Conditions

The Board may include such conditions in granting a variance and may adopt such rules and regulations as the policies of the Act may require. If an objection is made to a variance condition, the Board shall reconsider the condition within not more than 75 days from the date of the objection. [415 ILCS 5/41(b)] An objection to a specific variance condition may be made by filing a motion ~~underpursuant to~~ 35 Ill. Adm. Code 101.Subpart E within 35 days after the receipt of the Board's opinion and order containing the objectionable condition.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART C: PROVISIONAL VARIANCES

Section 104.300 Applicability

This Subpart applies to any person seeking a provisional variance from the Agency ~~underpursuant to~~ Title IX of the Act. This Subpart must be read in conjunction with 35 Ill. Adm. Code 101 and this Part. In the event of conflict between this Subpart and the requirements of 35 Ill. Adm. Code 101, the requirements of this Subpart apply.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.304 Initiating a Request

Any person seeking a provisional variance pursuant to Section 35(b) of the Act and 35 Ill. Adm. Code 180 shall make a request to the Agency. The Agency shall promptly investigate and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

consider the merits of the request. If the Agency fails to take final action within 30 days after receipt of the request for a provisional variance, or if the Agency denies the request, the person may initiate a variance proceeding with the Board ~~underpursuant to~~ Subpart B ~~of this Part~~. [415 ILCS 5/37(b)]

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART D: ADJUSTED STANDARDS

Section 104.400 General

- a) Description. An adjusted standard has the effect of an environmental regulation that would apply to petitioner, if granted, in lieu of the general regulation that would otherwise be applicable to a petitioner and the regulated community.
- b) Applicability. This Subpart will apply to any person seeking an adjusted standard ~~underpursuant to~~ Section 28.1 of the Act. This includes an adjusted standard sought ~~underpursuant to~~ 35 Ill. Adm. Code 212.126 ~~(CAA)~~ and 35 Ill. Adm. Code ~~720700 through 750 (RCRA)~~. This Subpart must be read in conjunction with 35 Ill. Adm. Code Part 101 which contains procedures generally applicable to all adjudicatory proceedings before the Board. In the event of a conflict between the requirements of 35 Ill. Adm. Code 101 and those of this Subpart, the provisions of this Subpart apply.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.402 Initiation of Proceeding

A person may initiate an adjusted standard proceeding by filing a petition that meets the requirements of Section 104.406 of this Part. A petition for an adjusted standard (petition) may be filed either jointly with the Agency or singly ~~underpursuant to~~ the filing requirements of 35 Ill. Adm. Code 101. If filed singly, the petitioner ~~must~~shall also serve the petition upon the Agency in accordance with 35 Ill. Adm. Code 101. Additionally, a person may file a petition and request the Agency to join as a co-petitioner as set forth in Section 104.404 ~~of this Part~~.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.404 Request to Agency to Join as Co-Petitioner

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) The Agency may, in its discretion, act as a co-petitioner in any adjusted standard proceeding.
- b) Any person may request Agency assistance in initiating a petition for adjusted standard. The Agency may require the person to submit to the Agency any background information in the person's possession relevant to the adjusted standard that is sought.
- c) Discretionary decisions made by the Agency ~~underpursuant to~~ this Section are not appealable to the Board.
- d) Subsequent to the filing of the petition and prior to hearing, the Board will grant the Agency co-petitioner status upon joint motion of the Agency and the petitioner who originally filed the petition.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.406 Petition Content Requirements

If the Agency is a co-petitioner, the petition must so state. The petition must contain headings corresponding to the informational requirements of each subsection of this Section. If the petitioner believes that any of the informational requirements are not applicable to the specific adjusted standard requested, the petitioner must so state and explain his reasoning. The following information must be contained in the petition:

- a) A statement describing the standard from which an adjusted standard is sought. This must include the Illinois Administrative Code citation to the regulation of general applicability imposing the standard as well as the effective date of that regulation;
- b) A statement that indicates whether the regulation of general applicability was promulgated to implement, in whole or in part, the requirements of the CWA (33 USC 1251 et seq.), Safe Drinking Water Act (42 USC 300(f) et seq.), Comprehensive Environmental Response, Compensation and Liability Act (42 USC 9601 et seq.), CAA (42 USC 7401 et seq.), or the State programs concerning RCRA, UIC, or NPDES ([see 415 ILCS 5/28.1](#));
- c) The level of justification as well as other information or requirements necessary for an adjusted standard as specified by the regulation of general applicability or a

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

statement that the regulation of general applicability does not specify a level of justification or other requirements [\(see 415 ILCS 5/28.1\)](#) ~~(see~~ [See](#) Section 104.426);

- d) A description of the nature of the petitioner's activity that is the subject of the proposed adjusted standard. The description must include the location of, and area affected by, the petitioner's activity. This description must also include the number of persons employed by the petitioner's facility at issue, age of that facility, relevant pollution control equipment already in use, and the qualitative and quantitative description of the nature of emissions, discharges or releases currently generated by the petitioner's activity;
- e) A description of the efforts that would be necessary if the petitioner was to comply with the regulation of general applicability. All compliance alternatives, with the corresponding costs for each alternative, must be discussed. The discussion of costs must include the overall capital costs as well as the annualized capital and operating costs;
- f) A narrative description of the proposed adjusted standard as well as proposed language for a Board order that would impose the standard. Efforts necessary to achieve this proposed standard and the corresponding costs must also be presented;
- g) The quantitative and qualitative description of the impact of the petitioner's activity on the environment if the petitioner were to comply with the regulation of general applicability as compared to the quantitative and qualitative impact on the environment if the petitioner were to comply only with the proposed adjusted standard. To the extent applicable, cross-media impacts must be discussed. Also, the petitioner must compare the qualitative and quantitative nature of emissions, discharges or releases that would be expected from compliance with the regulation of general applicability as opposed to that which would be expected from compliance with the proposed adjusted standard;
- h) A statement which explains how the petitioner seeks to justify, ~~under~~ [pursuant to](#) the applicable level of justification, the proposed adjusted standard;
- i) A statement with supporting reasons that the Board may grant the proposed adjusted standard consistent with federal law. The petitioner must also inform the Board of all procedural requirements applicable to the Board's decision on the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

petition that are imposed by federal law and not required by this Subpart. Relevant regulatory and statutory authorities must be cited;

- j) A statement requesting or waiving a hearing on the petition (~~underpursuant to~~ Section 104.422(a)(4) ~~of this Part~~ a hearing will be held on all petitions for adjusted standards filed ~~underpursuant to~~ 35 Ill. Adm. Code 212.126-~~(CAA)~~);
- k) The petition must cite to supporting documents or legal authorities whenever they are used as a basis for the petitioner's proof. Relevant portions of the documents and legal authorities other than Board decisions, State regulations, statutes, and reported cases must be appended to the petition;
- l) Any additional information ~~that which~~ may be required in the regulation of general applicability.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.408 Petition Notice Requirements

- a) *The petitioner shall submit to the Board proof that, within 14 days after the filing of the petition, it has published notice of the filing of the petition by advertisement in a newspaper of general circulation in the area likely to be affected by the petitioner's activity that is the subject of the adjusted standard proceeding [415 ILCS 5/28.1].*
- b) The title of the notice must be in the form as follows: "Notice of Petition by ~~{~~petitioner's name~~}~~ for an Adjusted Standard before the Illinois Pollution Control Board." The information in the notice must be presented so as to be understood in accordance with the context of this Section's requirements. The notice must contain:
 - 1) The~~the~~ name and address of the petitioner and the statement that the petitioner has filed with the Board a petition for an adjusted standard~~;~~;
 - 2) The ~~notice must also provide the~~ date upon which the petition was filed~~;~~;
 - 3) The~~the~~ Board docket number~~;~~;
 - 4) The~~the~~ regulatory standard (with appropriate Administrative Code

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

citation) from which an adjusted standard is sought;

- 5) ~~The~~ the proposed adjusted standard; ~~and~~
- 6) ~~A~~ a general description of the petitioner's activity that is the subject of the adjusted standard proceeding, and the location of that activity; ~~and. This information must be presented so as to be understood in accordance with the context of this Section's requirements.~~
- 7) ~~In the~~ The concluding portion of the notice ~~must read as follows:~~

"Any person may cause a public hearing to be held in the above-described adjusted standard proceeding by filing a hearing request with the Illinois Pollution Control Board within 21 days after the date of the publication of this notice. The hearing request should ~~clearly~~ indicate the docket number for the adjusted standard proceeding, as found in this notice. The hearing request must be mailed to the Clerk ~~of the Board~~, Illinois Pollution Control Board, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601, or filed electronically through COOL, located on the Board's website (www.ipcb.state.il.us)."

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.414 Dismissal of Petition

The Board may at any time dismiss a petition for any of the following reasons:

- a) The Board determines that the petition is frivolous, duplicative, or deficient with respect to the requirements of Sections 104.406, 104.408, and 104.410 ~~of this Part~~; or
- b) The Board determines that the petitioner is not pursuing disposition of the petition in a timely manner.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.416 Agency Recommendation and Petitioner Response

- a) Unless otherwise ordered by the hearing officer or the Board, the recommendation

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

must be filed with the Board within 45 days after the filing of the petition or amended petition, or where a hearing has been scheduled, at least 30 days before hearing, whichever is earlier. The recommendation must set forth the rationale for the Agency's position and may present any information which the Agency believes is relevant to the Board's consideration of the proposed adjusted standard. If the Agency recommends a denial of the petition due to informational deficiencies within the petition, the recommendation must identify the types of information needed to correct the deficiencies.

- b) At a minimum, the Agency must address and respond to the petition with respect to each issue raised by the requirements of ~~subsections (a) through (j) of~~ Section 104.406 ~~(a) through (j) of this Part.~~
- c) The recommendation must cite to supporting documents or legal authorities whenever ~~they~~ such are used as a basis for the Agency's conclusion. Relevant portions of the documents and legal authorities other than Board decisions, State regulations, statutes and reported cases must be appended to the recommendation if not already in the record of the proceeding.
- d) The petitioner may file a response to the recommendation within 14 days after the date of service of the recommendation.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.418 Amended Petition, Amended Recommendation, and Amended Response

- a) **Amended Petition.** The petitioner may amend its petition at any time. The amendment must be in writing and filed with the Board unless made orally at hearing. If the petitioner amends the petition ~~so~~ such that the amendment is a substantive change to the requested relief in that it requests additional or alternative relief, petitioner must re-notice the amended petition ~~underpursuant to~~ Section 104.408 ~~of this Part.~~
- b) **Amended Recommendation.** The Agency may amend its recommendation at any time, even if the petitioner has not amended its petition, if the amendment does not cause material prejudice. The amendment must be in writing and filed with the Board unless made orally at hearing.
- c) **Amended Response.** The petitioner may file a reply to a written amended

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

recommendation within 14 days after the date of receipt of the amended recommendation or within 14 days after the hearing when the Agency orally amended its recommendation.

- d) Written amendments to the petition or recommendations need not repeat the entire unchanged portion of the original filing provided that a sufficient portion of the original filing is repeated so that the context of the amendment is made clear.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.419 Insufficient Petition

If the Board finds the petition fails to contain information required by Section 104.406, the Board may order the petitioner to supplement the information contained in the petition through its own order or through a hearing officer order. Filings made in response to the order constitute an amended petition and will be subject to requirements of Section 104.418. Alternatively, under Section 104.414, the Board may dismiss the petition for lack of sufficient information. Failure of the Board to require supplemental information does not preclude a later finding that the information provided is insufficient to support grant of an adjusted standard, or constitute a Board decision on the merits of the petition.

(Source: Added at 41 Ill. Reg. _____, effective _____)

Section 104.420 Request for Public Hearing

- a) Any person can request that a public hearing be held in an adjusted standard 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 104.408 ~~of this Part~~. Requests for hearing ~~must~~should make reference to the Board docket number assigned to the proceeding. A copy of each timely hearing request will be served upon the petitioner and Agency by the Clerk ~~of the Board~~ in accordance with 35 Ill. Adm. Code 101.304(c). Public participation~~Participation by the public~~ at the hearing must be in accordance with 35 Ill. Adm. Code 101.110 and 101.628.
- b) Where all parties and participants who have requested a hearing underpursuant 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.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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 ~~underpursuant to~~ Section 104.420, not later than 21 days after the date of the publication of the petition notice in accordance with Section 104.408; 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 ~~underpursuant 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 attempt to consult with the petitioner and the Agency before setting a time and place for scheduling a hearing.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.424 Hearing Notice

After receiving notification from the hearing officer of the scheduled hearing date ~~made pursuant to Section 104.422 of this Part~~, the Clerk will cause the publication of a hearing in accordance with Section 28.1 of the Act [415 ILCS 5/28.1] and 35 Ill. Adm. Code 101.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.426 Burden of Proof

The burden of proof in an adjusted standard proceeding is on the petitioner. ~~A petitioner must justify an adjusted standard consistent with Section 27(a) of the Act.~~

- a) *If the regulation of general applicability does not specify a level of justification required of a petitioner to qualify for an adjusted standard, the Board may grant*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

individual adjusted standards whenever the Board determines, upon adequate proof by petitioner, that:

- 1) *factors relating to that petitioner are substantially and significantly different from the factors relied upon by the Board in adopting the general regulation applicable to that petitioner;*
 - 2) *the existence of those factors justifies an adjusted standard;*
 - 3) *the requested standard will not result in environmental or health effects substantially and significantly more adverse than the effects considered by the Board in adopting the rule of general applicability; and*
 - 4) *the adjusted standard is consistent with any applicable federal law. [415 ILCS 5/28.1(c)]*
- b) If the regulation of general applicability specifies a level of justification for an adjusted standard, the Board may adopt the proposed adjusted standard, if the petitioner proves the level of justification specified by the regulation of general applicability.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 104.428 Board Action

- a) The Board may grant an adjusted standard for persons who can justify such an adjustment consistent with Section 27(a) of the Act. [415 ILCS 5/28.1(a)] In adopting adjusted standards, the Board may impose such conditions as may be necessary to accomplish the purposes of the Act.
- b) Subsequent to the Board's adoption of an adjusted standard, the Board will publish, in the Environmental Register, the name of the petitioner, date of the Order that adopted the adjusted standard, and a brief narrative description of the adopted adjusted standard.
- c) *Board orders and opinions shall be maintained for public inspection by the Clerk of the Board and a listing of all determinations made pursuant to Section 28.1 of the Act shall be published in the Illinois Register and the Environmental Register at the end of each fiscal year. [415 ILCS 5/28.1(d)]* Board opinions and orders

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

will also be available from the Board's [website](#)~~Web-site~~.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

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>
105.108	Amendment
105.110	Amendment
105.116	Amendment
105.118	Amendment
105.202	Amendment
105.206	Amendment
105.208	Amendment
105.210	Amendment
105.212	Amendment
105.214	Amendment
105.300	Amendment
105.302	Amendment
105.304	Amendment
105.400	Amendment
105.402	Amendment
105.404	Amendment
105.406	Amendment
105.410	Amendment
105.412	Amendment
105.500	Amendment
100.502	Amendment
105.508	Amendment
105.510	Amendment
105.Appendix A	Repealed
- 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: Prompted by a recognition that some of its rules were no longer current due to changing technology and the passage of time, the Board began planning a broad review of all its rules, with a view of streamlining, updating and overhauling its regulation. Governor Rauner's Executive Order 2016-13 has provided additional impetus to the Board's initiative. The proposal

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

makes technical changes to the rule as well as changes in response to recently passed legislation.

- 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 R17-18 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 R17-18 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.

- 13) Initial Regulatory Flexibility Analysis:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 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: January 2017

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
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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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 ([Repealed](#))
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. 7980, effective May 20, 2016; ; amended in R17-18 at 41 Ill. Reg. _____, effective _____.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART A: GENERAL PROVISIONS

Section 105.108 Dismissal of Petition

A petition is subject to dismissal if the Board determines that:

- a) The petition does not contain the informational requirements set forth in Section 105.210, 105.304, 105.408 or 105.506 ~~of this Part~~;
- b) The petition is untimely ~~underpursuant to~~ Section 105.206, 105.302, 105.404 or 105.504 ~~of this Part~~;
- c) The petitioner fails to timely comply with any order issued by the Board or the hearing officer, including an order requiring additional information;
- d) The petitioner does not have standing under applicable law to petition the Board for review of the State agency's final decision; or
- e) Other grounds exist that bar the petitioner from proceeding.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 105.110 Hearings

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

(Source: Amended at 41 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.
~~Underpursuant to~~ 35 Ill. Adm. Code 101.302(h)(2), the State agency must file the record through COOL or on compact disk or other portable electronic data storage device and, the record must meet the requirements set forth in 35 Ill. Adm. Code

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

[101.Subpart J](#) to the extent technically feasible, in text-searchable Adobe PDF.

- b) The record must be arranged in chronological sequence, or by category of material and chronologically within each category, and must 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 41 Ill. Reg. _____, effective _____)

Section 105.118 Sanctions for Untimely Filing of the Record

If the State agency unreasonably fails to timely file the record on or before the date required under this Part, [or fails to prepare the record in accordance with this Part and 35 Ill. Adm. Code 101.Subpart J](#), the Board may sanction the State agency in accordance with 35 Ill. Adm. Code 101.Subpart H.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

**SUBPART B: APPEAL OF AGENCY PERMIT DECISIONS AND
OTHER FINAL DECISIONS OF THE AGENCY****Section 105.202 Parties**

- a) Petitioner. The person who files a petition for review of the Agency's final decision must be named the petitioner.
- b) ~~Respondent~~[Respondent\(s\)](#). The Agency must be named the respondent. If a petition is filed ~~underpursuant to~~ Section 105.204(b), (c) or (d) by a person other than the permit applicant, the permit applicant must be named as a respondent in addition to the Agency.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 105.206 Time to File the Petition or Request for Extension

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) Except as provided in subsection (b) ~~of this Section~~, if a person who may petition the Board under Section 105.204 ~~of this Subpart~~ wishes to appeal the Agency's final decision ~~to the Board under this Subpart~~, the person must file the petition with the Clerk within 35 days after the date of service of the Agency's final decision.
- b) If a person with standing as described in Section 105.204(d) ~~of this Subpart~~, or any third party who is authorized by law to appeal a final decision of the Agency to the Board, wishes to appeal the Agency's final decision ~~to the Board under this Subpart~~, the person must file a petition for review with the Clerk within 35 days after the date of issuance of the Agency's final decision.
- c) Except as provided in subsection (d) ~~of this Section~~, if a person who may petition the Board under Section 105.204 of this Subpart wishes to request an extension of time to file a petition for review ~~underpursuant to~~ Section 105.208(a) ~~of this Subpart~~, the person must file the request within 35 days after the date of service of the Agency's final decision.
- d) If a person with standing as described in Section 105.204(d), or any third party who is authorized by law to appeal a final decision of the Agency to the Board, wishes to request an extension of time to file a petition for review ~~underpursuant to~~ Section 105.208(b) ~~of this Subpart~~, the person must file the request within 35 days after the date of issuance of the Agency's final decision.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 105.208 Extension of Time to File a Petition for Review

- a) Permit or Other Agency Final Decision. For appeals ~~underpursuant to~~ Section 40(a)(1) of the Act, *the 35-day period* described in Section 105.206(a) of this Subpart *for petitioning for a hearing may be extended by the applicant for a period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Agency within the initial appeal period* [415 ILCS 5/40(a)(1)].
- 1) The applicant and the Agency must jointly file a request for extension within 35 days after the date of service of the Agency's final decision.
 - 2) The joint request ~~described in subsection (a)(1) of this Section~~ may seek

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

an appeal period not exceeding 125 days from the date of service of the Agency's final decision to file a petition for review under this Subpart.

- b) Hazardous Waste Permit. For appeals ~~underpursuant to~~ Section 40(c) of the Act, *the 35-day period described in Section 105.206(b) ~~of this Subpart~~ for petitioning for a hearing may be extended by the applicant for a period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Agency within the initial appeal period. If another person with standing to appeal a hazardous waste disposal permit wishes to obtain an extension, there must be a written notice provided to the Board by that person, the Agency, and the applicant, within the initial appeal period. [415 ILCS 5/40(c)]*
- 1) If the applicant is the petitioner, the applicant and the Agency must jointly file a request for extension within 35 days after the date of issuance of the Agency's final decision.
 - 2) If a person with standing other than the applicant is the petitioner, the Agency, the applicant and ~~thatthe other~~ person must jointly file a request for extension within 35 days after the date of issuance of the Agency's final decision.
 - 3) The joint request ~~described in subsection (b)(1) or (2) of this Section~~ may seek an appeal period not exceeding 125 days from the date of issuance of the Agency's final decision to file a petition for review under this Subpart.
- c) Any request for extension of time under this Section must be accompanied by written evidence that the Agency joins in the request, e.g., affidavit of the petitioner or signature of the Agency's representative.
- d) Extensions of time to file petitions under Section 105.204(b), (c), or (e) ~~of this Subpart~~ are not available.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 105.210 Petition Content Requirements

In addition to the requirements of 35 Ill. Adm. Code 101.Subpart C, the petition must include:

- a) The Agency's final decision or issued permit;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- b) A statement specifying the date of issuance or service of the Agency's final decision or issued permit, as applicable ~~under pursuant to~~ Section 105.206 ~~of this Subpart~~;
- c) A statement specifying the grounds of appeal; and
- d) For petitions under Section 105.204(b) ~~of this Subpart~~, *a demonstration that the petitioner raised the issues contained within the petition during the public notice period or during the public hearing on the NPDES permit application, if a public hearing was held, and a demonstration that the petitioner is so situated as to be affected by the permitted facility* [415 ILCS 5/40(e)(2)].

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 105.212 Agency Record

- a) The Agency must file its entire record of its decision with the Clerk in accordance with Section 105.116 ~~of this Part~~.
- b) The record must include:
 - 1) Any permit application or other request that resulted in the Agency's final decision;
 - 2) Correspondence with the petitioner and any documents or materials submitted by the petitioner to the Agency related to the permit application;
 - 3) The permit denial letter that conforms to the requirements of Section 39(a) of the Act or the issued permit or other Agency final decision;
 - 4) The hearing file of any hearing that may have been held before the Agency, including any transcripts and exhibits; and
 - 5) Any other information the Agency relied upon in making its final decision.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 105.214 Board Hearing

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) Except as provided in subsections (b), (c) and (d) ~~of this Section~~, the Board will conduct a public hearing, in accordance with 35 Ill. Adm. Code 101.Subpart F, upon an appropriately filed petition for review ~~under this Subpart~~. The hearing will be based exclusively on the record before the Agency at the time the permit or decision was issued, unless the parties agree to supplement the record ~~underpursuant to~~ Section 40(d) of the Act. If any party desires to introduce evidence before the Board with respect to any disputed issue of fact, the Board will conduct a separate hearing and receive evidence with respect to the issue of fact.
- b) The Board will not hold a hearing on a petition for review under this Subpart if the Board disposes of the petition on a motion for summary judgment brought ~~underpursuant to~~ 35 Ill. Adm. Code 101.516.
- c) The Board will not hold a hearing on a petition for review under Section 105.204(c) ~~of this Subpart~~ if the Board determines that:
- 1) The petition is duplicative or frivolous; or
 - 2) The petitioner is so located as to not be affected by the permitted facility.
- d) The Board will not hold a hearing on a petition for review under Section 105.204(b) or (d) ~~of this Subpart~~ if the Board determines that the petition is duplicative or frivolous.
- e) If the Board determines to hold a hearing, the Clerk will give notice of the hearing ~~underpursuant to~~ 35 Ill. Adm. Code 101.602.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART C: CAAPP PERMIT APPEALS

Section 105.300 Applicability

This Subpart applies to proceedings before the Board concerning appeals from CAAPP final determinations made ~~underpursuant to~~ Section 39.5 of the Act.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 105.302 General Requirements

- a) The definitions of 35 Ill. Adm. Code 101.202 and Section 39.5 of the Act will apply to this Subpart unless otherwise provided, or unless the context clearly indicates otherwise.
- b) If the Agency denies a CAAPP permit, permit modification, or permit renewal it ~~must~~ provide to USEPA, the permit applicant and, upon request, affected states, any person who participated in the public comment process and any other person who could obtain judicial review under Section 40.2 and 41 of the Act a copy of each notification of denial pertaining to the permit applicant.
- c) The applicant, any person who participated in the public comment process under Section 39.5(8) of the Act, or any other person who could obtain judicial review under Section 41(a) of the Act may contest the decisions of the Agency enumerated in this subsection (b) by filing with the Clerk a petition for review of the Agency's action in accordance with this Section:
 - 1) Denial~~In the case of a denial~~ of a CAAPP permit, including a permit revision or permit renewal, or a determination of incompleteness by the Agency regarding a submitted CAAPP application;~~;~~
 - 2) Issuance~~the issuance~~ by the Agency of a CAAPP permit with one or more conditions or limitations;~~;~~
 - 3) Failure~~or the failure~~ of the Agency to act on an application for a CAAPP permit, permit renewal, administrative permit amendment or significant permit modification within the time frames specified in Section 39.5(5)(j) or Section 39.5(13) of the Act, as applicable;~~;~~ or
 - 4) Failure~~the failure~~ of the Agency to take final action within 90 days after receipt of an application requesting minor permit modification procedures (or 180 days for modifications subject to group processing requirements) under~~pursuant to~~ Section 39.5(14) of the Act, ~~to which the applicant, any person who participated in the public comment process pursuant to Section 39.5(8) of the Act, or any other person who could obtain judicial review pursuant to Section 41(a) of the Act objects, such persons may contest the decision of the Agency by filing with the Clerk a petition for~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~review of the Agency's action in accordance with this Section.~~

- d) For purposes of this Subpart, a person who participated in the public comment process is someone who, during the public comment period, either commented on the draft permit, submitted written comments, or requested notice of the final action on a specific permit application.
- e) The petition filed ~~underpursuant to~~ subsection (c) ~~of this Section~~ must be filed within 35 days after the Agency's final permit action ~~unless: Notwithstanding the above, if~~
- 1) ~~The~~ petition is based solely on grounds arising after the 35 day period expires, in which case the petition may be filed within 35 days after the new grounds for review arise.
 - 2) ~~If the~~ applicant is challenging the Agency's failure to timely take final action ~~underpursuant to~~ Section 39.5 of the Act, in which case the petition must be filed before the Agency takes the final action.
 - 3) ~~However, under~~ Under no circumstances may a petition challenging the final permit action on a Phase II acid rain permit be filed more than 90 days subsequent to the final permit action.
- f) The Agency must appear as respondent at the hearing, and must file within 30 days after service of the petition, an answer consisting of the entire Agency record of the CAAPP application including the CAAPP permit application, the hearing record, the CAAPP permit denial or issuance letter, and correspondence with the applicant concerning the CAAPP permit application.
- g) The Clerk will give notice of the petition and hearing in accordance with 35 Ill. Adm. Code 101.
- h) The proceeding will be conducted in accordance with 35 Ill. Adm. Code 101.
- i) *The Agency shall notify USEPA, in writing, of any petition for hearing brought under this Part involving a provision or denial of a Phase II acid rain permit within 30 days of the filing of the petition. USEPA may intervene as a matter of right in any such hearing. The Agency shall notify USEPA, in writing, of any determination or order in a hearing brought under this Section that interprets,*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

voids, or otherwise relates to any portion of a Phase II acid rain permit. [415 ILCS 5/40.2(e)]

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 105.304 Petition Content Requirements

- a) The petition must include:
 - 1) a concise description of the CAAPP source for which the permit is sought;
 - 2) a statement of the Agency's decision or part thereof to be reviewed;
 - 3) a justification as to why the Agency's decision or part thereof was in error; and
 - 4) the other materials upon which the petitioner relies in its petition.
- b) The petition may include a request to stay the effectiveness of a denial of the CAAPP permit until final action is taken by the Board ~~underpursuant to~~ Section 40.2 of the Act.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART D: APPEAL OF AGENCY LEAKING UNDERGROUND STORAGE TANK (LUST) DECISIONS**Section 105.400 Parties**

- a) Petitioner. The person who files a petition for review of the Agency's final decision made ~~underpursuant to~~ Sections 57.1 et seq. of the Act (or under the former Section 22.18b(g) of the Act) must be named as petitioner.
- b) Respondent. The Agency must be named as the respondent.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 105.402 Who May File a Petition for Review

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Any owner or operator may file a petition for review ~~underpursuant to~~ Section 40 of the Act of an Agency final determination made ~~underpursuant to~~ Sections 57.1 et seq. of the Act (or under the former Section 22.18b(g) of the Act). There are several Agency determinations that may be appealed ~~underpursuant to~~ Section 40 of the Act. The Agency determinations that may be appealed are included in Illustration A of this Part.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 105.404 Time for Filing the Petition

Petitions must be filed in accordance with this Section or the Board does not have the authority to review the Agency's decision and will dismiss the proceeding on its own motion or on the motion of any party. Within 35 days after the date of service of the Agency's final decision the petitioner may file with the Clerk ~~of the Board~~:

- a) a petition for review that contains the requirements of Section 105.408 ~~of this Part~~; or
- b) a request for an extension of time to file a petition for hearing ~~underpursuant to~~ Section 105.406 ~~of this Part~~.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 105.406 Extension of Time to File a Petition for Review

~~Underpursuant to~~ Section 40(a)(1) of the Act, *the 35-day period for petitioning for a hearing may be extended by the applicant for a period of time not to exceed 90 days by written notice provided to the Board from the applicant and the Agency within the initial appeal period.* [415 ILCS 5/40(c)]~~].~~ The applicant and the Agency must jointly file a request for extension with the Board within 35 days after the date of service of the Agency's final decision. Upon an appropriately filed request for an extension, the applicant has a period not exceeding 125 days after the date of service of the Agency's final decision to file a petition for review before the Board ~~underpursuant to~~ Section 105.408 ~~of this Part~~.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 105.410 Agency Record

- a) The Agency must file the entire record of its decision with the Board in

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

accordance with Section 105.116 ~~of this Part~~.

- b) The record must include:
- 1) The plan or budget submittal or other request that requires an Agency decision;
 - 2) Correspondence with the petitioner and any documents or materials submitted by the petitioner to the Agency related to the plan or budget submittal or other request;
 - 3) The final determination letter; and
 - 4) Any other information the Agency relied upon in making its determination.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 105.412 Board Hearing

The Board will conduct a public hearing, in accordance with 35 Ill. Adm. Code 101.Subpart F, including any hearing held by videoconference (see 35 Ill. Adm. Code 101.600(b)), upon an appropriately filed petition for review, unless a petition is disposed of by a motion for summary judgment brought ~~underpursuant to~~ 35 Ill. Adm. Code 101.516. The hearing will be based exclusively on the record before the Agency at the time the permit or decision was issued.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART E: APPEAL OF OSFM LUST DECISIONS

Section 105.500 Applicability

This Subpart applies to proceedings before the Board concerning appeals from OSFM final determinations made ~~underpursuant to~~ Section 57.9(c) of the Act.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 105.502 General Overview

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

OSFM final determinations are made either through the issuance of an "Eligibility and Deductibility Determination" letter or by the failure of OSFM to act upon receipt of an "Eligibility and Deductibility Determination" form within 60 days ~~underpursuant to~~ Section 57.9(c)(2) of the Act. The process before the Board for review of final determinations by the OSFM includes the following steps. Upon receipt of a petition for review, unless the Board determines that the petition is insufficient, a hearing date and location will be assigned. Hearings will be publicly-noticed in the county where the underground storage tank site is located. If the parties enter into a settlement agreement prior to or during the hearing process, the parties may request that the Board accept and enter a final order adopting a proposed settlement agreement; the order may be requested with or without a hearing.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 105.508 OSFM Record and Appearance

- a) Within 14 days after a petition for review of an OSFM eligibility or deductibility determination, the attorney representing the OSFM must file an appearance with the Board.
- b) The OSFM must file the entire record of its decision with the Board in accordance with Section 105.116 ~~of this Part~~. The record must include:
 - 1) The request for OSFM determination of eligibility or deductibility;
 - 2) Correspondence with the petitioner;
 - 3) The denial letter; and
 - 4) Any other information the OSFM relied upon in making its determination.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 105.510 Location of Hearing

The hearing will be held in ~~either~~ Springfield, ~~in or~~ Chicago, by videoconference (see 35 Ill. Adm. Code 101.600(b)), 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 newspaper of general

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

(Source: Amended at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 105.APPENDIX A Agency LUST Final Decisions that are Reviewable (Repealed)

The following table includes ~~Agency final determinations which may be appealed to the Board pursuant to the Leaking Underground Storage Tank Program, Title XVI of the Act. Appealable determinations are listed in Title XVI, so the reader should consult the Act for amendments to Title XVI which may affect this list.~~

Description of Final Determination	Section of the Act Citation	35 Ill. Adm. Code Citation
Agency's determination concerning the owner's or operator's physical soil classification and groundwater investigation plan.	57.7(a)(1)(A)	732.305(a) and (c) and 732.503(b) and (f)
Agency's determination as to a request for reimbursement for costs associated with early action pursuant to Section 57.6(b) of the Act.	57.7(a)(1)(B)	732.305(b)(1) and (c) and 732.602
Agency's determination concerning the owner's or operator's budget for the physical soil classification and groundwater investigation plan.	57.7(a)(2)	732.305(b)(2) and (c) and 732.503(b) and (f)
Agency's determination concerning the site classification.	57.7(b)	732.309, 732.500(a) and 732.503(b) and (f)
Agency's determination concerning the corrective action plan submitted for a high priority site.	57.7(c)(1)(A)	732.405(a) and 732.503(b) and (f)
Agency's determination concerning the budget associated with a corrective action plan submitted for a high priority site.	57.7(c)(1)(B)	732.405(b) and 732.503(b) and (f)
Agency's determination as to issuance of a no further remediation letter in	57.7(c)(1)(E)	732.410(a) and (d)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~accordance with Section 57.10 of the Act for a high priority site.~~

~~Agency's determination concerning the groundwater monitoring plan and associated budget submitted for a low priority site.~~ ~~57.7(e)(2)(B)~~ ~~732.403(b) and (c) and 732.503(b) and (f)~~

~~Agency's determination associated with a groundwater monitoring completion report.~~ ~~57.7(e)(2)(C)~~ ~~732.403(g)~~

~~Agency's determination as to issuance of a no further remediation letter in accordance with Section 57.10 of the Act for a low priority site.~~ ~~57.7(e)(2)(E)~~ ~~732.403(f) and 732.410(d)~~

~~Agency's determination as to the site classification for a no further action site.~~ ~~57.7(e)(3)(B)~~ ~~732.402 and 732.410(d)~~

~~Agency's determination as to amount of reimbursement.~~ ~~57.8(i)~~ ~~732.602(h)~~

~~Agency's determination concerning the completeness of plan or budget submittals by the owner or operator.~~ ~~732.502(b), 732.503(f)~~

~~Agency's determination concerning the completeness of plan or budget submittals by the owner or operator.~~ ~~732.602(a) and (b)~~

~~BOARD NOTE: The above list was complete at time of adoption. However, the list is subject to subsequent changes in the Act, the Board's regulations and the interpretation of the corresponding law. By no means should this list be interpreted to limit any right to appeal an Agency final determination before the Board. The list should only be used as an aid for interpreting Title XVI and the corresponding law.~~

(Source: Repealed at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

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>
106.100	Amendment
106.106	Amendment
106.200	Amendment
106.202	Amendment
106.204	Repealed
106.206	Amendment
106.208	Amendment
105.300	Amendment
106.302	Amendment
106.304	Amendment
106.308	Amendment
106.400	Amendment
106.410	Amendment
106.500	Amendment
106.504	Amendment
106.506	Amendment
106.510	Amendment
106.600	Amendment
106.602	Amendment
106.604	Amendment
106.608	Amendment
106.702	Amendment
106.704	Amendment
106.707	Amendment
106.710	Amendment
106.712	Amendment
106.714	Amendment
106.718	Repealed
106.720	Amendment
106.722	Repealed
106.724	Repealed
106.726	Repealed
106.728	Amendment
106.730	Repealed

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

106.732	Repealed
106.734	Repealed
106.736	Repealed
106.738	Repealed
106.740	Repealed
106.800	Amendment
106.804	Amendment
106.806	Amendment
106.810	Amendment
106.900	Amendment
106.902	Amendment
106.904	Amendment
106.906	Amendment
106.912	Amendment
106.1105	Amendment
106.1110	Amendment
106.1115	Amendment
106.1120	Amendment
106.1125	Amendment
106.1130	Amendment
106.1135	Amendment
106.1140	Amendment
106.1145	Amendment
106.1150	Amendment
106.1155	Amendment
106.1160	Amendment
106.1170	Amendment
106.1175	Amendment
106.1180	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: Prompted by a recognition that some of its rules were no longer current due to changing technology and the passage of time, the Board began planning a broad review of all its rules, with a view of streamlining, updating and overhauling its regulation. Governor Rauner's Executive Order 2016-13 has provided additional impetus to the Board's initiative. The proposal

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

makes technical changes to the rule as well as changes in response to recently passed legislation.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? 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 R17-18 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 R17-18 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.

- 13) Initial Regulatory Flexibility Analysis:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 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: January 2017

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 (Repealed)
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 (Repealed)
106.720	Intervention
106.722	Continuances (Repealed)
106.724	Discovery, Admissions (Repealed)
106.726	Subpoenas (Repealed)
106.728	Settlement Procedure
106.730	Authority of Hearing Officer, Board Members, and Board Assistants (Repealed)
106.732	Order and Conduct of Hearing (Repealed)
106.734	Evidentiary Matters (Repealed)
106.736	Post-Hearing Procedures (Repealed)
106.738	Motion After Entry of Final Order (Repealed)
106.740	Relief from Final Orders (Repealed)

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. 7986, effective May 20, 2016; amended in R17-18 at 41 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 106.100 Applicability

- a) This Part applies to adjudicatory proceedings pursuant to specific rules or statutory provisions. ~~Specifically, the Part applies to heated effluent, artificial cooling lake and sulfur dioxide demonstrations, water well setback exception procedures, revocation and reopening of CAAPP permits, maximum achievable control technology determinations, culpability determinations for particulate matter less than or equal to 10 microns, the involuntary termination of environmental management system agreements, authorization of use of cleaning agents under the Regulation of Phosphorus in Detergents Act [415 ILCS 92],~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~authorizations for certain landscape waste and compost applications and on-farm composting facilities, and petitions requesting alternative thermal effluent limitations pursuant to section 316(a) of the Clean Water Act (33 USC 1326(a)) and 35 Ill. Adm. Code 304.141(e).~~

- 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 41 Ill. Reg. _____, effective _____)

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 ~~underpursuant to~~ 35 Ill. Adm. Code 101.Subpart F, including any hearing held by videoconference (see 35 Ill. Adm. Code 101.600(b)).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

**SUBPART B: HEATED EFFLUENT, ARTIFICIAL COOLING LAKE,
AND SULFUR DIOXIDE DEMONSTRATIONS****Section 106.200 General**

- a) Description
- 1) Heated Effluent Demonstration
- A) The owner or operator of a source of heated effluent that discharges 150 megawatts (0.5 billion British thermal units per hour) or more must demonstrate ~~in an adjudicatory proceeding before the Board,~~ underpursuant to 35 Ill. Adm. Code 302.211(f),

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

that discharges from that source have not caused and cannot be reasonably expected to cause significant ecological damage to the receiving waters.

- B) The owner or operator must make the demonstration under subsection (a)(1)(A) ~~of this Section~~ not less than 5 years nor more than 6 years after operations commence.
- C) If the Board finds that the proof of the owner or operator under subsection (a)(1)(A) ~~of this Section~~ is inadequate, the Board's order will include a requirement that the owner or operator perform appropriate corrective measures within a reasonable time as determined by the Board.

2) Artificial Cooling Lake Demonstration

- A) If a discharger wishes to have the Board establish specific thermal standards for its discharge to an artificial cooling lake ~~underpursuant to~~ 35 Ill. Adm. Code 302.211(j)(5) that would apply to the discharge in lieu of the applicable provisions of the thermal water quality standards set forth in 35 Ill. Adm. Code 302.211 and 303, the discharger must demonstrate ~~in an adjudicatory proceeding before the Board,~~ ~~underpursuant to~~ 35 Ill. Adm. Code 302.211(j)(3), that the artificial cooling lake receiving the heated effluent will be environmentally acceptable and within the intent of the Act.
- B) If the Board finds that the proof of the discharger under subsection (a)(2)(A) ~~of this Section~~ is adequate, the Board will establish, ~~underpursuant to~~ 35 Ill. Adm. Code 302.211(j)(5), specific thermal standards to be applied to the discharge to the artificial cooling lake in lieu of the applicable provisions of the thermal water quality standards set forth in 35 Ill. Adm. Code 302.211 and 303.
- C) A Board order providing alternate thermal standards under subsection (a)(2)(B) ~~of this Section~~ will include, but not be limited to, the following conditions:
 - i) ~~Under Pursuant to~~ 35 Ill. Adm. Code 302.211(j)(1), all

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

discharges from the artificial cooling lake to other waters of the State must comply with the applicable provisions of 35 Ill. Adm. Code 302.211(b) through (e); and

- ii) ~~Under Pursuant to~~ 35 Ill. Adm. Code 302.211(j)(2), the heated effluent discharged to the artificial cooling lake must comply with all applicable provisions of 35 Ill. Adm. Code Subtitle C, Chapter I, except 35 Ill. Adm. Code 302.211(b) through (e).
- 3) Sulfur Dioxide Demonstrations. Any owner or operator of a fuel combustion emission source may petition the Board, ~~underpursuant to~~ 35 Ill. Adm. Code 214.185 and this Subpart, for approval of substitute standards from those set forth in 35 Ill. Adm. Code 214.183 and 214.184.
- b) Initiation of Proceeding. The owner or operator may initiate a heated effluent, artificial cooling lake or sulfur dioxide demonstration by filing with the Clerk a petition in accordance with this Subpart.
- c) Parties. The owner or operator must be named the petitioner and the Agency must be named the respondent.
- d) Filing and Service. Filing and service must be in accordance with 35 Ill. Adm. Code 101.~~Subparts~~~~Subpart~~ C and J.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.202 Petition Requirements

- a) Heated Effluent Demonstration. The petition must include, ~~where applicable~~, the following information but may include additional information that the petitioner believes will be relevant to the proceeding:
 - 1) General Plant Description:
 - A) Generating capacity;
 - B) Type of fuel used;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- C) Operating characteristics of the condenser cooling system;
 - D) History of the load factor of the plant for the time during which the plant has operated, but for no more than the last 5 years;
 - E) Projected load factors for the life of the plant;
 - F) Estimated date of retirement for each unit at the plant and any plans for additional units at the plant;
 - G) History of plant shutdowns; and
 - H) Planned, emergency, and projected shutdowns with frequency and duration.
- 2) Description of Method for Heat Dissipation:
- A) Type of system used (such as once-through, mechanical, and draft cooling towers) in narrative form; and
 - B) Summary information on temperature of discharge to receiving waters in narrative form.
- 3) Plume Studies:
- A) Actual plume studies in the last 5 years correlated with plant operation and meteorological conditions;
 - B) Theoretical plume studies for all four seasons for typical and worst case conditions. Worst case conditions must be identified as worst conditions of plant load factors, precipitation, ambient water temperature, and air temperature; the studies must consider the frequency of occurrence and their joint probabilities of occurrence; and
 - C) Theoretical plume studies that identify isotherms at 3° Fahrenheit (1.7° Centigrade) intervals down to ambient temperature indicating three-dimensional effects.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 4) A demonstration, which may take any of the forms described in subsection (b)(2), that discharges from the source of heated effluent have not caused and cannot be reasonably expected to cause significant ecological damage to the receiving waters, including:
 - A) Biological studies in the last 5 years on receiving waters, including species studied, location of studies, and conclusions reached, including conclusions as to both the lethal and sublethal effects of the thermal discharge;
 - B) The impact on other animal life (such as waterfowl and amphibians) in the area as a result of the thermal discharge; and
 - C) Secondary Considerations
 - i) Possible and known impact on recreation from thermal discharges; and
 - ii) Management practices employed or planned in order to limit the effect of any environmental harm established under this subsection (a)(4). The demonstration required under this subsection (a)(4) may take any of the forms described in subsection (b)(2) of this Section.
- 5) A citation to any prior proceedings, in which the petitioner was a party, brought underpursuant to 35 Ill. Adm. Code 302.211(f) or (j)(3).
- b) Artificial Cooling Lake Demonstration. The petition must include, where applicable, the following information but may include additional information that the petitioner believes will be relevant to the proceeding:
 - 1) A demonstration that the artificial cooling lake receiving the heated effluent will be environmentally acceptable and within the intent of the Act, including:
 - A) Provision of conditions capable of supporting shellfish, fish and wildlife, and recreational uses consistent with good management practices; and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- B) Control of the thermal component of the discharger's effluent by a technologically feasible and economically reasonable method.
- 2) The demonstration required under subsection (b)(1) ~~of this Section~~ may take the form of any of the following:
 - A) A final environmental impact statement;
 - B) Pertinent provisions of environmental assessments used to prepare the final environmental impact statement; or
 - C) A showing ~~underpursuant to~~ Section 316(a) of the Clean Water Act (33 USC 1326).
- 3) A citation to any prior proceedings, in which the petitioner was a party, brought ~~underpursuant to~~ 35 Ill. Adm. Code 302.211(f) or (j)(3).
- c) Sulfur Dioxide Demonstration. The petition must include the following information:
 - 1) An explicit statement of the site-specific emission limitation (in pounds of sulfur dioxide per million British thermal units (btu) actual heat input and total pounds of sulfur dioxide per hour) that is proposed for the facility.
 - 2) Emission Sources Description:
 - A) The diameter, height, exit gas temperature, and exit gas velocity for all stacks or vents through which sulfur dioxide is emitted into the atmosphere;
 - B) A description of the fuels used including type, ultimate analysis, sulfur content, and heat content;
 - C) A description of the type of fuel combustion equipment including method of firing and size (in million btu per hour capacity);
 - D) A topographic map of terrain within 30 miles of the emission ~~source or source~~ source(s);

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- E) A specific description of the location of the emission sources, including a plot plan; and
 - F) A specific description of the operating conditions ~~that~~which produce maximum sulfur dioxide emissions.
- 3) A summary of any and all ambient air quality data collected by the owner or operator of the ~~source or source~~source(s) since January 1, 1973. The summary must include annual averages; maximum and second-highest one-hour, 3-hour, and 24-hour averages for each month; and the number of times the 3-hour and 24-hour sulfur dioxide standards were exceeded during each month.
 - 4) A summary of any and all meteorological data collected by the owner or operator of the ~~source or source~~source(s) since January 1, 1973, if the data are used in the development of the site-specific emission standard.
 - 5) A complete description of and justification for all dispersion models and plume rise equations that are used to develop the site-specific emission limitation, including all model equations.
 - 6) A description of and justification for the use of all data that were inputs to the dispersion and plume rise formula used to establish the site-specific emission standard. The description and justification must cover, as a minimum, the following input data:
 - A) Stack diameters, stack heights, exit gas temperatures, and exit gas velocities for all stacks and vents emitting sulfur dioxide at the subject facility as well as for any other sources of sulfur dioxide that were modeled;
 - B) All sulfur dioxide emission sources that were modeled; and
 - C) All meteorological data.
 - 7) Calculated maximum ground-level concentrations using the following method, or such other method (or modification of the hereinafter stated method) that the petitioner proves to the satisfaction of the Board to be acceptable.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- A) Selection of simulation model:
- i) Gaussian models that allow the input of hourly meteorological data must be used which are appropriate for the specific location and type of ~~source or source~~source(s) in question.
 - ii) Dispersion models presented in "Guidelines on Air Quality Models" (EPA-450/2-78-027), or those deemed by the Board to be equivalent to these models must be used for detailed air quality studies.
- B) Selection of meteorological data and stack parameters:
- i) The most recent 5 years of hour-by-hour meteorological data reasonably available, including wind speed, wind direction, atmospheric stability, mixing height and surface temperature must be used, unless the petitioner demonstrates that one of the 5 years causes substantially higher concentrations than the other four, in which case detailed analyses conducted for only that "worst case" year would be acceptable. Notwithstanding the previous sentence, one year of on-site data may be used in lieu of the 5-year data requirement;
 - ii) Data must be from the nearest, representative, quality controlled meteorological collecting site; and
 - iii) Stack parameters (including emission rate, stack height, stack diameter, exit velocity, and exit temperature) must reflect the maximum operating rate for comparison with the 24-hour and 3-hour sulfur dioxide standards.
- C) Receptors:
- i) Receptors must be located so as to ensure that the source's maximum impact is detected; and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- ii) The determination of the receptor grid must be fully documented in the modeling study;
- D) Special conditions:
- i) All special conditions that may affect the dispersion of the effluent plume, including local terrain effects and aerodynamic downwash, must be considered in the modeling study;
 - ii) If terrain is a factor in the vicinity of the source, a model capable of handling variable-height receptors must be used; and
 - iii) If the computed height of the effluent plume is less than 2.5 times the height of nearby buildings or local obstructions, aerodynamic downwash must be studied and considered as a possible factor in the dispersion of that effluent.
- E) Determination of violation: The determination of whether an applicable air quality increment or standard is being violated must be based on the second-highest predicted concentration over the receptor grid for short-term averaging times and on the highest predicted concentration for annual averaging times. However, if only one year of meteorological data is used in the short-term analysis, then the highest predicted concentration may be compared to the applicable standard to determine whether a violation has occurred.
- F) Other sources: Effects of other sources of sulfur dioxide must be taken into account in the modeling study. Methods by which other sources of sulfur dioxide may be accounted are as follows:
- i) An acceptable method is to estimate the "background" from monitoring data which has been subjected to adequate quality control where available. When monitored data is used, the background must be estimated using monitoring days with meteorological conditions similar to those identified as "worst case" for the source in question; or

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- ii) If monitoring data is not available, then all sources of sulfur dioxide having a significant impact in the area of the source's impact area must be used in the simulation model. These sources of sulfur dioxide must also be modeled at their maximum allowable emission rate for any studies addressing 24-hour or 3-hour averaging times.
- 8) Estimates of the frequency, characteristics, probable time of occurrence, and duration of the meteorological conditions associated with the maximum ground-level concentration of sulfur dioxide to which the facility under study contributes. A description of the techniques used in arriving at the above estimates must be included.
- 9) Background concentrations that were determined for all meteorological conditions required to be examined under subsection (c)(7) ~~of this Section~~ and for any other meteorological conditions considered in the development of the alternative standard.
- 10) A description of the method that was used to determine background sulfur dioxide concentrations in the vicinity of the subject facility for each of the meteorological conditions required to be examined under subsection (c)(7) ~~of this Section~~ and for any additional meteorological conditions considered in developing the alternative standard.
- 11) An evaluation and calibration of the dispersion model if air quality monitoring data were available to perform the evaluation and calibration.
- 12) A statement that the procedural requirements of 40 CFR 51.4 (1977) are met. At least 30 days prior to the date of the hearing, the petitioner must:
- A) Give notice to the public, by prominent advertisement in the Air Quality Control Region affected, announcing the date, time and place of the hearing;
 - B) Make available a copy of the petition for public inspection in at least one location in the Air Quality Control Region in which the source is located;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- C) Notify the Administrator of USEPA (through the Region V Office);
- D) Notify each local air pollution control agency located within the affected Air Quality Control Region; and
- E) Notify, in the case of an interstate Air Quality Control Region, any air pollution control agencies of other states included, in whole or in part, in the Region.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.204 Additional Petition Requirements in Sulfur Dioxide Demonstrations
(Repealed)

~~In addition to meeting the petition content requirements of Section 106.202(c) of this Part the petitioner must ensure that the procedural requirements of 40 CFR 51.4 (1977) are met and, at least 30 days prior to the date of the hearing, petitioner must:~~

- ~~a) Give notice to the public by prominent advertisement in the Air Quality Control Region affected announcing the date, time and place of the hearing;~~
- ~~b) Make available a copy of the petition for public inspection in at least one location in the Air Quality Control Region in which the source is located;~~
- ~~c) Notify the Administrator of USEPA (through the Region V Office);~~
- ~~d) Notify each local air pollution control agency located within the affected Air Quality Control Region; and~~
- ~~e) Notify, in the case of an interstate Air Quality Control Region, any air pollution control agencies of other states included, in whole or in part, in the Region.~~

(Source: Repealed at 41 Ill. Reg. _____, effective _____)

Section 106.206 Notice

The Clerk will give notice of the petition and hearing in accordance with 35 Ill. Adm. Code 101.602. The proceedings must be in accordance with 35 Ill. Adm. Code 101.Subpart F₁

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

including any hearing held by videoconference (see 35 Ill. Adm. Code 101.600(b)).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.208 Recommendation and Response

The Agency must file a recommendation on a petition under this Subpart as prescribed in this Section. The petitioner, ~~or~~ any other party to the proceeding, or any person may file a response to the Agency recommendation within 14 days after the filing of the recommendation~~service of the petition. Any person other than a party to the proceeding may file a response to the Agency recommendation within 14 days after the Agency files the recommendation.~~

- a) **Heated Effluent Demonstration**
Within 60 days after the owner or operator files the petition, the Agency must make a recommendation to the Board on the petition. The recommendation may include:
 - 1) A description of the Agency's efforts in conducting its review of the petition;
 - 2) The Agency's conclusion as to whether discharges from the source have caused or can reasonably be expected to cause significant ecological damage to the receiving waters;
 - 3) The factual basis for the Agency's conclusion;
 - 4) Any corrective measures that the Agency recommends be taken and the recommended time period to implement the measures; and
 - 5) The Agency's recommendation on how the Board should dispose of the petition.
- b) **Artificial Cooling Lake Demonstration**
Within 60 days after the owner or operator files the petition, the Agency must make a recommendation to the Board on the petition. The recommendation may include:
 - 1) A description of the Agency's efforts in conducting its review of the petition;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) The Agency's conclusion as to whether the artificial cooling lake receiving the heated effluent will be environmentally acceptable and within the intent of the Act;
 - 3) The factual basis for the Agency's conclusion; and
 - 4) The Agency's recommendation on how the Board should dispose of the petition.
- c) Sulfur Dioxide Demonstration
Within 90 days after the filing of the petition the Agency must make a recommendation to the Board as to be proposed site-specific emission limitation. The recommendation may include, the following:
- 1) A description of the efforts made by the Agency in conducting its review;
 - 2) The Agency's conclusion as to whether the proposed site-specific emission limitation is adequate to prevent violations of the Primary and Secondary Sulfur Dioxide Ambient Air Quality Standards; and
 - 3) The Agency's conclusion as to what disposition should be made of the petition.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART C: WATER WELL SETBACK EXCEPTION PROCEDURES

Section 106.300 General

- a) Description. This Subpart applies to any *owner of a new potential route, a new potential primary source other than landfilling or land treating, or new potential secondary source* who files a petition for an exception from the setback requirements of Sections 14.2 and 14.3(e) of the Act ~~underpursuant to~~ Section 14.2(c) of the Act and this Subpart. [415 ILCS 5/14.2(c)]
- b) Parties. The owner filing the petition for an exception must be named the petitioner and the Agency must be named the respondent. Affected well owners who are not petitioners also must be named respondents.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- c) Filing and service. The filing and service requirements of 35 Ill. Adm. Code 101.~~Subparts~~Subpart C and J will apply to the proceedings of this Subpart.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.302 Initiation of Proceeding

- a) The petitioner must file the petition for exception with the Clerk~~of the Board~~ and must serve one copy upon the Agency.
- b) The petitioner must notify and provide a copy of the petition to the owners of each potable water supply for which the setback requirements would be affected by the exception.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.304 Petition Content Requirements

The petition must contain the following information:

- a) A written statement, signed by the petitioner or an authorized representative, outlining the scope of the evaluation, the nature of, the reasons for, and the basis of the exception, consistent with the burden of proof contained in Section 106.310 ~~of this Part~~;
- b) The nature of the petitioner's operations and control equipment;
- c) Documentation of service on owners required to be notified and provided with a copy of the petition as required by Section 106.302(b)~~of this Part~~, 35 Ill. Adm. Code 101, and Section 14.2(c) of the Act; and
- d) Any other information which may be required by Section 14.2 of the Act.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.308 Hearing

The Board will hold at least one public hearing in an exception proceeding. The hearing officer

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

will schedule the hearing. The Clerk will give notice of hearing in accordance with 35 Ill. Adm. Code 101. The proceedings will be in accordance with 35 Ill. Adm. Code 101.Subpart F, [including any hearing held by videoconference \(see 35 Ill. Adm. Code 101.600\(b\)\)](#).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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

Section 106.400 General

- a) Description. The provisions of this Subpart will apply to:
- 1) Any revocation proceeding initiated by the Agency when it determines that there are grounds to revoke and reissue a Clean Air Act Permit Program (CAAPP) permit for cause, ~~underpursuant to~~ Section 39.5(15)(b) of the Act; and
 - 2) Any reopening proceeding initiated by the Agency ~~underpursuant to~~ a notice that there are grounds to terminate or revoke and reissue a CAAPP permit for cause, ~~underpursuant to~~ Section 39.5(16) of the Act.
- b) Parties.
- 1) In a revocation proceeding initiated by the Agency, the Agency will be named as petitioner and the holder of the CAAPP [permit](#) will be named as respondent.
 - 2) In a reopening proceeding initiated by the Agency, the Agency will be named as petitioner and the holder of the CAAPP [permit](#) will be named as respondent.
- c) Filing and service. The filing and service requirements of 35 Ill. Adm. Code 101.~~Subparts~~[Subpart C and J](#) will apply to the proceedings of this Subpart.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.410 Hearing

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

The Board will hold at least one public hearing. 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, [including any hearing held by videoconference \(see 35 Ill. Adm. Code 101.600\(b\)\)](#).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART E: MAXIMUM ACHIEVABLE CONTROL
TECHNOLOGY DETERMINATIONS**Section 106.500 General**

- a) Description. The provisions of this Subpart will apply to any proceeding initiated by an owner or operator of a CAAPP source ~~underpursuant to~~ Section 39.5(19)(a) or (e) of the Act challenging the Agency's determination not to utilize the hazardous air pollutant emission limitation proposed by the CAAPP source or the hazardous air pollutant limitation for a case-by-case maximum achievable control technology (MACT) proposed by the CAAPP source.
- b) Parties. The owner or operator of the CAAPP source who initiates the proceeding must be named as petitioner and the Agency must be named as respondent.
- c) Filing and service. The filing and service requirements of 35 Ill. Adm. Code 101.~~Subparts~~[Subpart C and J](#) will apply to the proceedings of this Subpart.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.504 Initiation of Proceedings

The owner or operator of a CAAPP source may initiate a proceeding before the Board by serving a petition upon the Agency and filing with the Clerk ~~of the Board~~.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.506 Petition Content Requirements

A petition filed ~~underpursuant to~~ Section 39.5(19)(a) and (e) of the Act must include:

- a) A detailed description of and justification for the emission limitation that is being

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

proposed for the source and an explanation of how the emission limitation provides for the level of control required under Section 112 of the CAA (42 USC 7412);

- b) A petition filed ~~underpursuant to~~ Section 39.5(19)(a) of the Act must also include justification for the Board to determine whether the emission limitation proposed by the owner or operator of the CAAPP source provides for the emission limitation equivalent to the emission limitation that would apply to the source if USEPA had promulgated the applicable emission standard ~~underpursuant to~~ Section 112(d) of the CAA (42 USC 7412(d)) in a timely manner; and
- c) The Agency's notification of its refusal to adopt the CAAPP source's proposed emission limitation or the CAAPP source's MACT determination.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.510 Hearing

The Board will hold at least one public hearing. 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, including any hearing held by videoconference (see 35 Ill. Adm. Code 101.600(b)).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

**SUBPART F: CULPABILITY DETERMINATIONS FOR PARTICULATE MATTER
LESS THAN OR EQUAL TO 10 MICRONS (PM-10)****Section 106.600 General**

- a) Description. The provisions of this Subpart will apply to any appeal initiated under 35 Ill. Adm. Code 212.702 by an owner or operator of a source ~~underpursuant to~~ a finding by the Agency of culpability for an exceedence of the 24-hour ambient air quality standard for particulate matter less than or equal to 10 ~~micronsierons~~ (PM-10) at 35 Ill. Adm. Code 243.120.
- b) Parties. The owner or operator of a source who initiated the proceeding will be named as the petitioner and the Agency will be named as respondent.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- c) Filing and service. The filing and service requirements of 35 Ill. Adm. Code 101.~~Subparts~~Subpart C and J will apply to the proceedings of this Subpart.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.602 Initiation of Proceedings

The owner or operator of a source may initiate a proceeding before the Board by serving a petition for review of the Agency culpability determination and filing the petition with the Clerk ~~of the Board~~.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.604 Petition Content Requirements

A petition for review filed ~~under~~pursuant to this Subpart must include:

- a) A copy of the letter, or other written communication, setting forth the Agency's finding of culpability;
- b) A clear identification of the county in which the source is located; and
- c) A detailed description of, and justification for, the source's position that the Agency's finding of culpability is incorrect.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.608 Hearing

- a) Within 14 days after a petition is filed, the Agency must publish notice of the petition in a newspaper of general circulation in the county in which the source is located. Within 30 days after the filing of the petition, any person may file with the Clerk ~~of the Board~~ a request for hearing on the petition.
- b) The hearing officer will schedule any hearing. The Clerk ~~of the Board~~ must give notice of the 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, including any hearing held by videoconference (see 35 Ill. Adm. Code 101.600(b)).

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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

Section 106.702 Applicability

- a) When the Agency terminates an EMSA under Section 52.3-4(b) or (b-5) of the Act, only Section 106.704 ~~of this Subpart~~ applies.
- b) This Subpart, except for Section 106.704, applies to proceedings in which the Board will determine whether to terminate an EMSA.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.704 Termination Under Section 52.3-4(b) or (b-5) of the Act

- a) To terminate an EMSA under Section 52.3-4(b) of the Act, the Agency must determine that the sponsor's performance under the EMSA has failed to:
 - 1) *Achieve emissions reductions or reductions in discharges of wastes beyond the otherwise applicable statutory and regulatory requirements through pollution prevention or other suitable means; or*
 - 2) *Achieve real environmental risk reduction or foster environmental compliance by other persons regulated under the Act in a manner that is clearly superior to the existing regulatory system. [415 ILCS 5/52.3-1(b)]*
- b) To terminate an EMSA under Section 52.3-4(b-5) of the Act, the Agency must determine that the sponsor's *participation in the Federal Performance Track Program has ceased. [415 ILCS 5/52.3-4(b-5)]*
- c) If the Agency terminates an EMSA under Section 52.3-4(b) or (b-5) of the Act, the sponsor may file an appeal with the Board. Appeals to the Board will be ~~underpursuant to~~ 35 Ill. Adm. Code 105.Subparts A and B.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 106.707 Notice, Statement of Deficiency, Answer

- a) A proceeding to terminate an EMSA will be commenced when the Agency serves a notice of filing and a statement of deficiency upon the respondent and files the notice of filing and statement of deficiency with the Clerk. (See 35 Ill. Adm. Code 101.300(b) and (c), 101.302(h), and 101.304(c).)
- b) The statement of deficiency must contain:
- 1) The stated basis for the respondent's alleged deficient performance under Section 106.712(a) ~~of this Subpart~~;
 - 2) The dates, location, nature, extent and duration of any act or omission, and amount and other characteristics of any discharges or emissions, alleged to violate provisions of the Act or regulations that apply to the pilot project that the EMSA does not address;
 - 3) The dates, location, nature, extent and duration of any act or omission, and amount and other characteristics of any discharges or emissions, alleged to violate the EMSA; and
 - 4) With respect to subsections (b)(1) through (b)(3) ~~of this Section~~, the statement of deficiency must contain sufficient detail to advise the respondent of the extent and nature of the alleged violations to reasonably allow the respondent to prepare a defense.
- c) The respondent must file an answer within 15 days after receipt of the statement of deficiency, unless the Board or the hearing officer extends the 15-day period for good cause. All material allegations of the statement of deficiency will be taken as admitted if not specifically denied by the answer, or if no answer is filed. Any facts that constitute an affirmative defense that would be likely to surprise the complainant must be plainly set forth in the answer before hearing.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.710 Notice of Hearing

- a) Upon the filing of a statement of deficiency, a hearing officer will be designated and the Clerk will notify the parties of the designation. ~~The Clerk will assign a~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~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 (be).

- 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.~~
- be) 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.
- cd) The hearing will be held ~~under pursuant to~~ 35 Ill. Adm. Code 101.Subpart F, including any hearing held by videoconference (see 35 Ill. Adm. Code 101.600(b)).
- de) ~~After the hearing officer schedules the hearing, the Clerk will give notice of hearing in accordance with 35 Ill. Adm. Code 101. 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), and to the public by public advertisement in a newspaper of general circulation in the county in which the pilot project is located.~~
- ef) The Agency must give notice of each statement of deficiency and hearing under Section 106.708(b) 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.
- fg) Failure to comply with this Section is not a defense to an involuntary termination

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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 41 Ill. Reg. _____, effective _____)

Section 106.712 Deficient Performance

- a) For purposes of this Subpart, a respondent's performance under its EMSA is deficient if ~~the Agency asserts and~~ the Board finds that any of the following conditions exist:
- 1) The respondent misrepresented the factual basis for entering into the EMSA.
 - 2) The respondent failed to provide access to the pilot project for the Agency to monitor compliance with an EMSA.
 - 3) The respondent falsified any monitoring data, record-keeping information or reports regarding the pilot project.
 - 4) The respondent or the owner or operator of the pilot project failed to comply with any requirement of any federal or local environmental law or regulation that applies to the pilot project and that the EMSA does not address, and for which a citizen's complaint has been filed with a court of competent jurisdiction or the appropriate authority has sent a notice of violation, complaint or other notice of failure to comply to the respondent or the owner or operator of the pilot project.
 - 5) The respondent or the owner or operator of the pilot project failed to comply with any requirement of any State environmental law or regulation that applies to the pilot project and that the EMSA does not address, and for which a citizen's complaint has been filed with the Board, or the Agency has mailed a notice of violation to the respondent or the owner or operator of the pilot project under Section 31(a) or (b) of the Act.
 - 6) The respondent failed to comply with its EMSA, subject to any grace or cure periods or rights contained in the EMSA.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- b) Any Board finding of deficient performance under subsection (a)(4) or (a)(5) of this Section will not be binding for any purpose or in any other proceeding under the Act, other than under this Subpart.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.714 Board Decision

- a) ~~The Board will prepare a written opinion and order for all final determinations that will include findings of fact (with specific page references to principal supporting items of evidence in the record) and conclusions of law (supported by adequate reasoning) on all material issues.~~
- b) The Board ~~will make a~~~~will render its~~ decision as expeditiously as practicable. The ~~Board's order~~~~Board~~ will ~~render a decision as an order that:~~
- 1) ~~Terminate~~~~Terminates~~ the EMSA;
 - 2) ~~Defer~~~~Defers~~ termination for a specified time, not to exceed 90 days from the date of the order, during which the respondent may rectify the deficient performance; or
 - 3) ~~Reject~~~~Rejects~~ termination of the EMSA.
- ~~b~~e) The Board may extend the time period under subsection ~~(a~~b)(2) ~~of this Section~~ for good cause.
- ~~c~~d) The Board may order any or all of the following:
- 1) Direct the respondent to cease and desist from violating the Act, the Board's regulations, or the EMSA;
 - 2) Require the respondent to provide performance assurance compensation in appropriate amounts;
 - 3) Require the respondent to post a sufficient performance bond or other security to assure that the respondent corrects the violation within the time that the Board prescribes;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 4) Enforce any remedy provision of the EMSA; and
 - 5) Order other relief as appropriate.
- d) The Clerk will serve the final order on the parties under 35 Ill. Adm. Code 101.Subparts C and J,pursuant to publish the order and opinion with the vote of each Board Member recorded and will notify the parties required to be notified of the hearing from which the order arose of the order and opinion.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.718 Motions, Responses (Repealed)

- a) ~~All motions before a hearing must be presented to the hearing officer at least 10 days before the date of the hearing.~~
- b) ~~The complainant's motion to voluntarily dismiss an action as to any or all claims must be directed to the Board and may be made orally upon the hearing record, or may be made in writing at any time before the Board issues its decision.~~
- e) ~~All motions must be served on all parties, including the Agency and its representative and the hearing officer, with documentation of service.~~
- d) ~~Unless made orally on the record during a hearing or unless the hearing officer directs otherwise, a motion must be in writing, must state the reasons for and grounds upon which the motion is made, and may be accompanied by any affidavits or other evidence relied on and, when appropriate, by a proposed order.~~
- e) ~~Within 7 days after a written motion is served, or another period that the Board or hearing officer may prescribe, a party may file a response to the motion, accompanied by affidavits or other evidence. If no response is filed, the parties will be deemed to have waived objection to the motion, but the waiver of objection does not bind the Board. The moving party does not have the right to reply, except as the hearing officer or the Board permits.~~
- f) ~~No oral argument will be heard on a motion before the Board unless the Board directs otherwise. A written brief may be filed with a motion or an answer to a motion.~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- g) ~~The hearing officer may rule upon all motions, except that the hearing officer has no authority to dismiss, or rule upon a motion to dismiss or decide a proceeding on the merits, or for failure to state a claim, or for want of jurisdiction, or to strike any claim or defense for insufficiency or want of proof.~~
- h) ~~No interlocutory appeal of a motion may be taken to the Board from a ruling of the hearing officer.~~
- i) ~~After the hearing, the Board may review the hearing officer's rulings. The Board will set aside the hearing officer's ruling only to avoid material prejudice to the rights of a party. The hearing officer, if a member of the Board, may vote upon motions to review his or her rulings as hearing officer.~~
- j) ~~Unless the Board orders or this Subpart provides otherwise, the filing of a motion will not stay the proceeding or extend the time to perform any act.~~

(Source: Repealed at 41 Ill. Reg. _____, effective _____)

Section 106.722 Continuances (Repealed)

~~The hearing officer will grant a motion to continue an involuntary termination proceeding under this Subpart when justice requires. All motions to continue must be supported by an affidavit or written motion before the hearing officer by the person or persons with knowledge of the facts that support the motion. However, if the Board determines that any involuntary termination proceeding under this Subpart is not proceeding expeditiously, the Board may order actions that it deems appropriate to expedite the proceeding.~~

(Source: Repealed at 41 Ill. Reg. _____, effective _____)

Section 106.724 Discovery, Admissions (Repealed)

- a) ~~Discovery, except requests to produce documents, admit facts and state the identity and location of persons with knowledge of facts, as set forth in subsection (b) of this Section, is not permitted unless the hearing officer orders otherwise.~~
- b) ~~Regarding any matter not privileged, the hearing officer may order a party to produce documents and to state the identity and location of persons with knowledge of facts upon the written request of any party when parties cannot agree on the legitimate scope of the requests. It is not a ground for objection that~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~the documents will be inadmissible at hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence or is relevant to the subject matter involved in the pending proceeding.~~

- e) ~~The hearing officer may order a party:~~
 - 1) ~~To state the identity and location of persons with knowledge of relevant facts.~~
 - 2) ~~To produce evidence that a party controls or possesses so that it may be inspected, copied or duplicated. The order may grant the right to reasonably inspect the pilot project.~~
- d) ~~The hearing officer may at any time on his or her own initiative, or on motion of any party or witness, make a protective order as justice requires. The protective order may deny, limit, condition or regulate discovery to prevent unreasonable delay, expense, harassment, or oppression, or to protect non-disclosable materials from disclosure consistent with Sections 7 and 7.1 of the Act and 35 Ill. Adm. Code 130.~~
- e) ~~All objections to rulings of the hearing officer must be made in the record.~~
- f) ~~Sections 106.718(d), (e), (f), (g), (h), (i) and (j) of this Subpart apply regarding procedures to rule on objections.~~
- g) ~~Failure to comply with any ruling may subject the person to sanctions under 35 Ill. Adm. Code 101.Subpart H.~~
- h) ~~A party may serve on any other party, no sooner than 15 days after the Agency files the statement of deficiency, a written request that the latter admit the truth of any specified relevant fact set forth in the request.~~
- i) ~~A party may serve on any other party, no sooner than 15 days after the Agency files the statement of deficiency, a written request to admit to the genuineness of any relevant documents described in the request. Copies of the document must be served with the request unless copies have already been furnished.~~
- j) ~~Each of the matters of fact and the genuineness of each document of which admission is requested is admitted unless, within 15 days after service under~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~subsection (h) or (i) of this Section, the party to whom the request is directed serves upon the party requesting the admission either a sworn statement that denies specifically the matters on which the admission is requested or that sets forth in detail the reasons why the party cannot truthfully admit or deny those matters or written objections on the ground that some or all of the requested admissions are privileged or irrelevant or that the request is otherwise improper in whole or in part. If a party objects in writing to a part of the request, the remainder of the request must be answered within the period designated in the request. A denial must fairly meet the substance of the requested admission. If good faith requires that a party deny only a part, or requires qualification, of a matter of which an admission is requested, the party must specify so much of it as is true and deny only the remainder. The hearing officer will hear any objection to a request or to an answer upon prompt notice and motion of the party making the request.~~

- k) ~~Any admission made under this Section is for the purpose of the pending proceeding only. It does not constitute an admission by the party for any other purpose and may not be used against the party in any other proceeding.~~

(Source: Repealed at 41 Ill. Reg. _____, effective _____)

Section 106.726 Subpoenas (Repealed)

- a) ~~Upon any party's timely motion to the Board, or on motion of the hearing officer or the Board, the hearing officer or the Board may issue a subpoena to attend a hearing. The subpoena may include a command to produce evidence reasonably necessary to resolve the matter under consideration, subject to this Subpart's limitations on discovery. A copy of the subpoena must be served upon the Clerk.~~
- b) ~~Every subpoena must state the title of the proceeding and command each person to whom it is directed to attend and give testimony at the time and place specified.~~
- c) ~~The hearing officer or the Board, upon motion made promptly and in any event at or before the time specified for compliance with the subpoena, may quash or modify the subpoena if it is unreasonable and oppressive.~~
- d) ~~Failure of any witness to comply with a Board subpoena may subject the witness to sanctions under 35 Ill. Adm. Code 101.Subpart H.~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Repealed at 41 Ill. Reg. _____, effective _____)

Section 106.728 Settlement Procedure

- a) All parties to any proceeding in which a settlement ~~or compromise~~ is proposed must file with the Clerk before the time of the scheduled hearing a written statement, signed by the parties or their authorized representatives, that outlines the nature of, the reasons for, and the purpose to be accomplished by, the settlement. The statement must contain:
- 1) A full stipulation of all material facts that pertain to the nature, extent and causes of the alleged violations;
 - 2) The nature of the relevant parties' operations and control equipment;
 - 3) Any explanation for past failures to comply and an assessment of the impact on the public from the failure to comply;
 - 4) Details about future plans for compliance, including a description of additional control measures and the dates on which they will be implemented; and
 - 5) The proposed performance assurance payment, if any.
- b) If an agreed settlement is filed under this Section, the Board may dismiss the proceeding without holding a hearing.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.730 Authority of Hearing Officer, Board Members, and Board Assistants
(Repealed)

- a) ~~The hearing officer has the duty to conduct a fair hearing, to take all necessary action to avoid delay, to maintain order, and to ensure development of a clear and complete record. The hearing officer has all powers necessary to these ends, including the authority to:~~
- 1) ~~Issue discovery orders;~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- ~~2) Rule upon objections to discovery orders;~~
 - ~~3) Make protective orders as justice requires, which may deny, limit, condition or regulate discovery to prevent unreasonable delay, expense, harassment, or oppression, or to protect materials from disclosure by the party who obtains the materials;~~
 - ~~4) Administer oaths and affirmations;~~
 - ~~5) Rule upon offers of proof, receive evidence and rule upon objections to introducing evidence, subject to Section 106.732(b) of this Subpart;~~
 - ~~6) Regulate the course of the hearings and the conduct of the parties and their counsel;~~
 - ~~7) Examine witnesses solely to clarify the record of the hearing. When any party is not represented by counsel, the hearing officer may examine and cross-examine any witness to insure a clear and complete record. However, the hearing officer may not exclude exhibits or other testimony because of the examination unless all parties agree; and~~
 - ~~8) Except as otherwise provided, consider and rule as justice may require upon motions appropriate to an adjudicative proceeding.~~
- ~~b) Any Board Member or assistant to a Board Member present at the hearing may advise the hearing officer and may interrogate witnesses, but does not have the authority to rule on objections or motions or to overrule the hearing officer during the hearing.~~

(Source: Repealed at 41 Ill. Reg. _____, effective _____)

Section 106.732 Order and Conduct of Hearing (Repealed)

- ~~a) The following will be the order of all involuntary termination hearings under this Subpart, unless modified by the hearing officer for good cause:~~
 - ~~1) Present, argue and dispose of preliminary motions on the matters that the statement of deficiency raises;~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) ~~Present opening statements;~~
 - 3) ~~Complainant's case in chief;~~
 - 4) ~~Respondent's case in chief;~~
 - 5) ~~Complainant's case in rebuttal;~~
 - 6) ~~Statements from interested citizens, as the hearing officer authorizes;~~
 - 7) ~~Complainant's opening argument, which may include legal argument;~~
 - 8) ~~Respondent's closing argument, which may include legal argument;~~
 - 9) ~~Complainant's closing argument, which may include legal argument;~~
 - 10) ~~Present and argue all motions before submitting the transcript to the Board; and~~
 - 11) ~~A schedule to submit briefs to the Board.~~
- b) ~~All hearings under this Subpart will be public, and any person not a party and not otherwise a witness for a party may submit written statements relevant to the subject matter of the hearing. Any party may cross-examine any person who submits a statement. If the person is not available to be cross-examined upon timely request, the written statement may be stricken from the record. The hearing officer will permit any person to offer reasonable oral testimony whether or not a party to the proceedings.~~
- e) ~~All witnesses will be sworn.~~
- d) ~~At the conclusion of the hearing, the hearing officer will make a statement about the credibility of witnesses. This statement will be based upon the hearing officer's legal judgment and experience and will indicate whether he or she finds credibility to be at issue in the proceeding and if so, the reasons why. This statement will become a part of the official record and will be transmitted by the hearing officer to each of the parties. No other statement will be made or be appropriate unless the Board orders otherwise.~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Repealed at 41 Ill. Reg. _____, effective _____)

Section 106.734 Evidentiary Matters (Repealed)

~~The provisions of 35 Ill. Adm. Code 101 regarding admissible evidence, written narrative testimony, official notice, viewing premises, admitting business records, examining adverse parties or agents and hostile witnesses and compelling them to appear at hearing, and amendment and variance of pleadings and proof will apply to proceedings under this Subpart.~~

(Source: Repealed at 41 Ill. Reg. _____, effective _____)

Section 106.736 Post-Hearing Procedures (Repealed)

~~The provisions of 35 Ill. Adm. Code 101 regarding default, transcripts, the record, briefs and oral arguments will apply to proceedings under this Subpart.~~

(Source: Repealed at 41 Ill. Reg. _____, effective _____)

Section 106.738 Motion After Entry of Final Order (Repealed)

~~Within 35 days after the Board adopts a final order, any party may file a motion to rehear, modify or vacate the order or for other relief. Response to the motion must be filed within 14 days after the motion is filed. A motion filed within 35 days stays enforcement of the final order.~~

(Source: Repealed at 41 Ill. Reg. _____, effective _____)

Section 106.740 Relief from Final Orders (Repealed)

- a) ~~The Board may at any time correct errors in orders or other parts of the record that arise from oversight or omission or clerical mistakes. The Board may do so on its own initiative or on the motion of any party and after notice, if any, as the Board orders. During the pendency of an appeal, the Board may correct the mistakes before the appeal is docketed in the appellate court. While the appeal is pending, the Board may correct the mistakes with leave of the appellate court.~~
- b) ~~On motion and upon terms that are just, the Board may relieve a party or a party's legal representative from a final order, for the following:~~
 - 1) ~~Newly discovered evidence that by due diligence could not have been~~

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~discovered in time under Section 106.714 of this Subpart;~~

- ~~2) Fraud (whether previously denominated intrinsic or extrinsic), misrepresentation, or other misconduct of an adverse party; or~~
- ~~3) Void order.~~
- e) ~~A motion under this Section does not affect the finality of a Board order or suspend the operation of a Board order. The motion must be filed in the same proceeding in which the Board entered the order but the motion is not a continuation of the proceeding. The motion must be supported by affidavit or other appropriate showing as to matters not of record. All parties must be notified under Section 106.708(b) of this Subpart.~~
- d) ~~This motion must be filed with the Board within 60 days after entry of the order.~~

(Source: Repealed at 41 Ill. Reg. _____, effective _____)

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

Section 106.800 General

- a) Description. This Subpart applies to any person who files a petition for Board authorization *to use cleaning agents that contain phosphorus of an amount exceeding 0.5% by weight* as provided in Section 5(e) of the Regulation of Phosphorus in Detergents Act [415 ILCS 92/5(e)].
- b) Parties. The person filing the petition for authorization must be named the petitioner.
- c) Filing and Service. The filing and service requirements of 35 Ill. Adm. Code 101.~~Subparts~~Subpart C and J will apply to the proceedings of this Subpart.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.804 Initiation of Proceeding

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

The petitioner must file the petition for authorization with the Clerk ~~of the Board~~ and must serve one copy upon the Agency.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.806 Petition Content Requirements

The petition must contain the following information:

- a) A written statement, signed by the petitioner or an authorized representative, concerning the cleaning agent containing excess phosphorus for which authorization is sought and outlining a description of the cleaning agent and its phosphorus content, the duration of, the reasons for, and the basis of the authorization sought, consistent with the burden of proof stated in Section 106.812 ~~of this Part~~;
- b) The nature of the petitioner's operations;
- c) Any other information that may be required by Section 5 of the Regulation of Phosphorus in Detergents Act.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.810 Hearing

The Board will hold a public hearing in an authorization proceeding only if a hearing is requested by the petitioner, the Agency, or any other person within 14 days after the filing of any reply under Section 106.808(b). The hearing officer will schedule the hearing. The Clerk will give notice of hearing in accordance with 35 Ill. Adm. Code 101. The proceedings will be in accordance with 35 Ill. Adm. Code 101.Subpart F, [including any hearing held by videoconference \(see 35 Ill. Adm. Code 101.600\(b\)\)](#).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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

- a) **Applicability.** This Subpart applies to any person who files a petition for Board authorization concerning an individual site to:
- 1) ~~Apply~~ landscape waste or composted landscape waste at a rate greater than the agronomic rates of 20 tons per acre per year, ~~under~~ pursuant to Section 21(q) and (q)(2) of the Act; or
 - 2) ~~Operate~~ an on-farm composting facility constituting more than 2% of the property's total acreage, ~~under~~ pursuant to Section 21(q)(3) of the Act.
- b) **Demonstration.** Any person who files a petition for Board authorization under this Subpart must demonstrate *that the site's soil characteristics or crop needs require a higher rate.* [415 ILCS 5/21(q) and (q)(3)(A)]
- c) **Parties.** The person filing the petition for authorization must be named the petitioner and the Agency must be named the respondent.
- d) **Filing and Service.** The filing and service requirements of 35 Ill. Adm. Code 101.~~Subparts~~ ~~Subpart C~~ and J will apply to the proceedings ~~under this Subpart.~~

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.902 Initiation of Proceeding

The petitioner must file the petition for authorization with the Clerk ~~of the Board~~ and must serve one copy upon the Agency.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.904 Petition Content Requirements

The petition must contain the following information:

- a) A written statement, signed by the petitioner or an authorized representative, concerning the property for which authorization is sought, outlining a description of the specific percentage of the property or the specific application rate sought and the duration of, the reasons for, and the basis for the authorization sought, consistent with the burden of proof stated in Section 106.914;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- b) The nature of the petitioner's operations;
- c) Any other applicable information that may be required by Section 21(q) of the Act, including: ~~but not limited to~~
- 1) ~~A~~a map of the location where land application or composting would take place;
 - 2) ~~A~~a description of the uses of the surrounding areas; the method for nutrient calculations;
 - 3) ~~The~~the soil sampling analysis for samples taken within one year prior to the filing of the petition in accordance with the sampling protocols of subsections (e) and (f);
 - 4) ~~The~~the intended crop or planting; a description of any additives to the landscape waste;
 - 5) ~~The~~the method for incorporating the landscape waste or compost into the soil;
 - 6) ~~The~~the maximum time between acceptance of landscape waste or compost and its incorporation into soil;
 - 7) ~~The~~the weather conditions under which incorporation will occur; the method of minimizing stormwater/snowmelt runoff;
 - 8) ~~A~~a screening plan to ensure materials accepted do not contain materials other than landscape waste;
 - 9) ~~A~~a contingency plan that describes methods for dealing with emergency situations and methods for the removal of material that is not landscape waste from incoming loads; and
 - 10) ~~The~~the method of preventing nuisance conditions such as vectors, odors, litter or dust.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- d) For demonstrations under Section 106.914(a), a plan, ~~including soil testing~~, in accordance with subsections (e) and (f), that includes soil testing and, no less than once every five years, ~~showsto show~~ when application of landscape waste or composted landscape waste at rates greater than an agronomic rate of 20 tons per acre per year will be, or will continue to be, beneficial to the site's soil characteristics or crop needs. Such a plan must specify any soil parameters to be analyzed, such as soil organic content and nutrients and any limits on them.
- e) Soil samples collected that will represent the entire landscape waste or composted landscape waste application site.
- 1) Soil Plow Zone – one soil sample mustshall be collected per 8 acres of application site area to a depth of 12 inches. Each soil sample taken mustshall be a homogeneous mixture composed of at least 10 subsamples randomly collected within the 8-acre area.
 - 2) Soil Profiles – one soil core sample per 8 acres of land application site mustshall be obtained to a depth of 5 feet using a soil tube or soil auger type implement. Soil cores mustshall be divided into 5 one foot subsamples and each subsample mustshall be analyzed separately.
 - 3) Soil sample collection ~~underpursuant to~~ subsections (a) and (b) may be modified by the Board upon request by the petitioner after considering the application rate of the landscape waste or composted landscape waste and the continuity of soil types of the application site.
- f) Soil analysis performed in accordance with the following references, unless equivalent results can be obtained by other methods. The petitioner mustshall demonstrate that equivalent results are obtainable based on the nature of the test methodology, the nature of the parameter, and the level of statistical accuracy.
- 1) Physical Testing Methods
Methods of Soil Analysis – Part 1, Physical and Mineralogical Properties (1986), Soil Science Society of America (SSSA) and American Society of Agronomy, Inc. (ASA), 5585 Guilford Road, Madison, Wisconsin 53711.
 - 2) Chemical Testing Methods

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Methods of Soil Analysis – Part 3, Chemical Methods (1996), Soil Science Society of America (SSSA) and American Society of Agronomy, Inc. (ASA), 5585 Guilford Road, Madison, Wisconsin 53711.

- 3) For the purposes of this Subpart I, the Board incorporates by reference the soil test methods listed in subsections (f)(1) and (f)(2). This incorporation includes no later amendments or editions.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.906 Petition Notice Requirements

- a) The petitioner ~~must~~shall submit to the Board proof that, within 14 days after the filing of the petition, it has published notice of the filing of the petition by advertisement in a newspaper of general circulation in the area likely to be affected by the petitioner's activity that is the subject of the Section 21(q) petition.
- b) Notice Requirements. The information in the notice must be presented so as to be understood in accordance with the context of this Section's requirements.
 - 1) The title of the notice must be in the following form: "Notice of Petition For Authorization Under 415 ILCS 5/21(q) by (petitioner's name) before the Illinois Pollution Control Board".
 - 2) The notice must contain the name and address of the petitioner and the statement that the petitioner has filed with the Board an authorization petition under Section 21(q).
 - 3) The notice must ~~also~~ provide the date upon which the petition was filed, the Board docket number, the proposed authorization, a general description of the petitioner's activity that is the subject of the authorization proceeding and the location of the petitioner's activity. ~~This information must be presented so as to be understood in accordance with the context of this Section's requirements.~~
 - 4) The concluding portion of the notice must read as follows:

"Any person may cause a public hearing to be held in the above-described authorization proceeding by filing a hearing request with the Illinois

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Pollution Control Board within 21 days after the date of the publication of this notice. The hearing request should clearly indicate the docket number for the adjusted standard proceeding, as found in this notice, and must be mailed to the Clerk ~~of the Board~~, Illinois Pollution Control Board, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601."

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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 ~~must~~~~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 ~~underpursuant 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 attempt to consult with the petitioner and the Agency before scheduling a hearing.

(Source: Amended at 41 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 106.1105 General**

- a) Description. This Subpart applies to any point source that discharges pollutants to waters of the United States who seeks to demonstrate, ~~underpursuant to~~ 35 Ill. Adm. Code 304.141(c) and section 316(a) of the Clean Water Act, that any effluent limitation proposed for the control of a thermal component of any

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

discharge from such source will require effluent limitations more stringent than necessary to assure the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water into which the discharge is to be made.

- b) Parties. The person making the demonstration must be named the petitioner. The Agency must be named as a respondent. Any interested person may become a participant in the alternative thermal effluent limitation demonstration proceeding in accordance with 35 Ill. Adm. Code 101.110 and 101.628.
- c) Filing and Service. The filing and service requirements of 35 Ill. Adm. Code 101.110, ~~Subparts C and J~~ apply to the proceedings of this Subpart.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.1110 Definitions

In addition to these definitions, all definitions of the Illinois Environmental Protection Act [415 ILCS 5] and 35 Ill. Adm. Code 301, apply to this Subpart. For the purpose of this Subpart:

"Alternative thermal effluent limitations" means all effluent limitations or standards of performance for the control of the thermal component of any discharge that are established under 35 Ill. Adm. Code 304.141(c), Section 316(a) of the CWA and this Subpart.

"CWA" means the Federal Water Pollution Control Act, as amended, (33 USC 1251 et seq., Public Law 92-500 enacted by Congress October 18, 1972, as amended by the Clean Water Act, Public Law 95-217, enacted December 12, 1977, as amended).

"Representative important species" means species that are representative, in terms of their biological needs, of a balanced, indigenous community of shellfish, fish, and wildlife in the body of water into which a discharge of heat is made.

"Balanced, indigenous community" is synonymous with the term "balanced, indigenous population" in the CWA and means a biotic community typically characterized by diversity, the capacity to sustain itself through cyclic seasonal changes, presence of necessary food chain species, and by a lack of domination by pollution tolerant species. Such a community may include historically non-

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

native species introduced in connection with a program of wildlife management and species whose presence or abundance results from substantial, irreversible environmental modifications. Normally, however, such a community will not include species whose presence or abundance is attributable to the introduction of pollutants that will be eliminated by compliance by all sources with section 301(b)(2) of the CWA; and may not include species whose presence or abundance is attributable to alternative thermal effluent limitations imposed ~~underpursuant to~~ this Subpart or through regulatory relief from otherwise applicable thermal limitations under Chapter I of Subtitle C or standards granted by the Board.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.1115 Early Screening

- a) Prior to filing a petition for an alternative thermal effluent limitation, the petitioner must submit the following early screening information to the Agency:
- 1) A description of the alternative thermal effluent limitation requested;
 - 2) A general description of the method by which the discharger proposes to demonstrate that the otherwise applicable thermal discharge effluent limitations are more stringent than necessary;
 - 3) A general description of the type of data, studies, experiments and other information that the discharger intends to submit for the demonstration; and
 - 4) A proposed representative important species list and supporting data and information.
- b) Within 30 days after the early screening information is submitted under subsection (a), the petitioner ~~must~~ consult with the Agency to discuss the petitioner's early screening information.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.1120 Detailed Plan of Study

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) Within 60 days after the early screening information is submitted ~~underpursuant to~~ Section 106.1115, the petitioner ~~must~~shall submit to the Agency a detailed plan of study that the petitioner will undertake to support its alternative thermal effluent limitation demonstration.
- b) The petitioner ~~must~~shall specify the nature and extent of the following types of information to be included in the plan of study:
- 1) biological, hydrographical, and meteorological data;
 - 2) physical monitoring data;
 - 3) engineering or diffusion models;
 - 4) laboratory studies;
 - 5) representative important species; and
 - 6) other relevant information.
- c) In selecting representative important species, ~~the petitioner must give~~ special consideration ~~shall be given~~ to species mentioned in applicable water quality standards.
- d) The petitioner ~~must~~shall provide any additional information or studies that the Agency subsequently determines necessary to support the alternative thermal effluent limitation demonstration, including such field or other studies as may be necessary to select representative important species.
- e) In making the alternative thermal effluent limitation demonstration, the petitioner ~~must~~shall consider any information or guidance published by USEPA to assist in making such demonstrations.
- f) Within 90 days after petitioner's submittal of its detailed plan of study, the Agency ~~must~~shall respond in writing, either approving the detailed plan of study and representative important species or recommending necessary revisions.
- g) After receiving the Agency's response ~~underpursuant to~~ subsection (f), or after 90 days have passed with no Agency response, the petitioner may proceed with the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

plan of study with or without making the Agency's recommended revisions. The petitioner ~~must~~shall complete the plan of study prior to filing the petition for an alternative thermal effluent limitation with the Board.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.1125 Initiation of Proceeding

After completion of the plan of study ~~underpursuant to~~ Section 106.1120, the petitioner may file a petition for an alternative thermal effluent limitation with the Clerk ~~of the Board~~ and must serve one copy on the Agency and one copy on ~~DNR~~the Illinois Department of Natural Resources.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.1130 Contents of Petition

A petition for an alternative thermal effluent limitation must include the following:

- a) Information providing a general plant description, including, as applicable:
 - 1) Generating capacity;
 - 2) Type of fuel used;
 - 3) Operating characteristics of the condenser cooling system;
 - 4) History of the load factor of the plant for the last 5 years;
 - 5) Projected load factors of the plant for the next 5 years;
 - 6) Estimated date of retirement for each unit at the plant and any plans for additional units at the plant;
 - 7) History of plant shutdowns for the last 5 years;
 - 8) Planned and emergency shutdowns with frequency and duration for the last 5 years; and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 9) Planned and projected shutdowns with frequency and duration for the next five years;
- b) Description of Method for Heat Dissipation:
 - 1) Type of system used (such as once-through, mechanical, and draft cooling towers) in narrative form; and
 - 2) Summary information on temperature of discharge to receiving waters in narrative form;
- c) A summary of compliance or non-compliance with thermal requirements at the facility in the past five years;
- d) The detailed plan of study submitted to the Agency ~~underpursuant to~~ Section 106.1120(a) and the Agency's written response ~~underpursuant to~~ Section 106.1120(f);
- e) The results of the studies conducted ~~underpursuant to~~ the detailed plan of study submitted under Section 106.1120, including, ~~but not limited to~~:
 - 1) background on the proposed thermal standards;
 - 2) information on data collection program and methodologies;
 - 3) summaries of physical, chemical, biological and technical data supporting the demonstration, along with a discussion of the data; and
 - 4) criteria or methodology used to assess whether a balanced indigenous community of shellfish, fish and wildlife will be maintained in the receiving waters and the protection of threatened and endangered species;
- f) Any additional information or studies, including information or guidance published by USEPA, that the petitioner judges to be appropriate to support the alternative thermal effluent limitation demonstration; and
- g) A statement of the requested relief, including:
 - 1) the alternative thermal effluent limitation;

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) any relief from the mixing zone regulations in 35 Ill. Adm. Code 302.102, if applicable; and
- 3) any other relief sought.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.1135 Petition Notice Requirements

- a) Within 14 days after the filing of the petition, the petitioner must publish notice of the filing of the petition by advertisement in a newspaper of general circulation in the county where the facility is located.
- b) The notice must include:
 - 1) The ~~notice must contain the~~ name and address of the petitioner and a statement it must state that the petitioner has filed with the Board a petition for an alternative thermal effluent limitation;~~;~~
 - 2) The ~~notice must also provide the~~ date on which the petition was filed, the Board docket number;~~;~~
 - 3) ~~The~~ regulatory standard (with appropriate Administrative Code citation) from which the alternative thermal effluent limitation is sought;~~;~~
 - 4) ~~The~~ proposed alternative thermal effluent limitation;~~;~~
 - 5) A general description of the petitioner's activity that is the subject of the alternative thermal effluent limitation proceeding; ~~and~~
 - 6) ~~The~~ location of the facility; and
 - 7) In the concluding portion of the notice ~~must read as follows:~~

"Any person may cause a public hearing to be held in the above-described proceeding by filing a hearing request with the Illinois Pollution Control Board within 21 days after the date of the publication of this notice. The hearing request should clearly indicate the docket number for the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

proceeding, as found in this notice, and must be filed with the Clerk ~~of the Board~~, Illinois Pollution Control Board, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601."

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.1140 Proof of Petition Notice Requirements

Within 30 days after the filing of the petition, the petitioner must file a certificate of publication with the Clerk ~~of the Board, Illinois Pollution Control Board, 100 W. Randolph Street, Suite 11-500, Chicago, Illinois 60601~~. This certification must be issued by the newspaper that published the notice and must certify when the notice was published and the information the notice contained.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.1145 Recommendation and Response

- a) Unless otherwise ordered by the hearing officer or the Board, the Agency must file with the Board a recommendation within 45 days after the filing of a petition or amended petition for an alternative thermal effluent limitation, or when a hearing has been scheduled, at least 30 days before hearing, whichever is earlier.
- b) The recommendation must state the following:
 - 1) ~~Whether~~ whether the Board should grant the petitioner's requested alternative thermal effluent limitation;
 - 2) ~~The~~ the rationale for the Agency's position;
 - 3) ~~Whether~~ whether the plan of study sufficiently addresses the Agency's response pursuant to Section 106.1120(f) ~~of this Part~~;
 - 4) ~~Whether~~ whether the petition has met the requirements of this Part;
 - 5) ~~Any~~ any information the Agency believes is relevant to the Board's consideration of the proposed alternative thermal effluent limitation; and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 6) ~~Whether~~ ~~whether~~ the Agency communicated with or received comments from ~~DNR~~ ~~the Illinois Department of Natural Resources~~, the United States Fish and Wildlife Service, or USEPA, and the content of those communications.
- c) The petitioner, any party to the proceeding, or any interested person may file a response to the Agency recommendation within 21 days after the Agency files its recommendation.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.1150 Request for Public Hearing

Any person can request that a public hearing be held in a proceeding under this Subpart. The requests must be filed with the Clerk ~~of the Board~~ no later than 21 days after the date of the publication of the petition notice in accordance with Section 106.1135. Requests for hearing ~~must~~ ~~should~~ make reference to the Board docket number assigned to the proceeding.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.1155 Notice and Conduct of Hearing

- a) The Board ~~will~~ ~~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.
- 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, including any hearing held by videoconference (see 35 Ill. Adm. Code 101.600(b)).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.1160 Burden of Proof

- a) The burden of proof is on the petitioner.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- b) The petitioner must demonstrate to the satisfaction of the Board that the otherwise applicable effluent limitations under Chapter I of Subtitle C are more stringent than necessary to assure the protection and propagation of a balanced, indigenous community of shellfish, fish, and wildlife in and on the body of water into which the discharge is made.
- c) The demonstration must show that the alternative thermal effluent limitation desired by the petitioner, considering the cumulative impact of its thermal discharge, together with all other significant impacts on the species affected, will assure the protection and propagation of a balanced indigenous community of shellfish, fish, and wildlife in and on the body of water into which the discharge is to be made.
- d) Existing dischargers may base their demonstration upon the absence of prior appreciable harm in lieu of predictive studies.
- 1) When the petitioner bases the alternative thermal effluent limitation demonstration upon the absence of prior appreciable harm, the demonstration must show:
- A) That no appreciable harm has resulted from the normal component of the discharge, taking into account the interaction of such thermal component with other pollutants and the additive effect of other thermal sources to a balanced, indigenous community of shellfish, fish, and wildlife in and on the body of water into which the discharge has been made; or
- B) That despite the occurrence of such previous harm, the desired alternative thermal effluent limitation (or appropriate modifications thereof) will nevertheless assure the protection and propagation of a balanced, indigenous community of shellfish, fish, and wildlife in and on the body of water into which the discharge is made.
- 2) In determining whether prior appreciable harm has occurred, the Board ~~will~~shall consider the length of time during which the petitioner has been discharging and the nature of the discharge.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 106.1170 Opinion and Order

- a) After an opportunity for a public hearing and upon a satisfactory alternative thermal effluent limitation demonstration, the Board may order the Agency to include thermal discharge effluent limitations or standards in the petitioner's NPDES permit that are less stringent than those required by applicable standards and limitations if the thermal component of the discharge, taking into account the interaction of such thermal component with other pollutants, will assure the protection and propagation of a balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water.
- b) In granting an alternative thermal effluent limitation, the Board may impose such conditions as may be necessary to accomplish the purposes of the Act.
- c) If the petitioner intends for the alternative thermal effluent limitation granted by the Board ~~underpursuant to~~ this Subpart to continue beyond the expiration of the petitioner's NPDES permit, the petitioner must apply for renewal of the alternative thermal effluent limitation ~~underpursuant to~~ Section 106.1180.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.1175 Post-Hearing Procedures

- a) The provisions of 35 Ill. Adm. Code 101 regarding default, transcripts, the record, motions, briefs, and oral arguments apply to proceedings under this Subpart.
- b) In addition to the provisions of 35 Ill. Adm. Code 101.520 and 101.902, if USEPA objects ~~underpursuant to~~ 40 CFR 123.44 to issuance in the petitioner's NPDES permit of the alternative thermal effluent limitation ordered by the Board, the Agency is given ~~permission~~leave to file a motion for reconsideration of the Board's order granting the effluent limitation ~~underpursuant to~~ 35 Ill. Adm. Code 101.520 within 35 days after the Agency's receipt of USEPA's objection.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 106.1180 Renewal of Alternative Thermal Effluent Limitations

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) The permittee may request continuation of an alternative thermal effluent limitation granted by the Board, ~~pursuant to this Subpart~~, as part of its NPDES permit renewal application.
- b) Any application for renewal ~~must~~ include sufficient information for the Agency to compare the nature of the permittee's thermal discharge and the balanced, indigenous population of shellfish, fish, and wildlife at the time the Board granted the alternative thermal effluent limitation and the current nature of the petitioner's thermal discharge and the balanced, indigenous population of shellfish, fish, and wildlife. The permittee ~~must~~ be prepared to support this comparison with documentation based upon the discharger's actual operation experience during the previous permit term.
- c) If the permittee demonstrates that the nature of the thermal discharge has not materially changed to cause appreciable harm to the balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water into which the discharge is made, and the alternative thermal effluent limitation granted by the Board has not caused appreciable harm to a balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water into which the discharge is made, the Agency may include the alternative thermal effluent limitation in the ~~permittee's~~ renewed NPDES permit.
- d) If the nature of the thermal discharge has materially changed to cause appreciable harm to the balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water into which the discharge is made, ~~materially~~ or the alternative thermal effluent limitation granted by the Board has caused appreciable harm to a balanced, indigenous population of shellfish, fish, and wildlife in and on the body of water into which the discharge is made, the Agency ~~must~~ not include the thermal relief granted by the Board in the ~~permittee's~~ renewed NPDES permit. The permittee must file a new petition and make the required demonstration ~~under~~ ~~pursuant to~~ this Subpart before the alternative thermal effluent limitation may be included in the permittee's renewed NPDES permit.

(Source: Amended at 41 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
107.106	Amendment
107.200	Amendment
107.202	Amendment
107.204	Amendment
107.206	Amendment
107.208	Amendment
107.300	Amendment
107.302	Amendment
107.304	Amendment
107.400	Amendment
107.404	Amendment
107.502	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: Prompted by a recognition that some of its rules were no longer current due to changing technology and the passage of time, the Board began planning a broad review of all its rules, with a view of streamlining, updating and overhauling its regulation. Governor Rauner's Executive Order 2016-13 has provided additional impetus to the Board's initiative. The proposal makes technical changes to the rule as well as changes in response to recently passed legislation.
- 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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 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 R17-18 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 R17-18 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.

- 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: January 2017

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. 7997, effective May 20, 2016; amended in R17-18 at 41 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 ~~underpursuant 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 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 107.106 Description

~~Under Pursuant to~~ Section 39(c) of the Act, any new pollution control facility, prior to receiving a permit from the Agency to construct and operate, must first receive siting approval from the *County Board of the county if in an unincorporated area, or the governing body of the municipality when in an incorporated area, in which the facility is to be located* [415 ILCS 5/39(c)]. The siting approval can only be given ~~underpursuant to~~ Section 39.2 of the Act and only after the unit of local government conducts a public hearing that comports with the requirements of Section 39.2(d) and with general standards of fundamental fairness.

~~Under Pursuant to~~ Section 40.1 of the Act, a decision of a unit of local government to site or deny siting of a new pollution control facility is reviewable by the Board. The decision of the Board is appealable to the Illinois appellate court.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART B: PETITION FOR REVIEW

Section 107.200 Who May File Petition

The following persons may file a petition for review of a decision concerning siting of a new pollution control facility ~~underpursuant to~~ Section 40.1 of the Act:

- a) Siting applicants. Any person who has properly applied to one or more units of local government, ~~underpursuant to~~ Section 39.2 of the Act, for siting approval of a new pollution control facility and has been denied siting approval under Section 39.2 of the Act, may file a petition for review of the decision to deny siting. The siting applicant may also appeal conditions imposed in a decision granting siting approval.
- b) Other persons. Any person who has participated in the public hearing conducted by the unit of local government and is so located as to be affected by the proposed facility may file a petition for review of the decision to grant siting. Associations that file a petition before the Board must be represented by an attorney in accordance with 35 Ill. Adm. Code 101.400.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 107.202 Parties

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) In a petition to review a local government's decision concerning a new pollution control facility, the following are parties to the proceeding:
- 1) The petitioner or petitioners are the persons described in Section 107.200 of this Part. If there is more than one petitioner, they must be referred to as co-petitioners; and
 - 2) The unit(s) of local government whose decision is being reviewed must be named the respondent(s). In an appeal ~~underpursuant to~~ Section 107.200(b), the siting applicant must also be named as a respondent.
- b) Where the interests of the public would be served, the Board or hearing officer may allow intervention by the Attorney General or the State's Attorney of the county in which the facility will be located.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 107.204 Time for Filing Petition

A petition for review must be filed within 35 days after the local siting authority's action to approve or disapprove siting. Action means the local government's official written decision granting or denying local siting approval. ~~Underpursuant to~~ Section 39.2(e) of the Act, action includes failure of the governing body to act within 180 days after receiving a request for siting approval.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 107.206 Filing and Service Requirements

- a) **Filing.** The petition for review must be filed with the Clerk ~~of the Board~~ in accordance with the filing requirements contained in the Board's general procedural rules, found at 35 Ill. Adm. Code 101.Subpart C and Section 107.208 ~~of this Part~~.
- b) **Service.** The petition for review must be served upon all parties in accordance with the Board's service requirements contained in the Board's general procedural rules, found at 35 Ill. Adm. Code 101.Subpart C.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 107.208 Petition Content Requirements

In addition to the requirements of 35 Ill. Adm. Code 101.Subpart C the petition must also include:

- a) A copy of the local siting authority's written decision or ordinance;
- b) A statement as to how the filing party is a proper petitioner under Section 107.200 ~~of this Part~~; and
- c) In accordance with Section 39.2 of the Act, a specification of the grounds for the appeal, including any allegations for fundamental unfairness or any manner in which the decision as to particular criteria is against the manifest weight of the evidence.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART C: FILING OF LOCAL RECORD

Section 107.300 Record

~~Under Pursuant to~~ Sections 39.2 and 40.1 of the Act, the siting authority must compile a complete record of its proceedings.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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 Pursuant to 35 Ill. Adm. Code 101.302(h)(2), the~~ siting authority must file the record through COOL or on compact disk or other portable electronic data storage device and, to the extent technically feasible, in text-searchable Adobe PDF. The record must meet the requirements of 35 Ill. Adm. Code 101.Subpart J.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 41 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 ~~underpursuant to~~ Section 39.2 of the Act;
 - 9) Certificate of Record as described in Section 107.308 ~~of this Part~~; and
 - 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 be arranged in chronological sequence, or by category of

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

material and chronologically within each category, and must be sequentially numbered with the letter "C" placed before the number of each page. In addition, the record must meet the requirements of 35 Ill. Adm. Code 101.Subpart J.

(Source: Amended at 41 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 underpursuant to 35 Ill. Adm. Code 101.Subpart F.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 107.404 Public Participation

Parties to the proceeding will have all rights of examination and cross-examination relevant in any judicial proceeding. Persons who are not parties as set forth in Section 107.202 of this Part are considered participants and will have hearing participation rights as determined by the hearing officer in accordance with 35 Ill. Adm. Code 101.628. Participants may offer comment at a specifically determined time in the proceeding, but may not examine or cross-examine witnesses for either party. In accordance with this Section and 35 Ill. Adm. Code 101.628, public comment will not be considered testimony unless sworn and subject to cross-examination.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART E: BOARD REVIEW AND DECISION

Section 107.502 Dismissal of Petition

- a) The Board on its own motion or motion by any party, may dismiss any petition that:
 - 1) is untimely filed underpursuant to Section 107.204 of this Part;
 - 2) fails to name all parties as required by Section 39.2 of the Act;
 - 3) fails to include the required fee and all information as required by Section

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

107.208 of this Part; or

- 4) fails to meet the requirements in 35 Ill. Adm. Code 101.Subpart C.
- b) Upon motion by any unit of local government that is required to prepare and certify its record alleging that any petitioner required to pay costs of preparing and certifying the record of the proceedings has failed to pay those costs, the Board may enter a dismissal or other order as allowed by Section 39.2(n) of the Act.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Administrative Citations
- 2) Code Citation: 35 Ill. Adm. Code 108
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
108.200	Amendment
108.201	Amendment
108.202	Amendment
108.300	Amendment
108.402	Amendment
108.406	Amendment
108.500	Amendment
108.502	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: Prompted by a recognition that some of its rules were no longer current due to changing technology and the passage of time, the Board began planning a broad review of all its rules, with a view of streamlining, updating and overhauling its regulation. Governor Rauner's Executive Order 2016-13 has provided additional impetus to the Board's initiative. The proposal makes technical changes to the rule as well as changes in response to recently passed legislation.
- 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)].

POLLUTION CONTROL BOARD

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 R17-18 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 R17-18 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.

- 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: January 2017

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 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 AMENDMENTS

Section

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

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

SOURCE: Adopted in R00-20 at 25 Ill. Reg. 397, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8833, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2397, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. 12921, effective September 8, 2015; amended in R16-17 at 40 Ill. Reg. 8003, effective May 20, 2016; amended in R17-18 at 41 Ill. Reg. _____, effective _____.

SUBPART B: ISSUANCE OF THE CITATION AND PETITION TO CONTEST

Section 108.200 Administrative Citation under the Act

- a) An administrative citation (AC) under the Act may be issued by either ~~of the following:~~
 - 1) ~~Illinois Environmental Protection Agency.~~ The Agency under ~~may issue an AC pursuant to~~ Section 31.1 of the Act; or ~~-~~
 - 2) Delegated Unit of Local Government, under ~~Pursuant to~~ Section 4(r) of the Act. ~~The, the~~ Agency may by agreement delegate its AC authority to a unit of local government, which may then issue an AC. All Delegated Units must submit to the Clerk ~~of the Board~~ a copy of the delegation agreement on or before July 1 of every year.
- b) In accordance with Section 31.1 of the Act, the Agency or Delegated Unit may serve an AC upon any person believed, through direct observation, to have violated Section 21(o), 21(p), 22.51, 22.51a, or 55(k) of the Act.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) The AC must be issued and served upon the AC Recipient *not more than 60 days after the date of the observed violation* and must contain the following information:
 - A) *A statement specifying the provisions of Section 21(o), 21(p), 22.51, 22.51a, or 55(k) of the Act that the AC Recipient was observed to have violated;*
 - B) *A copy of the inspection report in which the Agency or Delegated Unit recorded the violation. The report must include the date and time of inspection and weather conditions prevailing during the inspection;*
 - C) *The penalty imposed by Section 42(b)(4) or (b)(4-5) of the Act for the violations;*
 - D) *An affidavit by the personnel observing the violation, attesting to their material actions and observations; and*
 - E) *Instructions for contesting the AC findings, including notification that the AC Recipient has 35 days within which to file a petition to contest the AC and, if an appeal is filed and the Board finds a violation, the AC Recipient may have to pay hearing costs ~~underpursuant to~~ Section 108.500. [415 ILCS 5/31.1(b)]*
- 2) The Agency or Delegated Unit must serve the AC upon the AC Recipient as follows:
 - A) Personal service;
 - B) U.S. Mail with a recipient's signature recorded by the U.S. Postal Service upon delivery; or
 - C) Third-party commercial carrier with a recipient's signature recorded by the third-party commercial carrier upon delivery.
- 3) The Agency or Delegated Unit must file the AC with the Board *no later than 10 days after the date of service* upon the AC Recipient. [415 ILCS 5/31.1(c)]

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 108.201 Administrative Citation under the PWSO Act

- a) An AC under the Public Water Supply Operations Act [415 ILCS 45] may be issued by the ~~Illinois Environmental Protection Agency. The Agency may issue an AC underpursuant to~~ Section 23.1(b) of the PWSO Act.
- b) In accordance with Section 23.1 of the PWSO Act, *if Agency personnel discover that a Responsible Operator in Charge has violated Section 1.1(b)(3) of the PWSO Act, the Agency may serve an AC upon that individual.*
 - 1) The AC must be issued and served upon the AC Recipient *not more than 90 days after the date of the discovery of the violation* and must contain the following information:
 - A) *A statement specifying the report or result that the Responsible Operator in Charge failed to submit in accordance with Board rules and a citation to the Board rules that were violated;*
 - B) *A copy of any report in which the Agency recorded the violation;*
 - C) *The penalty imposed by Section 23.1(f) of the PWSO Act for the violation;*
 - D) *Instructions for contesting the AC findings pursuant to Section 23.1 of the PWSO Act, including notification that the individual has 35 days within which to file a petition for review before the Board to contest the AC and, if an appeal is filed and the Board finds a violation, a statement that the AC Recipient may have to pay hearing costs ~~underpursuant to~~ Section 108.500; and*
 - E) *An affidavit by the personnel recording the violation. [415 ILCS 45/23.1(b)]*
 - 2) The Agency must serve the AC upon the AC Recipient by personal service or certified mail.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 3) The Agency must file the AC with the Board *no later than 15 days after the date of service* upon the AC Recipient. [415 ILCS 45/23.1(c)]

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 108.202 Administrative Citation under the EPRR Act

- a) An AC under the Electronic Products Recycling and Reuse Act [415 ILCS 150] may be issued by either ~~of the following~~:
 - 1) ~~Illinois Environmental Protection Agency.~~ The Agency ~~may issue an AC underpursuant to~~ Section 20(k) of the EPRR Act; ~~or-~~
 - 2) ~~A Delegated Unit, under-~~ Pursuant to Section 4(r) of the Act, ~~The, the~~ Agency may delegate its AC authority to a unit of local government, which may then issue an AC. Under Section 20(k) of the EPRR Act, a Delegated Unit must be a county. All Delegated Units must submit to the Clerk ~~of the Board~~ a copy of the delegation agreement on or before July 1 of every year.
- b) In accordance with Section 20(k) of the EPRR Act, the Agency or Delegated Unit may serve an AC upon any person believed, based on direct observation, to have violated any provision of the EPRR Act or the entity employing that person.
 - 1) The AC must be issued and served upon the AC Recipient not more than *60 days after the date of the observed violation* and must contain the following information:
 - A) *A statement specifying the provisions of the EPRR Act that the person or the entity employing the person has violated;*
 - B) *A copy of the inspection report in which the Agency or Delegated Unit recorded the violation;* the report must include the *date and time of inspection;*
 - C) *The penalty imposed by Section 80 of the EPRR Act for the violations;*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- D) *An affidavit by the personnel observing the violation, attesting to their material actions and observations; and*
 - E) Instructions for contesting the AC findings, including notification that the AC Recipient has *35 days* within which to file a petition to contest the AC. [415 ILCS 150/20(k)]
- 2) The Agency or Delegated Unit must serve the AC upon the AC Recipient as follows:
- A) Personal service;
 - B) U.S. Mail with a recipient's signature recorded by the U.S. Postal Service upon delivery; or
 - C) Third-party commercial carrier with a recipient's signature recorded by the third-party commercial carrier upon delivery.

(Source: Amended at 41 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 and conducted 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)).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

SUBPART D: BOARD DECISIONS

Section 108.402 Dismissal

The Board may issue an order dismissing the AC and closing the docket upon its own motion or a motion by the AC Recipient, Agency or Delegated Unit if the AC was not timely and properly served ~~underpursuant to~~ the relevant statute and Section 108.200, 108.201 or 108.202.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 108.406 Non-Contested Citations

The Board will consider the AC non-contested if the AC Recipient does not file a petition to contest, fails to timely file a petition to contest, or withdraws its petition to contest ~~underpursuant to~~ Section 108.208.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART E: ASSESSMENT OF PENALTIES AND COSTS

Section 108.500 Penalties and Costs

- a) Unless the AC Recipient has shown that the violations resulted from uncontrollable circumstances, the Board will impose penalties as follows:
 - 1) For violations of the Act, the Board will impose penalties as set forth in Sections 42(b)(4) and 42(b)(4-5) of the Act.
 - 2) For violations of the PWSO Act, the Board will impose penalties as set forth in Section 23.1(f) of the PWSO Act.
 - 3) For violations of the EPRR Act, the Board will impose penalties as set forth in Section 80(j) of the EPRR Act.
- b) When the Board imposes penalties ~~underpursuant to~~ subsection (a) following a finding of violation of the Act or the PWSO Act, the Board will assess the AC Recipient associated hearing costs, if any, ~~underpursuant to~~ Sections 108.502 and 108.504.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 108.502 Claimed Costs of Agency or Delegated Unit

Within 30 days after the close of the hearing or as otherwise directed by the hearing officer, the Agency or Delegated Unit must submit to the Clerk ~~of the Board~~ and serve on all parties an itemized listing of the costs associated with the hearing. The costs must not include attorney's fees or witness fees for persons employed by the Agency or Delegated Unit.

(Source: Amended at 41 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>
125.100	Amendment
125.204	Amendment
125.206	Amendment
125.208	Amendment
125.210	Amendment
125.212	Amendment
125.214	Amendment
125.216	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: Prompted by a recognition that some of its rules were no longer current due to changing technology and the passage of time, the Board began planning a broad review of all its rules, with a view of streamlining, updating and overhauling its regulation. Governor Rauner's Executive Order 2016-13 has provided additional impetus to the Board's initiative. The proposal makes technical changes to the rule as well as changes in response to recently passed legislation.
- 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)].

POLLUTION CONTROL BOARD

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 R17-18 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 R17-18 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.

- 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: January 2017

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. 8007, effective May 20, 2016; ; amended in R17-18 at 41 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 125.100 Applicability

- a) This Part applies to any person seeking, for property tax purposes, a Board certification that a facility or portion thereof is a pollution control facility, as defined in Section 125.200(a)(1) ~~of this Part~~, or that a device is a low sulfur dioxide emission coal fueled device, as defined in Section 125.200(b)(1) ~~of this Part~~.
- b) This Part must be read in conjunction with 35 Ill. Adm. Code 101, which contains procedures generally applicable to all adjudicatory proceedings before the Board. 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 41 Ill. Reg. _____, effective _____)

**SUBPART B: TAX CERTIFICATION OF POLLUTION CONTROL FACILITIES
AND LOW SULFUR DIOXIDE EMISSION COAL FUELED DEVICES****Section 125.204 Agency Recommendation**

- a) If the Agency receives a tax certification application under Section 125.202 of this Subpart, the Agency must file a recommendation on the application with the Clerk, unless the applicant withdraws the application. The Agency's filing must:
- 1) Identify the name and address of the applicant;
 - 2) Identify the location of the facility or portion thereof or the device to which the recommendation applies;
 - 3) Identify the facility or portion thereof or the device to which the recommendation applies;
 - 4) Recommend that the Board issue or deny tax certification; and
 - 5) Set forth the Agency's reasoning for the recommendation.
- b) If the Agency recommends that the Board deny tax certification, the Agency's filing must state that the applicant has 35 days after ~~the date of service~~ of the

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~recommendation thereof~~ to file a petition with the Board to contest the Agency recommendation. If the Agency recommends that the Board deny tax certification due to informational deficiencies in the application, the Agency's filing must identify the types of information needed to correct the deficiencies.

- c) The Agency must serve the applicant with a copy of the filing under this Section.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 125.206 Petition to Contest

- a) If the applicant wishes to contest an Agency recommendation that the Board deny tax certification, the applicant must file a petition to contest with the Clerk within 35 days after the Agency serves the applicant under Section 125.204(c) ~~of this Subpart~~. The petition must:

- 1) Specify the grounds for contesting the Agency's recommendation; and
- 2) Specify the date on which the Agency served the applicant under Section 125.204(c) ~~of this Subpart~~.

- b) The applicant must serve the Agency with a copy of any petition to contest under subsection (a) ~~of this Section~~.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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 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.

~~Under Pursuant to~~ 35 Ill. Adm. Code 101.302(h)(2), the Agency must file the record through COOL or on compact disk or other portable electronic data storage device and, to the extent technically feasible, in text-searchable Adobe PDF. The record must comply with 35 Ill. Adm. Code 105.116 ~~(b)~~.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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, unless the Board disposes of the petition on a motion for summary judgment brought ~~underpursuant to~~ 35 Ill. Adm. Code 101.516;
 - 2) The applicant or holder timely requests a hearing after the Board provides notice ~~underpursuant to~~ Section 125.216(c); 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 attempt to consult with the applicant and the Agency before scheduling a hearing. Hearings will be conducted ~~underpursuant to~~ 35 Ill. Adm. Code 101.Subpart F, including any hearing held by videoconference (see 35 Ill. Adm. Code 101.600(b)).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 125.212 Hearing Notice

After receiving notification from the hearing officer of the scheduled hearing date made ~~underpursuant to~~ Section 125.210 ~~of this Subpart~~, the Clerk will, in accordance with 35 Ill. Adm. Code 101, cause publication of a notice of hearing in a newspaper of general circulation in the county where the facility or portion thereof or the device for which the applicant seeks tax certification is located.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 125.214 Burden of Proof

If the applicant files a petition to contest under Section 125.206 ~~of this Subpart~~ or the Board otherwise directs that a hearing be held ~~underpursuant to~~ Section 125.210 ~~of this Subpart~~, the applicant has the burden to prove that the facility or portion thereof for which it seeks tax certification is a pollution control facility, as defined in Section 125.200(a)(1) ~~of this Subpart~~, or that the device for which it seeks tax certification is a low sulfur dioxide emission coal fueled device, as defined in Section 125.200(b)(1) ~~of this Subpart~~.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 125.216 Board Action

- a) *Pollution Control Facilities. If it is found that the claimed facility or relevant portion thereof is a pollution control facility as defined in Section 125.200(a)(1) ~~of this Part~~, the Board shall enter a finding and issue a certificate to that effect. The certificate shall require tax treatment as a pollution control facility, but only for the portion certified if only a portion is certified. The effective date of a certificate shall be the date of the application for the certificate or the date of the construction of the facility, whichever is later. [35 ILCS 200/11-25]*
- b) *Low Sulfur Dioxide Emission Coal Fueled Devices. If it is found that the claimed device meets the definition of low sulfur dioxide emission coal fueled device as set forth in Section 125.200(b)(1) ~~of this Part~~, the Board shall enter a finding and issue a certificate that requires tax treatment as a low sulfur dioxide emission coal fueled device. The effective date of a certificate shall be on January 1 preceding the date of certification or preceding the date construction or installation of the device commences, whichever is later. [35 ILCS 200/11-55]*
- c) *Before denying any certificate, the Board shall give reasonable notice in writing to the applicant and provide the applicant a reasonable opportunity for a fair hearing ~~underpursuant to~~ Section 125.210 ~~of this Subpart~~. [35 ILCS 200/11-30] On like notice to the holder and opportunity for hearing, the Board may on its own initiative revoke or modify a pollution control certificate or a low sulfur dioxide emission coal fueled device certificate whenever any of the following appears:*
- 1) *The certificate was obtained by fraud or misrepresentation;*
 - 2) *The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of pollution control facilities or a low sulfur dioxide emission coal fueled device; or*
 - 3) *The pollution control facility to which the certificate relates has ceased to be used for the primary purpose of pollution control and is being used for a different purpose. [35 ILCS 200/11-30]*

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- d) The Clerk will provide the applicant and the Agency with a copy of the Board's order setting forth *the Board's findings and certificate, if any* [35 ILCS 200/11-30].
- e) *Any applicant or holder aggrieved by the issuance, refusal to issue, denial, revocation, modification or restriction of a pollution control certificate or a low sulfur dioxide emission coal fueled device certificate may appeal the finding and order of the Pollution Control Board, under the Administrative Review Law, to the circuit court* [35 ILCS 200/11-60].

(Source: Amended at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Identification and Protection of Trade Secrets and Other Non-Disclosable Information
- 2) Code Citation: 35 Ill. Adm. Code 130
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
130.100	Amendment
130.102	Amendment
130.104	Amendment
130.110	Amendment
130.112	Amendment
130.200	Amendment
130.201	Amendment
130.202	Amendment
130.204	Amendment
130.206	Amendment
130.210	Amendment
130.212	Amendment
130.214	Amendment
130.216	Amendment
130.218	Amendment
130.220	Amendment
130.300	Amendment
130.302	Amendment
130.304	Amendment
130.306	Amendment
130.308	Amendment
130.310	Amendment
130.312	Amendment
130.314	Amendment
130.404	Amendment
130.406	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: Prompted by recognition that some of its rules were no longer current due to changing technology and the passage of time, the Board began planning a broad review of all its rules, with a view of

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

streamlining, updating and overhauling its regulation. Governor Rauner's Executive Order 2016-13 has provided additional impetus to the Board's initiative. The proposal makes technical changes to the rule as well as changes in response to recently passed legislation.

- 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 of at least 45 days after the date of publication in the *Illinois Register*. Public comments should reference Docket R17-18 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 R17-18 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.

- 13) Initial Regulatory Flexibility Analysis:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 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: January 2017

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 130
IDENTIFICATION AND PROTECTION OF TRADE SECRETS AND OTHER
NON-DISCLOSABLE INFORMATION

SUBPART A: GENERAL PROVISIONS

Section

- 130.100 Purpose and Applicability
- 130.102 Additional Procedures
- 130.104 Definitions and Severability
- 130.106 Segregation of Articles
- 130.108 Disposal of Articles
- 130.110 Articles Containing Emission Data
- 130.112 Filings with the Board

SUBPART B: PROCEDURES FOR IDENTIFYING ARTICLES
THAT REPRESENT TRADE SECRETS

Section

- 130.200 Initiation of a Claim that an Article Represents a Trade Secret
- 130.201 State Agency Request for Justification of Claims
- 130.202 Time Limit for Delayed Submission of Justification
- 130.203 Contents of Statement of Justification
- 130.204 Waiver of Statutory Deadlines
- 130.206 Deadline for State Agency Trade Secret Determination
- 130.208 Standards for State Agency Determination
- 130.210 State Agency Actions Following a Negative Determination
- 130.212 State Agency Actions Following a Positive Determination
- 130.214 Review of State Agency Trade Secret Determination
- 130.216 Effect of a Determination of Trade Secret Status on Other State Agencies
- 130.218 Status of Article Determined or Claimed to Represent a Trade Secret Before
January 1, 2001
- 130.220 Extension of Deadlines to Participate in Proceedings

SUBPART C: PROCEDURES FOR PROTECTING ARTICLES

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

THAT REPRESENT TRADE SECRETS

Section

130.300	Applicability
130.302	Owner's Responsibility to Mark Article
130.304	State Agency's Responsibility to Mark Article
130.306	Transmission of Article Between State Agencies
130.308	Public Access to Information Related to Article
130.310	Access to Claimed or Determined Article
130.312	Unauthorized Disclosure or Use of Article
130.314	Limitation on Copying Article

SUBPART D: NON-DISCLOSABLE INFORMATION
OTHER THAN TRADE SECRETS

Section

130.400	General
130.402	Who May View Non-Disclosable Information
130.404	Application for Non-Disclosure
130.406	Public Inspection
130.408	Board Order

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

AUTHORITY: Implementing Sections 7 and 7.1 of the Environmental Protection Act (Act) [415 ILCS 5/7 and 7.1] and authorized by Sections 7, 7.1, 26, and 27 of the Act [415 ILCS 5/7, 7.1, 26, 27].

SOURCE: Subparts A, B, and C originally adopted in R81-30 at 7 Ill. Reg. 16149, effective November 23, 1983. Subpart D originally adopted in R88-5(A) at 13 Ill. Reg. 12055, effective July 10, 1989; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 516, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8842, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2408, effective January 27, 2015; amended in R17-18 at 41 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 130.100 Purpose and Applicability

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) Section 7(a) of the Act provides that *all files, records, and data of the ~~Illinois Environmental Protection~~ Agency, the Board, and DNR shall be open for reasonable public inspection except for information which constitutes a trade secret; information privileged against introduction in judicial proceedings; internal communications of the several agencies; and information concerning secret manufacturing processes or confidential data submitted by any person under the Act.* [415 ILCS 5/7(a)]
- b) This Part establishes procedures to identify and protect trade secrets and other non-disclosable information.
- 1) Subpart A of this Part sets forth general provisions that apply with respect to both trade secrets and other non-disclosable information. References in this Subpart to non-disclosable information other than trade secrets apply only to proceedings before the Board.
 - 2) Subparts B and C of this Part address only trade secrets. Those Subparts apply to articles submitted or otherwise obtained by the Board, the ~~Illinois Environmental Protection~~ Agency, or DNR.
 - 3) Subpart D of this Part addresses only non-disclosable information other than trade secrets. That Subpart applies only to filings of articles with the Board.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.102 Additional Procedures

The ~~Illinois Environmental Protection~~ Agency and DNR each may adopt additional procedures that are not inconsistent with this Part to protect articles that are claimed or determined to represent a trade secret.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.104 Definitions and Severability

- a) **Definitions.** For the purpose of this Part, "State agency" refers to the Board, the ~~Illinois Environmental Protection~~ Agency, or DNR. Other words and terms have the meanings set forth in 35 Ill. Adm. Code 101.Subpart B, unless otherwise

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

provided or unless the context clearly indicates otherwise.

- b) Severability. If any provision of this Part or its application to any person is adjudged invalid, the adjudication does not affect the validity of this Part as a whole or of any portion not adjudged invalid.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.110 Articles Containing Emission Data

- a) *All emission data reported to or otherwise obtained by the ~~Illinois Environmental Protection~~ Agency, the Board, or DNR in connection with any examination, inspection or proceeding under the Act shall be available to the public to the extent required by the federal Clean Air Act as amended [415 ILCS 5/7(c)].*
- b) For purposes of this Section, "emission data" means:
- 1) The identity, amount, frequency, concentration, or other characteristics (related to air quality) of any contaminant that:
 - A) Has been emitted from an emission unit;
 - B) Results from any emission by the emission unit;
 - C) Under an applicable standard or limitation, the emission unit was authorized to emit; or
 - D) Is a combination of any of the items described in subsection (b)(1)(A), (B), or (C) ~~of this Section~~.
 - 2) The name, address (or description of the location), and the nature of the emission unit necessary to identify the emission unit, including a description of the device, equipment, or operation constituting the emission unit.
- c) In addition to subsection (b) ~~of this Section~~, information necessary to determine or calculate emission data, including rate of operation, rate of production, rate of raw material usage, or material balance, will be deemed to represent emission data for the purposes of this Section if the information is contained in a permit to

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

ensure that the permit is practically enforceable.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.112 Filings with the Board

A document containing information claimed or determined to be a trade secret or other non-disclosable information ~~underpursuant to~~ this Part is prohibited from being filed electronically with the Board and must instead be filed with the Board only in paper ~~underpursuant to~~ 35 Ill. Adm. Code 101.302(h)(3). (See 35 Ill. Adm. Code 101.1010(b).)

(Source: Amended at 41 Ill. Reg. _____, effective _____)

**SUBPART B: PROCEDURES FOR IDENTIFYING ARTICLES
THAT REPRESENT TRADE SECRETS****Section 130.200 Initiation of a Claim that an Article Represents a Trade Secret**

- a) ~~In order to claim an article is a trade secret, the~~The owner of ~~the an~~ article must submit ~~may claim that the article represents a trade secret only by submitting to~~ the State agency the claim letter required by subsection (b)(1) ~~of this Section~~ at the time the ~~owner submits the~~ article is submitted to the State agency. If the owner of the article submits the article to the State agency without simultaneously submitting the claim letter required by subsection (b)(1) ~~of this Section~~, the article will be considered a matter of general public knowledge and cannot be protected as a trade secret.
- b) The owner of an article seeking trade secret protection must submit the following information to the State agency at the time the owner submits the article to the State agency:
 - 1) A claim letter that ~~clearly~~ states the name of the article, briefly describes the article, and states that the article is claimed to represent a trade secret, as defined in 35 Ill. Adm. Code 101.Subpart B and the Act; and
 - 2) A copy of the article marked as provided in Section 130.302 ~~of this Part~~.
- c) The owner of an article seeking trade secret protection must submit to the State agency a statement of justification for the claim meeting the requirements of

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 130.203 ~~of this Subpart~~. The owner of the article may submit the statement of justification at the time the owner submits the article, or at a later time, but in no event later than the time limit established ~~underpursuant to~~ Section 130.202 ~~of this Subpart~~.

- d) If the State agency is provided with a claim letter required by subsection (b)(1) ~~of this Section~~, the State agency must consider the article a trade secret and must protect it from disclosure ~~underpursuant to~~ Subpart C ~~of this Part~~ until the State agency makes a final determination and the appeal time has expired.
- e) The owner of an article seeking trade secret protection is not required to serve any other persons with the article or the page or portion thereof for which the owner seeks trade secret protection.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.201 State Agency Request for Justification of Claims

- a) The State agency may request that the owner of an article claimed to represent a trade secret submit a statement of justification meeting the requirements of Section 130.203 ~~of this Subpart~~. The State agency may make the request when the article is submitted or obtained, or at any later time.
- b) The request under subsection (a) ~~of this Section~~ must be in writing. The State agency must set forth in the request the reasoning for the request. Reasons for the request may include the following:
 - 1) The State agency has received or reasonably expects to receive a request from the public to disclose the article;
 - 2) The article is required to be available to the public in a proceeding before the State agency;
 - 3) Information within the article is required to be contained in a permit issued by the State agency;
 - 4) To facilitate public participation in a proceeding before the State agency;
 - 5) A regulation requires that the State agency determine whether the article

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

represents a trade secret at the time that the article is submitted to or obtained by the State agency; or

- 6) Determining the validity of the claim will facilitate the timely performance of State agency responsibilities.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.202 Time Limit for Delayed Submission of Justification

- a) Within 10 working days after the date on which the owner of an article claimed to represent a trade secret receives a State agency request for justification under Section 130.201 ~~of this Subpart~~, the owner must submit to the State agency a statement of justification meeting the requirements of Section 130.203 ~~of this Subpart~~.
- b) The State agency may extend the time period under subsection (a) ~~of this Section~~ for a second period of 10 working days if, within the first 10 day period, the owner of the article requests an extension and demonstrates that the extension is necessary to complete the statement of justification.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.204 Waiver of Statutory Deadlines

- a) When the owner of an article seeking trade secret protection submits a statement of justification under this Subpart to the State agency, the owner must simultaneously submit to the State agency a waiver of any statutory deadline for the State agency to decide the underlying proceeding or matter, such as a permit application.
- b) The waiver under subsection (a) ~~of this Section~~ must extend the statutory deadline for a period equal to the period by which the decision on the underlying proceeding or matter is delayed due to any subsequent trade secret justification and determination process plus 45 days.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.206 Deadline for State Agency Trade Secret Determination

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) The State agency must determine whether the article represents a trade secret within 45 days after the date it receives a complete statement of justification as prescribed in Section 130.203 ~~of this Subpart~~.
- b) The owner of an article seeking trade secret protection may extend the time period for the State agency to determine whether the article represents a trade secret by submitting to the State agency a waiver of the deadline for the State agency to determine whether the article represents a trade secret.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.210 State Agency Actions Following a Negative Determination

- a) If the State agency determines that an article, or any page or portion thereof, does not meet the standards specified in Section 130.208(a)(1) or (2) ~~of this Subpart~~, the State agency must deny the claim for trade secret protection for the article or page or portion thereof, and must give written notice of the determination to the owner of the article and any requester ~~underpursuant to~~ subsection (b) ~~of this Section~~.
- b) Written notice that the State agency denied a claim for trade secret protection must be given by certified mail, return receipt requested, and must contain the following information:
 - 1) A statement of the State agency's reasoning for denying the claim;
 - 2) A notification that the State agency determination may be reviewed ~~underpursuant to~~ Section 130.214 ~~of this Subpart~~; and
 - 3) A notification that the State agency will cease protecting the article, or the page or portion thereof, as a trade secret unless the State agency is served with notice of the filing of a petition for review of the State agency's determination within 35 days after service of the notice of denial on the owner and any requester.
- c) If the State agency is served with notice of the filing of a petition for review of its determination within 35 days after service of the notice of denial on the owner and any requester, the State agency must notify the requester of the action and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

must continue to protect the article, or the page or portion thereof, ~~underpursuant to Subpart C of this Part~~ until the State agency receives official notification of a final order by a reviewing body with proper jurisdiction that does not reverse the State agency determination and that is not subject to further appeal.

- d) If the State agency does not receive the notification of a petition for review within 35 days after service of the notice of denial on the owner and any requester or does receive official notification of a final, non-appealable action that does not reverse the State agency determination, the article will not be protected ~~underpursuant to Subpart C of this Part~~ and the State agency must so notify the owner and any requester by certified mail, return receipt requested.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.212 State Agency Actions Following a Positive Determination

- a) If the State agency determines that an article, or any page or portion thereof, meets the standards specified in subsection 130.208(a)(1) and (2) ~~of this Subpart~~, the State agency must grant the claim for trade secret protection for the article or page or portion thereof, and must give written notice of the determination to the owner of the article and any requester ~~underpursuant to subsection (b) of this Section~~.
- b) Written notice of the granting of a claim for trade secret protection must be given by certified mail, return receipt requested, and must contain the following information:
- 1) A statement of the State agency's reasoning for granting the claim;
 - 2) A notification that the State agency determination may be reviewed ~~underpursuant to Section 130.214 of this Subpart~~; and
 - 3) A notification that the article, or the page or portion thereof, will be protected ~~underpursuant to Subpart C of this Part~~ until the State agency receives official notification of a final order by a reviewing body that reverses the State agency determination and that is not subject to further appeal.
- c) The State agency must continue to protect an article, or the page or portion

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

thereof, for which trade secret protection has been granted ~~underpursuant to Subpart C of this Part~~ until the State agency receives official notification of a final order by a reviewing body with proper jurisdiction that reverses the State agency determination and that is not subject to further appeal.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.214 Review of State Agency Trade Secret Determination

- a) An owner or requester who is adversely affected by a final determination of the ~~Illinois Environmental~~ Agency or DNR ~~underpursuant to~~ this Subpart may petition the Board to review the final determination within 35 days after service of the determination. Appeals to the Board will be ~~underpursuant to~~ 35 Ill. Adm. Code 105.Subparts A and B.
- b) An owner or requester who is adversely affected by a final determination of the Board ~~underpursuant to~~ this Subpart may obtain judicial review from the appellate court by filing a petition for review ~~underpursuant to~~ Section 41 of the Act [415 ILCS 5/41].
- c) If the State agency fails to make a final determination within the time limits prescribed by this Subpart, the State agency must continue to protect the article as set forth in Subpart C ~~of this Part~~ until the State agency issues a final determination ~~underpursuant to~~ this Subpart.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.216 Effect of a Determination of Trade Secret Status on Other State Agencies

- a) Except as provided in subsection (b) ~~of this Section~~, a claim or determination by one State agency that an article represents a trade secret made ~~underpursuant to~~ this Subpart will apply to that same article when in the possession of either of the other two agencies.
- b) When an article described in subsection (a) of this Section is the subject of a review before the Board ~~underpursuant to~~ Section 130.214(a) ~~of this Subpart~~, the article will be treated as a trade secret only unless or until the Board determines that the article does not ~~represent~~~~represent~~ a trade secret.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.218 Status of Article Determined or Claimed to Represent a Trade Secret Before January 1, 2001

- a) Any article that was determined by a State agency before January 1, 2001 to represent a trade secret in accordance with State agency procedures adopted ~~underpursuant to~~ the IAPA will be deemed to have been determined to represent a trade secret for the purposes of this Part. The State agency must protect the article in accordance with Subpart C ~~of this Part~~.
- b) If a State agency possesses an article that was claimed before January 1, 2001 to represent a trade secret and the State agency did not determine before January 1, 2001 whether the article represents a trade secret in accordance with procedures adopted ~~underpursuant to~~ the IAPA, the article is deemed to have been claimed to represent a trade secret for the purposes of this Part. These claims are deemed pending with unlimited waivers of any deadlines for decision.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.220 Extension of Deadlines to Participate in Proceedings

- a) Upon the State agency's finding that a person has satisfied the requirements of subsection (b) ~~of this Section~~, the State agency must extend any deadline for the person to participate in the proceeding before the State agency until 10 days after the State agency determines the trade secret status of the article.
- b) The person seeking an extension to participate in a proceeding before the State agency has the burden to demonstrate that the person will be adversely affected in the proceeding due to the timing of the State agency's trade secret determination, that the person could not have avoided the resulting delay by making an earlier request, and that the article is relevant to the proceeding.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

**SUBPART C: PROCEDURES FOR PROTECTING ARTICLES
THAT REPRESENT TRADE SECRETS****Section 130.300 Applicability**

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Any article that is claimed or determined to represent a trade secret ~~underpursuant to~~ Subpart B ~~of this Part~~ must be protected from unauthorized disclosure ~~underpursuant to~~ this Subpart.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.302 Owner's Responsibility to Mark Article

- a) When an entire article is claimed to represent a trade secret, the owner must mark the article with the words "Trade Secret" in red ink on the face or front of the article.
- b) When less than an entire article is claimed to represent a trade secret, the owner must:
 - 1) Mark the article with the words "Trade Secret" in red ink on the face or front of the article;
 - 2) Indicate on the face or front of the article which page or portion of the article is claimed to represent a trade secret;
 - 3) Mark every page or portion of the article that is claimed to represent a trade secret with the words "Trade Secret;"₂ and
 - 4) Furnish the State agency with a second copy of the article ~~that is marked pursuant to subsections (b)(1) and (2) of this Section and~~ from which the page or portion of the article that is claimed to represent a trade secret is deleted.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.304 State Agency's Responsibility to Mark Article

- a) When an entire article is determined to represent a trade secret ~~underpursuant to~~ Section 130.208 ~~of this Part~~, the State agency must mark the article with the word "DETERMINED" in red ink on the face or front of the article and must also mark any claim letter submitted for the article.
- b) When less than an entire article is determined to represent a trade secret

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

~~underpursuant to~~ Section 130.208 ~~of this Part~~, the State agency must:

- 1) Mark the article with the word "DETERMINED" in red ink on the face or front of the article;
- 2) Indicate on the face or front of the article and any claim letter submitted for the article which page or portion of the article is determined to represent a trade secret; and
- 3) Mark every page or portion of the article that is determined to represent a trade secret with the word "DETERMINED-".

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.306 Transmission of Article Between State Agencies

Before transmitting any article that is claimed or determined to represent a trade secret to another State agency, the State agency must ensure that the article is marked ~~underpursuant to~~ Sections 130.302 and 130.304 ~~of this Subpart~~ and is clearly distinguished and segregated from other transmitted materials.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.308 Public Access to Information Related to Article

- a) A copy of the claim letter submitted ~~underpursuant to~~ Section 130.200(b)(1) ~~of this Part~~ will be open to public inspection.
- b) When an article was determined to represent a trade secret before January 1, 2001, and no claim letter exists, the State agency must prepare a statement that will be open to public inspection, and that names and briefly describes the article.
- c) When a page or portion of an article is claimed or determined to represent a trade secret, a copy of the article must be open to public inspection, with the part or portion of the article that is claimed or determined to represent a trade secret or that would lead to disclosure of the trade secret deleted.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 130.310 Access to Claimed or Determined Article

- a) The State agency must designate the State agency employees or officers who are authorized to review articles that are claimed to represent trade secrets for the purpose of making a determination ~~underpursuant to~~ Section 130.208 ~~of this Part~~.
- b) Access to an article that is claimed or determined to represent a trade secret must be limited to:
 - 1) Employees or officers designated ~~underpursuant to~~ subsection (a) ~~of this Section~~;
 - 2) Other employees, officers, or authorized representatives of the State specifically authorized by the State agency to have access to the article for the purpose of carrying out the Act or regulations promulgated thereunder or when relevant to a proceeding or matter under the Act; or
 - 3) Employees, officers, or authorized representatives of the United States who are specifically authorized by the State agency to have access to the article for the purpose of carrying out federal environmental statutes or regulations.
- c) The State agency must maintain the following information with regard to an article that is claimed or determined to represent a trade secret:
 - 1) A record of the number of copies held by the State agency;
 - 2) A log of the location of all copies; and
 - 3) A log of all persons who are authorized to review the article or copies ~~of the article~~ thereof.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.312 Unauthorized Disclosure or Use of Article

- a) The State agency must ensure that all persons who are authorized to have access to an article that is claimed or determined to represent a trade secret are given notice of the restrictions on disclosure and use of the article contained in this

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Subpart.

- b) No State agency officer, employee, or authorized representative may disclose, except as authorized by this Subpart, or use for private gain or advantage, any article that is claimed or determined to represent a trade secret.
- c) Each State agency officer, employee, or authorized representative must take reasonable measures to safeguard an article that is claimed or determined to represent a trade secret and to protect against disclosure that is inconsistent with [this Part](#)~~these rules~~.
- d) Each authorized representative of the State agency who is furnished with access to an article that is claimed or determined to represent a trade secret [underpursuant](#) ~~to~~ this Part must use or disclose that information only as authorized by the contract or agreement under which the person is authorized to represent the State agency.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.314 Limitation on Copying Article

No State agency officer, employee, or authorized representative of the State or the United States may copy an article that is claimed or determined to represent a trade secret [underpursuant to](#) this Part except when authorized to do so by the State agency officer or employee designated to review the article [underpursuant to](#) Section 130.312(a)~~of this Subpart~~. All copies must be recorded and logged in accordance with Section 130.312(c)~~of this Subpart~~.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

**SUBPART D: NON-DISCLOSABLE INFORMATION
OTHER THAN TRADE SECRETS****Section 130.404 Application for Non-Disclosure**

- a) Except as provided in subsection (c)(4)~~of this Section~~, the applicant must file a single copy of the following:
 - 1) The article that is sought to be protected from disclosure; and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 2) The application for non-disclosure.
- b) When an entire article is sought to be protected from disclosure, the applicant must mark the article with the words "NON-DISCLOSABLE INFORMATION" in red ink on the face or front of the article.
- c) When less than an entire article is sought to be protected from disclosure, the applicant must:
 - 1) Mark the article with the words "NON-DISCLOSABLE INFORMATION" in red ink on the face or front of the article;
 - 2) Indicate on the face or front of the article which page or portion of the article is claimed to be non-disclosable information;
 - 3) Mark every page or portion of the article sought to be protected from disclosure with the words "NON-DISCLOSABLE INFORMATION";
 - 4) File with the Clerk a second copy of the article ~~that is marked pursuant to subsections (e)(1) and (e)(2) of this Section and~~ from which the page or portion sought to be protected from disclosure is deleted.
- d) The applicant is not required to serve any other persons with the article or the page or portion thereof for which the applicant seeks protection from disclosure.
- e) The application for non-disclosure must contain the following:
 - 1) Identification of the particular non-disclosure category into which the material that is sought to be protected from disclosure falls (see 35 Ill. Adm. Code 101.202 for the definition of "non-disclosable information");
 - 2) A concise statement of the reasons for requesting non-disclosure;
 - 3) Data and information on the nature of the material that is sought to be protected from disclosure, identification of the number and title of all persons familiar with the data and information, and a statement of how long the material has been protected from disclosure;
 - 4) An affidavit verifying the facts set forth in the application for non-

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

disclosure that are not of record in the proceeding; and

- 5) A waiver of any decision deadline in accordance with Section 130.204 ~~of this Part.~~

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 130.406 Public Inspection

- a) The public cannot inspect material for which a non-disclosure application is pending before the Board.
- b) If the Board determines that the material is not entitled to be protected from disclosure, the public cannot inspect the material:
 - 1) Until the time for appeal of the Board's determination has expired; or
 - 2) If an appeal of the Board's determination is filed, until the Board receives official notification of a final order of a court with proper jurisdiction that does not reverse the Board's determination and that is not subject to further appeal.
- c) If the Board determines that the material is entitled to be protected from disclosure, the Board will protect from ~~public~~ inspection any page or portion of the material that the Board determined to be non-disclosable information until the Board receives official notification of a final order of a court with proper jurisdiction that reverses the Board's determination and that is not subject to further appeal.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Hospital Licensing Requirements
- 2) Code Citation: 77 Ill. Adm. Code 250
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
250.105	Amendment
250.210	Amendment
250.310	Amendment
250.2440	Amendment
- 4) Statutory Authority: Hospital Licensing Act [210 ILCS 85]
- 5) A Complete Description of the Subjects and Issues Involved: This proposed rulemaking provides for the creation of a single governing authority for two or more hospitals within a health care system and, for two or more separately licensed hospitals within a health care system, to consolidate their medical staffs into a unified medical staff. The rulemaking also provides for the operational requirements for a single governing authority and a unified medical staff. References are also being updated.

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

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending in this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create a state mandate.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Hospitals
 - B) Reporting, bookkeeping or other procedures required for compliance: Hospitals will need to maintain accurate personal records.
 - C) Types of professional skills necessary for compliance: Medical, architectural
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2015

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH

CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 250

HOSPITAL LICENSING REQUIREMENTS

SUBPART A: GENERAL PROVISIONS

Section	
250.100	Definitions
250.105	Incorporated and Referenced Materials
250.110	Application for and Issuance of Permit to Establish a Hospital
250.120	Application for and Issuance of a License to Operate a Hospital
250.130	Administration by the Department
250.140	Hearings
250.150	Definitions (Renumbered)
250.160	Incorporated and Referenced Materials (Renumbered)

SUBPART B: ADMINISTRATION AND PLANNING

Section	
250.210	The Governing Board
250.220	Accounting
250.230	Planning
250.240	Admission and Discharge
250.245	Failure to Initiate Criminal Background Checks
250.250	Visiting Rules
250.260	Patients' Rights
250.265	Language Assistance Services
250.270	Manuals of Procedure
250.280	Agreement with Designated Organ Procurement Agencies
250.285	Smoking Restrictions
250.290	Safety Alert Notifications

SUBPART C: THE MEDICAL STAFF

Section	
250.310	Organization

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

250.315	House Staff Members
250.320	Admission and Supervision of Patients
250.330	Orders for Medications and Treatments
250.340	Availability for Emergencies

SUBPART D: PERSONNEL SERVICE

Section	
250.410	Organization
250.420	Personnel Records
250.430	Duty Assignments
250.435	Health Care Worker Background Check
250.440	Education Programs
250.450	Personnel Health Requirements
250.460	Benefits

SUBPART E: LABORATORY

Section	
250.510	Laboratory Services
250.520	Blood and Blood Components
250.525	Designated Blood Donor Program
250.530	Proficiency Survey Program (Repealed)
250.540	Laboratory Personnel (Repealed)
250.550	Western Blot Assay Testing Procedures (Repealed)

SUBPART F: RADIOLOGICAL SERVICES

Section	
250.610	General Diagnostic Procedures and Treatments
250.620	Radioactive Isotopes
250.630	General Policies and Procedures Manual

SUBPART G: GENERAL HOSPITAL EMERGENCY SERVICES

Section	
250.710	Classification of Emergency Services
250.720	General Requirements
250.725	Notification of Emergency Personnel

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 250.730 Community or Areawide Planning
- 250.740 Disaster and Mass Casualty Program
- 250.750 Emergency Services for Sexual Assault Victims

SUBPART H: RESTORATIVE AND REHABILITATION SERVICES

- Section
- 250.810 Applicability of Other Parts of These Requirements
- 250.820 General
- 250.830 Classifications of Restorative and Rehabilitation Services
- 250.840 General Requirements for all Classifications
- 250.850 Specific Requirements for Comprehensive Physical Rehabilitation Services
- 250.860 Medical Direction
- 250.870 Nursing Care
- 250.880 Additional Allied Health Services
- 250.890 Animal-Assisted Therapy

SUBPART I: NURSING SERVICE AND ADMINISTRATION

- Section
- 250.910 Nursing Services
- 250.920 Organizational Plan
- 250.930 Role in hospital planning
- 250.940 Job descriptions
- 250.950 Nursing committees
- 250.960 Specialized nursing services
- 250.970 Nursing Care Plans
- 250.980 Nursing Records and Reports
- 250.990 Unusual Incidents
- 250.1000 Meetings
- 250.1010 Education Programs
- 250.1020 Licensure
- 250.1030 Policies and Procedures
- 250.1035 Domestic Violence Standards
- 250.1040 Patient Care Units
- 250.1050 Equipment for Bedside Care
- 250.1060 Drug Services on Patient Unit
- 250.1070 Care of Patients
- 250.1075 Use of Restraints

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 250.1080 Admission Procedures Affecting Care
- 250.1090 Sterilization and Processing of Supplies
- 250.1100 Infection Control
- 250.1110 Mandatory Overtime Prohibition
- 250.1120 Staffing Levels
- 250.1130 Nurse Staffing by Patient Acuity

SUBPART J: SURGICAL AND RECOVERY ROOM SERVICES

- Section
- 250.1210 Surgery
- 250.1220 Surgery Staff
- 250.1230 Policies & Procedures
- 250.1240 Surgical Privileges
- 250.1250 Surgical Emergency Care
- 250.1260 Operating Room Register and Records
- 250.1270 Surgical Patients
- 250.1280 Equipment
- 250.1290 Safety
- 250.1300 Operating Room
- 250.1305 Visitors in Operating Room
- 250.1310 Cleaning of Operating Room
- 250.1320 Postanesthesia Care Units

SUBPART K: ANESTHESIA SERVICES

- Section
- 250.1410 Anesthesia Service

SUBPART L: RECORDS AND REPORTS

- Section
- 250.1510 Medical Records
- 250.1520 Reports

SUBPART M: FOOD SERVICE

- Section
- 250.1610 Dietary Department Administration

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

250.1620	Facilities
250.1630	Menus and Nutritional Adequacy
250.1640	Diet Orders
250.1650	Frequency of Meals
250.1660	Therapeutic (Modified) Diets
250.1670	Food Preparation and Service
250.1680	Sanitation

SUBPART N: HOUSEKEEPING AND LAUNDRY SERVICES

Section	
250.1710	Housekeeping
250.1720	Garbage, Refuse and Solid Waste Handling and Disposal
250.1730	Insect and Rodent Control
250.1740	Laundry Service
250.1750	Soiled Linen
250.1760	Clean Linen

SUBPART O: OBSTETRIC AND NEONATAL SERVICE

Section	
250.1810	Applicability of Other Provisions of this Part
250.1820	Obstetric and Neonatal Service (Perinatal Service)
250.1830	General Requirements for All Obstetric Departments
250.1840	Discharge of Newborn Infants from Hospital
250.1845	Caesarean Birth
250.1850	Single Room Postpartum Care of Mother and Infant
250.1860	Special Programs (Repealed)
250.1870	Labor, Delivery, Recovery and Postpartum Care

SUBPART P: ENGINEERING AND MAINTENANCE OF THE PHYSICAL PLANT, SITE, EQUIPMENT, AND SYSTEMS – HEATING, COOLING, ELECTRICAL, VENTILATION, PLUMBING, WATER, SEWER, AND SOLID WASTE DISPOSAL

Section	
250.1910	Maintenance
250.1920	Emergency electric service
250.1930	Water Supply
250.1940	Ventilation, Heating, Air Conditioning, and Air Changing Systems

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

250.1950	Grounds and Buildings Shall be Maintained
250.1960	Sewage, Garbage, Solid Waste Handling and Disposal
250.1970	Plumbing
250.1980	Fire and Safety

SUBPART Q: CHRONIC DISEASE HOSPITALS

Section	
250.2010	Definition
250.2020	Requirements

SUBPART R: PHARMACY OR DRUG AND MEDICINE SERVICE

Section	
250.2110	Service Requirements
250.2120	Personnel Required
250.2130	Facilities for Services
250.2140	Pharmacy and Therapeutics Committee

SUBPART S: PSYCHIATRIC SERVICES

Section	
250.2210	Applicability of other Parts of these Regulations
250.2220	Establishment of a Psychiatric Service
250.2230	The Medical Staff
250.2240	Nursing Service
250.2250	Allied Health Personnel
250.2260	Staff and Personnel Development and Training
250.2270	Admission, Transfer and Discharge Procedures
250.2280	Care of Patients
250.2290	Special Medical Record Requirements for Psychiatric Hospitals and Psychiatric Units of General Hospitals or General Hospitals Providing Psychiatric Care
250.2300	Diagnostic, Treatment and Physical Facilities and Services

SUBPART T: DESIGN AND CONSTRUCTION STANDARDS

Section	
250.2410	Applicability of these Standards
250.2420	Submission of Plans for New Construction, Alterations or Additions to Existing

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

	Facility
250.2430	Preparation of Drawings and Specifications – Submission Requirements
250.2440	General Hospital Standards
250.2442	Fees
250.2443	Advisory Committee
250.2450	Details
250.2460	Finishes
250.2470	Structural
250.2480	Mechanical
250.2490	Plumbing and Other Piping Systems
250.2500	Electrical Requirements

SUBPART U: CONSTRUCTION REQUIREMENTS FOR EXISTING HOSPITALS

Section	
250.2610	Applicability of Subpart U
250.2620	Codes and Standards
250.2630	Existing General Hospital Requirements
250.2640	Details
250.2650	Finishes
250.2660	Mechanical
250.2670	Plumbing and Other Piping Systems
250.2680	Electrical Requirements

SUBPART V: SPECIAL CARE AND/OR SPECIAL SERVICE UNITS

Section	
250.2710	Special Care and/or Special Service Units
250.2720	Day Care for Mildly Ill Children

SUBPART W: ALCOHOLISM AND INTOXICATION TREATMENT SERVICES

Section	
250.2810	Applicability of Other Parts of These Requirements
250.2820	Establishment of an Alcoholism and Intoxication Treatment Service
250.2830	Classification and Definitions of Service and Programs
250.2840	General Requirements for all Hospital Alcoholism Program Classifications
250.2850	The Medical and Professional Staff
250.2860	Medical Records

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

250.2870	Referral
250.2880	Client Legal and Human Rights
250.APPENDIX A	Codes and Standards (Repealed)
250.EXHIBIT A	Codes (Repealed)
250.EXHIBIT B	Standards (Repealed)
250.EXHIBIT C	Addresses of Sources (Repealed)
250.ILLUSTRATION A	Seismic Zone Map
250.TABLE A	Measurements Essential for Level I, II, III Hospitals
250.TABLE B	Sound Transmission Limitations in General Hospitals
250.TABLE C	Filter Efficiencies for Central Ventilation and Air Conditioning Systems in General Hospitals (Repealed)
250.TABLE D	General Pressure Relationships and Ventilation of Certain Hospital Areas (Repealed)
250.TABLE E	Piping Locations for Oxygen, Vacuum and Medical Compressed Air
250.TABLE F	General Pressure Relationships and Ventilation of Certain Hospital Areas
250.TABLE G	Insulation/Building Perimeter

AUTHORITY: Implementing and authorized by the Hospital Licensing Act [210 ILCS 85].

SOURCE: Rules repealed and new rules adopted August 27, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 21, p. 49, effective May 16, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 45, p. 85, effective November 6, 1978; amended at 3 Ill. Reg. 17, p. 88, effective April 22, 1979; amended at 4 Ill. Reg. 22, p. 233, effective May 20, 1980; amended at 4 Ill. Reg. 25, p. 138, effective June 6, 1980; amended at 5 Ill. Reg. 507, effective December 29, 1980; amended at 6 Ill. Reg. 575, effective December 30, 1981; amended at 6 Ill. Reg. 1655, effective January 27, 1982; amended at 6 Ill. Reg. 3296, effective March 15, 1982; amended at 6 Ill. Reg. 7835 and 7838, effective June 17, 1982; amended at 7 Ill. Reg. 962, effective January 6, 1983; amended at 7 Ill. Reg. 5218 and 5221, effective April 4, 1983 and April 5, 1983; amended at 7 Ill. Reg. 6964, effective May 17, 1983; amended at 7 Ill. Reg. 8546, effective July 12, 1983; amended at 7 Ill. Reg. 9610, effective August 2, 1983; codified at 8 Ill. Reg. 19752; amended at 8 Ill. Reg. 24148, effective November 29, 1984; amended at 9 Ill. Reg. 4802, effective April 1, 1985; amended at 10 Ill. Reg. 11931, effective September 1, 1986; amended at 11 Ill. Reg. 10283, effective July 1, 1987; amended at 11 Ill. Reg. 10642, effective July 1, 1987; amended at 12 Ill. Reg. 15080, effective October 1, 1988; amended at 12 Ill. Reg. 16760, effective October 1, 1988; amended at 13 Ill. Reg. 13232, effective September 1, 1989; amended at 14 Ill. Reg. 2342, effective February 15, 1990; amended at 14 Ill. Reg. 13824, effective September 1, 1990; amended at 15 Ill. Reg. 5328,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

effective May 1, 1991; amended at 15 Ill. Reg. 13811, effective October 1, 1991; amended at 17 Ill. Reg. 1614, effective January 25, 1993; amended at 17 Ill. Reg. 17225, effective October 1, 1993; amended at 18 Ill. Reg. 11945, effective July 22, 1994; amended at 18 Ill. Reg. 15390, effective October 10, 1994; amended at 19 Ill. Reg. 13355, effective September 15, 1995; emergency amendment at 20 Ill. Reg. 474, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 3234, effective February 15, 1996; amended at 20 Ill. Reg. 10009, effective July 15, 1996; amended at 22 Ill. Reg. 3932, effective February 13, 1998; amended at 22 Ill. Reg. 9342, effective May 20, 1998; amended at 23 Ill. Reg. 1007, effective January 15, 1999; emergency amendment at 23 Ill. Reg. 3508, effective March 4, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9513, effective August 1, 1999; amended at 23 Ill. Reg. 13913, effective November 15, 1999; amended at 24 Ill. Reg. 6572, effective April 11, 2000; amended at 24 Ill. Reg. 17196, effective November 1, 2000; amended at 25 Ill. Reg. 3241, effective February 15, 2001; amended at 27 Ill. Reg. 1547, effective January 15, 2003; amended at 27 Ill. Reg. 13467, effective July 25, 2003; amended at 28 Ill. Reg. 5880, effective March 29, 2004; amended at 28 Ill. Reg. 6579, effective April 15, 2004; amended at 29 Ill. Reg. 12489, effective July 27, 2005; amended at 31 Ill. Reg. 4245, effective February 20, 2007; amended at 31 Ill. Reg. 14530, effective October 3, 2007; amended at 32 Ill. Reg. 3756, effective February 27, 2008; amended at 32 Ill. Reg. 4213, effective March 10, 2008; amended at 32 Ill. Reg. 7932, effective May 12, 2008; amended at 32 Ill. Reg. 14336, effective August 12, 2008; amended at 33 Ill. Reg. 8306, effective June 2, 2009; amended at 34 Ill. Reg. 2528, effective January 27, 2010; amended at 34 Ill. Reg. 3331, effective February 24, 2010; amended at 34 Ill. Reg. 19031, effective November 17, 2010; amended at 34 Ill. Reg. 19158, effective November 23, 2010; amended at 35 Ill. Reg. 4556, effective March 4, 2011; amended at 35 Ill. Reg. 6386, effective March 31, 2011; amended at 35 Ill. Reg. 13875, effective August 1, 2011; amended at 36 Ill. Reg. 17413, effective December 3, 2012; amended at 38 Ill. Reg. 13280, effective June 10, 2014; amended at 39 Ill. Reg. 5443, effective March 25, 2015; amended at 39 Ill. Reg. 13041, effective September 3, 2015; amended at 41 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 250.105 Incorporated and Referenced Materials

- a) The following regulations and standards are incorporated in this Part:
 - 1) Private and [Professional Association Standards](#)~~professional association standards~~:
 - A) American Society for Testing and Materials (ASTM), Standard

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

No. E90-99 (2002): Standard Test Method for Laboratory Measurement of Airborne Sound Transmission Loss of Building Partitions and Elements, which may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428-2959. (See Section 250.2420.)

- B) The following standards of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), which may be obtained from the American Society of Heating, Refrigerating, and Air-Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329: (See Section 250.2480.)
- i) ASHRAE Handbook of Fundamentals (2005)
 - ii) ASHRAE Handbook for HVAC Systems and Equipment (2004)
 - iii) ASHRAE Handbook-HVAC Applications (2003)
- C) The following standards of the National Fire Protection Association (NFPA), which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169:
- i) NFPA 101 (2000): Life Safety Code (See Sections 250.2420, 250.2450, 250.2460, 250.2470, and 250.2490.)
 - ii) NFPA 10 (1998): Standards for Portable Fire Extinguishers (See Section 250.1980.)
 - iii) NFPA 13 (1999): Standards for the Installation of Sprinkler Systems (See Sections 250.2490 and 250.2670.)
 - iv) NFPA 14 (2000): Standard for the Installation of Standpipe, Private Hydrants and Hose Systems (See Sections 250.2490 and 250.2670.)
 - v) NFPA 25 (1998): Standard for the Inspection, Testing and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Maintenance of Water-Based Fire Protection Systems

- vi) NFPA 30 (1996): Flammable and Combustible Liquids Code (See Section 250.1980.)
- vii) NFPA 45 (1996): Standard on Fire Protection for Laboratories Using Chemicals
- viii) NFPA 54 (1999): National Fuel Gas Code
- ix) NFPA 70 (1999): National Electrical Code (See Sections 250.2440 and 250.2500.)
- x) NFPA 72 (1999): National Fire Alarm Code
- xi) NFPA 80 (1999): Standard for Fire Doors and Fire Windows (See Section 250.2450.)
- xii) NFPA 82 (1999): Standard on Incinerators and Waste and Linen Handling Systems and Equipment (See Section 250.2440.)
- xiii) NFPA 90A (1999): Standard for Installation of Air Conditioning and Ventilating Systems (See Sections 250.2480 and 250.2660.)
- xiv) NFPA 96 (1998): Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations (See Section 250.2660.)
- xv) NFPA 99 (1999): Standard for Health Care Facilities (See Sections 250.1410, 250.1910, 250.1980, 250.2460, 250.2480, 250.2490 and 250.2660.)
- xvi) NFPA 101-A (2001): Guide on Alternative Approaches to Life Safety (See Section 250.2620.)
- xvii) NFPA 110 (1999): Standard for Emergency and Standby Power Systems

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- xviii) NFPA 220 (1999): Standard on Types of Building Construction (See Sections 250.2470 and 250.2620.)
 - xix) NFPA 221 (1997): Standard for Fire Walls and Fire Barrier Walls
 - xx) NFPA 241 (1996): Standard for Safeguarding Construction, Alteration and Demolition Operations
 - xxi) NFPA 255 and 258 (2000): Standard Method of Test of Surface Burning Characteristics of Building Materials, and Recommended Practice for Determining Smoke Generation of Solid Materials (See Section 250.2480.)
 - xxii) NFPA 701 (1999): Standard Methods of Fire Tests for Flame Propagation of Textiles and Films (See Sections 250.2460 and 250.2650.)
- D) American Academy of Pediatrics and American College of Obstetricians and Gynecologists, Guidelines for Perinatal Care, ~~Seventh~~^{Sixth} Edition (~~2012~~²⁰⁰⁷), which may be obtained from the American College of Obstetricians and Gynecologists Distribution Center, P.O. Box 933104, Atlanta, Georgia 31193-3104 (800-762-2264) (See Section 250.1820.)
- E) American College of Obstetricians and Gynecologists, Guidelines for Women's Healthcare, ~~Fourth~~^{Third} Edition (~~2014~~²⁰⁰⁷), which may be obtained from the American College of Obstetricians and Gynecologists Distribution Center, P.O. Box 933104, Atlanta, Georgia 31193-3104 (800-762-2264) (See Section 250.1820.)
- F) American Academy of Pediatrics (AAP), Red Book: Report of the Committee on Infectious Diseases, 28th Edition (2009), which may be obtained from the American Academy of Pediatrics, 141 Northwest Point Blvd., Elk Grove Village, Illinois 60007 (See Section 250.1820.)
- G) American Academy of Pediatrics and the American Heart

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Association, 2011 American Heart Association (AHA) Guidelines for Cardiopulmonary Resuscitation (CPR) and Emergency Cardiovascular Care (ECC) of Pediatric and Neonatal Patients: Neonatal Resuscitation Guidelines, which may be obtained from the American Academy of Pediatrics, 141 Northwest Point Blvd., Elk Grove Village, Illinois 60007, or at pediatrics.aappublications.org/cgi/reprint/117/5/e1029.pdf (See Section 250.1830.)

- H) National Association of Neonatal Nurses, Position Statement #3009 Minimum RN Staffing in NICUs, which may be obtained from the National Association of Neonatal Nurses, 4700 W. Lake Ave., Glenview, Illinois 60025, or at nann.org/pdf/08_3009_rev.pdf (See Section 250.1830.)
- I) National Council on Radiation Protection and Measurements (NCRP), Report 49: Structural Shielding Design and Evaluation for Medical Use of X-rays and Gamma Rays of Energies up to 10 MeV (1976) and NCRP Report 102: Medical X-Ray, Electron Beam and Gamma-Ray Protection for Energies Up to 50 MeV (Equipment Design, Performance and Use) (1989), which may be obtained from the National Council on Radiation Protection and Measurements, 7910 Woodmont Ave., Suite 800, Bethesda, Maryland 20814-3095 (See Sections 250.2440 and 250.2450.)
- J) DOD Penetration Test Method MIL STD 282 (1995): Filter Units, Protective Clothing, Gas-mask Components and Related Products: Performance Test Methods, which may be obtained from Naval Publications and Form Center, 5801 Tabor Avenue, Philadelphia, Pennsylvania 19120 (See Section 250.2480.)
- K) National Association of Plumbing-Heating-Cooling Contractors (PHCC), National Standard Plumbing Code (2003), which may be obtained from the National Association of Plumbing-Heating-Cooling Contractors, 180 S. Washington Street, P.O. Box 6808, Falls Church, Virginia 22046 (703-237-8100)
- L) The International Code Council, International Building Code (2000), which may be obtained from the International Code

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Council, 4051 Flossmoor Road, Country Club Hills, Illinois
60477-5795 (See Section 250.2420.)

- M) American National Standards Institute, Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped (1968), which may be obtained from the American National Standards Institute, 25 West 433rd Street, 4th Floor, New York, New York 10036 (See Section 250.2420.)
 - N) Accreditation Council for Graduate Medical Education, Essentials of Accredited Residencies in Graduate Medical Education (1997), which may be obtained from the Accreditation Council for Graduate Medical Education, 515 North State Street, Suite 2000, Chicago, Illinois 60610 (See Section 250.315.)
 - O) The Joint Commission, 2006 Hospital Accreditation Standards (HAS), Standard PC.3.10, which may be obtained from the Joint Commission, One Renaissance Boulevard, Oakbrook Terrace, Illinois 60181 (See Section 250.1035.)
 - P) National Quality Forum, Safe Practices for Better Health Care (2009), which may be obtained from the National Quality Forum, 601 13th Street, NW, Suite 500 North, Washington DC 20005, or from www.qualityforum.org
- 2) Federal Government Publications:
- A) Department of Health and Human Services, United States Public Health Service, Centers for Disease Control and Prevention, "Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings 2007" and "Guidelines for Infection Control in Health Care Personnel, 1998, which may be obtained from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161 (See Section 250.1100.)
 - B) Department of Health and Human Services, United States Public Health Service, Centers for Disease Control and Prevention, "Guidelines for Environmental Infection Control in Health-Care

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Facilities: Recommendations – Animals in Health Care Facilities", "Morbidity and Mortality Weekly Report", June 6, 2003/Vol. 52/No. RR-10, which may be obtained from the Centers for Disease Control and Prevention, 1600 Clifton Road, MS K-95, Atlanta, Georgia 30333

- C) Department of Health and Human Services, United States Public Health Services, Centers for Disease Control and Prevention, "Guidelines for Hand Hygiene in Health-Care Settings", October 25, 2002, which may be obtained from the National Technical Information Services (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161
 - D) Department of Health and Human Services, United States Public Health Service, Centers for Disease Control and Prevention, "Guidelines for Disinfection and Sterilization in Healthcare Facilities, 2008", which may be obtained from the Centers for Disease Control and Prevention, 1600 Clifton Road, Atlanta, Georgia 30333
 - E) National Center for Health Statistics and World Health Organization, Geneva, Switzerland, "International Classification of Diseases", 10th Revision, Clinical Modification (ICD-10-CM) (1990), Version for ~~2015~~2007, which can be accessed at <http://www.who.int/classifications/icd/en/>
- 3) Federal Regulations:
- A) 45 CFR 46.101, To What Does the Policy Apply? (October 1, 2014)
 - B) 45 CFR 46.103(b), Assuring Compliance with this Policy – Research Conducted or Supported by any Federal Department or Agency (October 1, 2014)
 - C) 42 CFR 482, Conditions of Participation for Hospitals (October 1, 2014)
 - D) 21 CFR, Food and Drugs (April 1, 2014)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- E) 42 CFR 489.20, Basic Commitments (October 1, 2014)
 - F) 29 CFR 1910.1030, Bloodborne Pathogens (July 1, 2014)
 - G) [42 CFR 413.65\(d\) and \(e\), Requirements for a determination that a facility or an organization has provider-based status \(October 1, 2014\)](#)
- b) All incorporations by reference of federal regulations and guidelines and the standards of nationally recognized organizations refer to the regulations, guidelines and standards on the date specified and do not include any editions or amendments subsequent to the date specified.
- c) The following statutes and State regulations are referenced in this Part:
- 1) State of Illinois statutes:
 - A) Hospital Licensing Act [210 ILCS 85]
 - B) Illinois Health Facilities Planning Act [20 ILCS 3960]
 - C) Medical Practice Act of 1987 [225 ILCS 60]
 - D) Podiatric Medical Practice Act of 1987 [225 ILCS 100]
 - E) Pharmacy Practice Act [225 ILCS 85]
 - F) Physician Assistant Practice Act of 1987 [225 ILCS 95]
 - G) Illinois Clinical Laboratory and Blood Bank Act [210 ILCS 25]
 - H) X-ray Retention Act [210 ILCS 90]
 - I) Safety Glazing Materials Act [430 ILCS 60]
 - J) Mental Health and Developmental Disabilities Code [405 ILCS 5]
 - K) Nurse Practice Act [225 ILCS 65]

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- L) Health Care Worker Background Check Act [225 ILCS 46]
- M) MRSA Screening and Reporting Act [210 ILCS 83]
- N) Hospital Report Card Act [210 ILCS 88]
- O) Illinois Adverse Health Care Events Reporting Law of 2005 [410 ILCS 522]
- P) Smoke Free Illinois Act [410 ILCS 82]
- Q) Health Care Surrogate Act [755 ILCS 40]
- R) Perinatal HIV Prevention Act [410 ILCS 335]
- S) Hospital Infant Feeding Act [210 ILCS 81]
- T) Medical Patient Rights Act [410 ILCS 50]
- U) Hospital Emergency Service Act [210 ILCS 80]
- V) Illinois Anatomical Gift Act [775 ILCS 50]
- W) Illinois Public Aid Code [305 ILCS 5]
- X) Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 305]
- Y) ID/DD Community Care Act [210 ILCS 47]
- Z) Specialized Mental Health Rehabilitation Act [210 ILCS 48]
- AA) Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115]
- BB) Alternative Health Care Delivery Act [210 ILCS 3]
- CC) Gestational Surrogacy Act [750 ILCS 47]

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

DD) Code of Civil Procedure [735 ILCS 5/8-2101]

- 2) State of Illinois Administrative Rules~~administrative rules~~:
- A) Department of Public Health, Illinois Plumbing Code (77 Ill. Adm. Code 890)
 - B) Department of Public Health, Sexual Assault Survivors Emergency Treatment Code (77 Ill. Adm. Code 545)
 - C) Department of Public Health, Control of Communicable Diseases Code (77 Ill. Adm. Code 690)
 - D) Department of Public Health, Food Service Sanitation Code (77 Ill. Adm. Code 750)
 - E) Department of Public Health, Public Area Sanitary Practice Code (77 Ill. Adm. Code 895)
 - F) Department of Public Health, Maternal Death Review (77 Ill. Adm. Code 657)
 - G) Department of Public Health, Control of Sexually Transmissible Infections Code (77 Ill. Adm. Code 693)
 - H) Department of Public Health, Control of Tuberculosis Code (77 Ill. Adm. Code 696)
 - I) Department of Public Health, Health Care Worker Background Check Code (77 Ill. Adm. Code 955)
 - J) Department of Public Health, Language Assistance Services Code (77 Ill. Adm. Code 940)
 - K) Department of Public Health, Regionalized Perinatal Health Care Code (77 Ill. Adm. Code 640)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- L) Health Facilities and Services Review Board, Narrative and Planning Policies (77 Ill. Adm. Code 1100)
 - M) Health Facilities and Services Review Board, Processing, Classification Policies and Review Criteria (77 Ill. Adm. Code 1110)
 - N) Department of Public Health, Private Sewage Disposal Code (77 Ill. Adm. Code 905)
 - O) Department of Public Health, Ambulatory Surgical Treatment Center Licensing Requirements (77 Ill. Adm. Code 205)
 - P) Capital Development Board, Illinois Accessibility Code (71 Ill. Adm. Code 400)
 - Q) State Fire Marshal, Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120)
 - R) State Fire Marshal, Fire Prevention and Safety (41 Ill. Adm. Code 100)
 - S) Illinois Emergency Management Agency, Standards for Protection Against Radiation (32 Ill. Adm. Code 340)
 - T) Illinois Emergency Management Agency, Use of X-rays in the Healing Arts Including Medical, Dental, Podiatry, and Veterinary Medicine (32 Ill. Adm. Code 360)
- 3) Federal Statutes:
- A) Health Insurance Portability and Accountability Act of 1996 (110 USC 1936)
 - B) Emergency Medical Treatment & Labor Act (~~{42 USC 1395dd}~~)

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART B: ADMINISTRATION AND PLANNING

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section 250.210 The Governing Board

- a) ~~Each~~~~For each~~ hospital ~~there~~ shall ~~have~~~~be~~ a governing authority, ~~hereinafter~~ called the board, responsible for ~~the~~~~its~~ organization, management, control and operation of the hospital, including the appointment of the medical staff. For two or more hospitals within a health care system, the system board may serve as the single governing authority of each hospital (which shall be referred to as the "system board"). When this option is exercised, the system board shall be responsible for compliance with the medical staff requirements in the Act and its regulations.
- b) The board shall be ~~formally~~ organized in accordance with a written constitution and bylaws ~~that.~~~~This must~~ clearly set forth organization, duties, responsibilities, and relationships. The Department may require a copy for its files.
- c) The board shall meet regularly. Monthly meetings are recommended. Written reports of all meetings shall be ~~maintained~~~~kept~~.
- d) The board shall employ a competent executive officer or administrator and vest him or her with authority and responsibility to carry~~for carrying~~ out its policies. ~~A~~~~There shall be a~~ qualified individual shall be responsible to the administrator in matters of administration ~~and~~~~who~~ shall represent him or her during the administrator's~~his~~ absence.
- e) The board shall ensure the availability~~insure employment~~ of competent, well qualified personnel for all hospital departments in order to efficiently~~in adequate numbers to~~ carry out the functions of the hospital and meet patient care needs. The board shall also provide a mechanism for assisting employees in addressing physical and mental health problems.
- f) The board shall be responsible for the maintenance of standards of professional work in the hospital and shall require that the medical staff function competently. Clinical audits shall be performed by the medical staff and reviewed by a committee of the governing authority and the medical staff. The board shall consult directly with the individual who is responsible for the organization and conduct of the hospital's medical staff. The direct consultation shall occur at least twice per year and shall include discussion of matters related to the quality of medical care provided to the patients of the hospital. For a hospital system using a system board, the system board shall consult directly with the individual

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

responsible for the organized medical staff (or his or her designee) of each hospital within the system. Direct consultation occurs when the governing body, or a subcommittee of the governing body, meets with the leaders of the medical staffs, or their designee, either face-to-face or via a telecommunications system that permits immediate, synchronous communication.

- g) The ~~board~~Board shall ~~establish~~~~be responsible for the establishment of~~ a policy providing for the investigation of unusual incidents ~~that~~~~which~~ may occur. (Refer to Section 250.990.)
- h) Two or more separately licensed hospitals that are part of a hospital system with a system board may elect to use the option of a unified medical staff, conditioned upon acceptance by a majority vote of the medical staff members of the participating hospitals. Members who hold privileges to practice at the hospital shall vote in accordance with the medical staff bylaws. Nothing in this Section shall be construed to require a unified medical staff for any hospital.
- 1) The system board shall be responsible for the decisions of the unified medical staff and may direct the unified medical staff to consider any matter or reconsider any decision. The system board shall take final action on all medical staff matters, on behalf of the hospitals within the system that share a unified medical staff, including, but not limited to:
- A) The appointment, reappointment and delineation of clinical privileges of the medical staff;
- B) The denial or revocation of a medical staff appointment and the denial, revocation, suspension, restriction or reduction of clinical privileges;
- C) The approval of bylaws and policies; and
- D) The maintenance of standards for professional work in the hospital and the review of clinical audits, pursuant to subsection (f).
- 2) The unified medical staff shall be considered a committee of a licensed hospital for purposes of Section 8-2101 of the Code of Civil Procedure.
- 3) All of the activities of the system board shall be in compliance with the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

medical staff provisions of the Act and this Part.

- 4) If two or more hospitals within a hospital system designate a system board, each hospital in the hospital system shall still individually comply with the Act and this Part.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART C: THE MEDICAL STAFF

Section 250.310 Organization

- a) For the purposes of this Section only:
- 1) *Adverse Decision means a decision reducing, restricting, suspending, revoking, denying, or not renewing medical staff membership or clinical privileges.* (Section 10.4(b) of the Act)
 - 2) A Distant-site Hospital is an Illinois licensed hospital or a Medicare participating hospital.
 - 3) A Distant-site Telemedicine Entity, consisting of a group of licensed physicians, is defined as an entity that:
 - A) Provides telemedicine services;
 - B) Is not a Medicare-participating hospital; and
 - C) Provides contracted services in a manner that enables a hospital using its services to meet all applicable Medicare conditions of participation, particularly those requirements related to the credentialing and privileging of practitioners providing telemedicine services to the patients of a hospital. A distant-site telemedicine entity would include a distant-site hospital that does not participate in the Medicare program that is providing telemedicine services to a Medicare-participating hospital.
 - 4) *Economic Factor means any information or reasons for decisions unrelated to quality of care or professional competency.* (Section 10.4(b))

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

of the Act)

- 5) Non-simultaneously means that, while the telemedicine physician or practitioner still provides clinical services to the patient upon a formal request from the patient's attending physician, ~~thesesuch~~ services may involve after-the-fact interpretation of diagnostic tests in order to provide an assessment of the patient's condition and do not necessarily require the telemedicine practitioner to directly assess the patient in real time. This would be similar to the services provided by an on-site radiologist who interprets a patient's x-ray or CT scan and then communicates his or her assessment to the patient's attending physician who then bases his or her diagnosis and treatment plan on these findings.
 - 6) *Privilege means permission to provide medical or other patient care services and permission to use hospital resources, including equipment, facilities and personnel that are necessary to effectively provide medical or other patient care services. This definition shall not be construed to require a hospital to acquire additional equipment, facilities, or personnel to accommodate the granting of privileges.* (Section 10.4(b) of the Act)
 - 7) Simultaneously means that the clinical services (for example, assessment of the patient with a clinical plan for treatment, including any medical orders needed) are provided to the patient in real time by the telemedicine physician or practitioner, similar to the actions of an on-site physician or practitioner.
 - 8) Telemedicine means the provision of clinical services to patients by physicians and practitioners from a distance via electronic communications. The distant-site telemedicine physician or practitioner provides clinical services to the hospital patient either simultaneously, as is often the case with teleICU services, for example, or non-simultaneously, as may be the case with many teleradiology services.
- b) The medical staff shall be organized in accordance with written bylaws, rules and regulations approved by the governing board. The bylaws, rules and regulations shall specifically provide, but are not ~~be~~-limited to:
- 1) establishing written procedures relating to the acceptance and processing of initial applications for medical staff membership, granting and denying

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

of medical staff reappointment, and medical staff membership or clinical privileges disciplinary matters in accordance with subsection (c) for county hospitals as defined in Section 15-1(c) of the Illinois Public Aid Code, or subsection ~~(e)(4)~~ of this Section for all other hospitals. The procedures for initial applicants at any particular hospital may differ from those for current medical staff members. However, the procedures at any particular hospital shall be applied equally to each practitioner eligible for medical staff membership as defined in Section 250.150. The procedures shall provide that, *prior to the granting of any medical staff privileges to an applicant, or renewing a current medical staff member's privileges, the hospital shall request of the Director of the Department of Financial and Professional Regulation information concerning the licensure status and any disciplinary action taken against the applicant's or medical staff member's license. This provision shall not apply to medical personnel who enter a hospital to obtain organs and tissues for transplant from a deceased donor in accordance with the Illinois Anatomical Gift Act. This provision shall not apply to medical personnel who have been granted disaster privileges pursuant to the procedures and requirements established in this Section. (Section 10.4 of the Act);*

- 2) identifying divisions and departments as are warranted (as a minimum, active and consulting divisions are required);
- 3) identifying officers as are warranted;
- 4) establishing committees as are warranted to assure the responsibility for ~~such~~ functions such as pharmacy and therapeutics, infection control, utilization review, patient care evaluation, and the maintenance of complete medical records;
- 5) assuring that active medical staff meetings are held regularly, and that written minutes of all meetings are kept;
- 6) reviewing and analyzing the clinical experience of the hospital at regular intervals – the medical records of patients to be the basis for review and analysis;
- 7) identifying conditions or situations that require consultation, including consultation between medical staff members in complicated cases;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 8) examining tissue removed during operations by a qualified pathologist and requiring that the findings are made a part of the patient's medical record;
- 9) keeping completed medical records;
- 10) maintaining a Utilization Review Plan, which shall be in accordance with the Conditions of Participation for Hospitals in the Medicare Program;
- 11) establishing Medical Care Evaluation Studies;
- 12) establishing policies requiring a physician as first assistant to major or hazardous surgery, including written criteria to determine when an assistant is necessary;
- 13) assuring, through credentialing by the medical staff, that a qualified surgical assistant, whether a physician or non-physician, assists the operating surgeon in the operating room;
- 14) determining additional privileges that may be granted a staff member for the use of his/her employed allied health personnel in the hospital in accordance with policies and procedures recommended by the medical staff and approved by the governing authority. The policies and procedures shall include, at least, requirements that the staff member requesting this additional privilege shall submit the following for review and approval by the medical staff and the governing authority of the hospital:
 - A) a curriculum vitae of the identified allied health personnel, and
 - B) a written protocol with a description of the duties, assignments and functions, including a description of the manner of performance within the hospital by the allied health personnel in relationship with other hospital staff;
- 15) establishing a mechanism for assisting medical staff members in addressing physical and mental health problems;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 16) implementing a procedure for preserving medical staff credentialing files in the event of the closure of the hospital;
- 17) establishing a procedure for granting telemedicine privileges, based upon the privileging decisions of a distant-site hospital or telemedicine entity that has a written agreement that meets Medicare requirements; and
- 18) establishing a procedure for granting disaster privileges.
 - A) When the emergency management plan has been activated and the hospital is unable to handle patients' immediate needs, it shall:
 - i) identify in writing the individuals responsible for granting disaster privileges;
 - ii) describe in writing the responsibilities of the individuals granting disaster privileges. The responsible individual is not required to grant privileges to any individual and is expected to make decisions on a case-by-case basis at his or her discretion;
 - iii) describe in writing a mechanism to manage individuals who receive disaster privileges;
 - iv) include a mechanism to allow staff to readily identify individuals who receive disaster privileges;
 - v) require that medical staff address the verification process as a high priority and begin the verification process of the credentials and privileges of individuals who receive disaster privileges as soon as the immediate situation is under control.
 - B) The individual responsible for granting disaster privileges may grant disaster privileges upon presentation of any of the following:
 - i) a current picture hospital ID card;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- ii) a current license to practice and a valid picture ID issued by a state, federal or regulatory agency;
 - iii) identification indicating that the individual is a member of a Disaster Medical Assistance Team (DMAT) or an Illinois Medical Emergency Response Team (IMERT);
 - iv) identification indicating that the individual has been granted authority to render patient care, treatment and services in disaster circumstances (authority having been granted by a federal, state or municipal entity); or
 - v) presentation by current hospital or medical staff members with personal knowledge regarding practitioner's identity.
- C) *Any hospital and any employees of the hospital or others involved in granting privileges who, in good faith, grant disaster privileges, pursuant to Section 10.4 of the Act, to respond to an emergency shall not, as a result of their acts or omissions, be liable for civil damages for granting or denying disaster privileges except in the event of willful and wanton misconduct, as that term is defined in Section 10.2 of the Act.*
- D) *Individuals granted privileges who provide care in an emergency situation, in good faith and without direct compensation, shall not, as a result of their acts or omissions, except for acts or omissions involving willful and wanton misconduct, as that term is defined in Section 10.2 of the Act, on the part of the person, be liable for civil damages. (Section 10.4 of the Act)*
- c) If a hospital is part of a hospital system consisting of two or more separately licensed hospitals, and the system elects to have a unified, integrated medical staff for its separately licensed member hospitals, each separately licensed hospital shall permit the medical staff members of each separately licensed hospital in the system (in other words, all medical staff members who hold specific privileges to practice at that hospital) to vote, in accordance with medical staff bylaws, whether to accept a unified, integrated medical staff structure or to maintain a separate and distinct medical staff for their respective licensed hospital.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) If the medical staffs of the separately licensed hospitals vote to accept an integrated, unified medical staff structure, they shall meet the following conditions:
 - A) Adopt written bylaws, rules and requirements that describe the processes for self-governance, appointment, credentialing, privileging and oversight, as well as peer review policies and due process rights guarantees, including a process for the members of the medical staff of each separately licensed hospital to be advised of their rights to opt out of the unified and integrated medical staff structure after a majority vote by the members to maintain a separate and distinct medical staff for their hospital;
 - B) Take into account each member hospital's unique circumstances and any significant differences in patient populations and services offered in each hospital; and
 - C) Establish and implement written policies and procedures, including meetings that shall occur at least quarterly, to ensure that the needs and concerns expressed by members of the medical staffs at each separately licensed hospital, regardless of practice or location, are given due consideration, and that the unified, integrated medical staff has mechanisms in place to ensure that issues localized to particular hospitals are considered and addressed.
 - 2) The unified, integrated medical staff shall be organized in accordance with the Conditions of Participation for Hospitals related to medical staff.
 - 3) Medical staffs may vote, no more than every two years, whether to remain or discontinue as an integrated, unified medical staff.
 - 4) This subsection (c) shall not apply to hospitals that are required to have a unified, integrated medical staff under 42 CFR 413.65(d) and (e) as being a multi-campus hospital under one Medicare certification number.
- d)e) The medical staff bylaws for county hospitals as defined in Section 15-1(c) of the Illinois Public Aid Code shall include at least the following:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 1) The procedures relating to evaluating individuals for staff membership, whether the practitioners are or are not currently members of the medical staff, shall include procedures for determining qualifications and privileges; criteria for evaluating qualifications; and procedures requiring information about current health status, current license status in Illinois, and biennial review of renewed license.
- 2) Written procedures that allow the medical staff to rely upon the credentialing and privileging decisions of a distant-site hospital or telemedicine entity as an option for recommending the privileging of telemedicine physicians.
- 3) The procedure shall grant to current medical staff members at least: written notice of an adverse decision by the Governing Board; an explanation and reasons for an adverse decision; the right to examine and/or present copies of relevant information, if any, related to an adverse decision; an opportunity to appeal an adverse decision; and written notice of the decision resulting from the appeal. The procedures for providing written notice shall include timeframes for giving notice.

e)⊕ The medical staff bylaws for *all hospitals except county hospitals* shall include at least the following *provisions for granting, limiting, renewing, or denying medical staff membership and clinical staff privileges*:

- 1) *Minimum procedures for initial applicants for medical staff membership, including ~~shall include~~ the following:*
 - A) *Written procedures relating to the acceptance and processing of pre-applicants or applicants for medical staff membership.*
 - B) *Written procedures to be followed in determining an applicant's qualifications for being granted medical staff membership and privileges.*
 - C) *Written criteria to be followed in evaluating an applicant's qualifications.*
 - D) *An evaluation of an applicant's current health status and current license status in Illinois.*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- E) *A written response to each applicant that explains the reason or reasons for any adverse decision (including all reasons based in whole or in part on the applicant's medical qualifications or any other basis, including economic factors).*
 - F) *Written procedures that allow the medical staff to rely upon the credentialing and privileging decisions of a distant-site hospital or telemedicine entity as an option for recommending the privileging of telemedicine physicians.*
- 2) *Minimum procedures with respect to medical staff and clinical privilege determinations concerning current members of the medical staff shall include the following:*
- A) *A written explanation of the reasons for an adverse decision including all reasons based on the quality of medical care or any other basis, including economic factors.*
 - B) *A statement of the medical staff member's right to request a fair hearing on the adverse decision before a hearing panel whose membership is mutually agreed upon by the medical staff and the hospital governing board. The hearing panel shall have independent authority to recommend action to the hospital governing board. Upon the request of the medical staff member or the hospital governing board, the hearing panel shall make findings concerning the nature of each basis for any adverse decision recommended to and accepted by the hospital governing board.*
 - i) *Nothing in [this](#) subsection ~~(e)~~(2)(B) limits a hospital's or medical staff's right to summarily suspend, without a prior hearing, a person's medical staff membership or clinical privileges if the continuation of practice of a medical staff member constitutes an immediate danger to the public, including patients, visitors, and hospital employees and staff.*
 - ii) *In the event that a hospital or the medical staff imposes a*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

summary suspension, the Medical Executive Committee, or other comparable governance committee of the medical staff as specified in the bylaws, must meet as soon as is reasonably possible to review the suspension and to recommend whether it should be affirmed, lifted, expunged, or modified if the suspended physician requests ~~asuch~~ review.

- iii) *A summary suspension may not be implemented unless there is actual documentation or other reliable information that an immediate danger exists. This documentation or information must be available at the time the summary suspension decision is made and when the decision is reviewed by the Medical Executive Committee.*
- iv) *If the Medical Executive Committee recommends that the summary suspension should be lifted, expunged, or modified, this recommendation must be reviewed and considered by the hospital governing board, or a committee of the board, on an expedited basis.*
- v) *Nothing in this subsection ~~(e)(4)~~(2)(B) shall affect the requirement that any requested hearing must be commenced within 15 days after the summary suspension and completed without delay unless otherwise agreed to by the parties.*
- vi) *A fair hearing shall be commenced within 15 days after the suspension and completed without delay, except that, when the medical staff member's license to practice has been suspended or revoked by the Department of Financial and Professional Regulation, no hearing shall be necessary. [\(Section 10.4\(b\)\(2\)\(C\)\(i\) of the Act\)](#)*
- vii) *Nothing in [this](#) subsection ~~(e)(4)~~(2)(B) limits a medical staff's right to permit, in the medical staff bylaws, summary suspension of membership or clinical privileges in designated administrative circumstances as specifically approved by the medical staff. This bylaw provision must*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

specifically describe both the administrative circumstance that can result in a summary suspension and the length of the summary suspension. The opportunity for a fair hearing is required for any administrative summary suspension. Any requested hearing must be commenced within 15 days after the summary suspension and completed without delay. Adverse decisions other than suspension or other restrictions on the treatment or admission of patients may be imposed summarily and without a hearing under designated administrative circumstances as specifically provided for in the medical staff bylaws as approved by the medical staff. [\(Section 10.4\(b\)\(2\)\(C\)\(ii\) of the Act\)](#)

- viii) *If a hospital exercises its option to enter into an exclusive contract and that contract results in the total or partial termination or reduction of medical staff membership or clinical privileges of a current medical staff member, the hospital shall provide the affected medical staff member 60 days prior notice of the effect on his or her medical staff membership or privileges. An affected medical staff member desiring a hearing under [this](#) subsection ~~(e)(4)~~(2)(B) must request the hearing within 14 days after the date he or she is so notified. The requested hearing shall be commenced and completed (with a report and recommendation to the affected medical staff member, hospital governing board, and medical staff) within 30 days after the date of the medical staff member's request. If agreed upon by both the medical staff and the hospital governing board, the medical staff bylaws may provide for longer time periods. [\(Section 10.4\(b\)\(2\)\(C\)\(iii\) of the Act\)](#)*

- €) ~~*All peer review used for the purpose of credentialing, privileging, disciplinary action, or other recommendations affecting medical staff membership or exercise of clinical privileges, whether relying in whole or in part on internal or external reviews, shall be conducted in accordance with the medical staff bylaws and applicable rules, regulations, or policies of the medical staff. If external review is obtained, any adverse report utilized shall be in writing and shall be made part of the internal peer review process*~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

under the bylaws. The report shall also be shared with a medical staff peer review committee and the individual under review. If the medical staff peer review committee or the individual under review prepares a written response to the report of the external peer review within 30 days after receiving such report, the governing board shall consider the response prior to the implementation of any final actions by the governing board which may affect the individual's medical staff membership or clinical privileges. Any peer review that involves willful or wanton misconduct shall be subject to civil damages as provided for under Section 10.2 of the Act.

- CD) A statement of the member's right to inspect all pertinent information in the hospital's possession with respect to the decision.
- DE) A statement of the member's right to present witnesses and other evidence at the hearing on the decision.
- EF) The right to be represented by a personal attorney.
- FG) A written notice and written explanation of the decision resulting from the hearing.
- GH) A written notice of a final adverse decision by the hospital governing board.
- HI) Notice given 15 days before implementation of an adverse medical staff membership or clinical privileges decision based substantially on economic factors. This notice shall be given after the medical staff member exhausts all applicable procedures under subsection (e)(2)(B)(viii) of this Section, and under the medical staff bylaws in order to allow sufficient time for the orderly provision of patient care. (Section 10.4(b)(2)(D) through (G) of the Act)
- 3J) Nothing in subsection (e)(2) limits a medical staff member's right to waive, in writing, the rights provided in subsection (e)(2)(A) through (HI) upon being granted privileges to provide telemedicine services or the written exclusive right to provide particular services at a hospital, either

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

individually or as a member of a group. If an exclusive contract is signed by a representative of a group of physicians, a waiver contained in the contract shall apply to all members of the group unless stated otherwise in the contract. (Section 10.4(b)(2)(H) of the Act)

4) *All peer review used for the purpose of credentialing, privileging, disciplinary action, or other recommendations affecting medical staff membership or exercise of clinical privileges, whether relying in whole or in part on internal or external reviews, shall be conducted in accordance with the medical staff bylaws and applicable rules, regulations, or policies of the medical staff. If external review is obtained, any adverse report utilized shall be in writing and shall be made part of the internal peer review process under the bylaws. The report shall also be shared with a medical staff peer review committee and the individual under review. If the medical staff peer review committee or the individual under review prepares a written response to the report of the external peer review within 30 days after receiving the report, the governing board shall consider the response prior to the implementation of any final actions by the governing board which may affect the individual's medical staff membership or clinical privileges. Any peer review that involves willful or wanton misconduct shall be subject to civil damages as provided for under Section 10.2 of the Act. (Section 10.4(b)(2)(C-5) of the Act)*

~~53)~~ *Every adverse medical staff membership and clinical privilege decision based substantially on economic factors shall be reported to the Hospital Licensing Board before the decision takes effect. The reports shall not be disclosed in any form that reveals the identity of any hospital or physician. These reports shall be utilized to study the effects that hospital medical staff membership and clinical privilege decisions based upon economic factors have on access to care and the availability of physician services. (Section 10.4(b)(3) of the Act)*

~~f)e)~~ If a hospital enters into agreement for telemedicine services with a distant-site hospital or distant-site entity, the governing body of the hospital whose patients are receiving the telemedicine services may choose, in lieu of the hospital performing the credentialing and privileging requirements, to rely upon the credentialing and privileging decisions made by the distant-site hospital when making recommendations on privileges for the individual distant-site physicians providing the services. The hospital's governing body ensures, through its written

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

agreement with the distant-site hospital, that the distant-site hospital meets the Medicare conditions of participation for credentialing and privileging of physicians. The agreement shall be in writing and shall verify:

- 1) That the distant-site hospital providing the telemedicine services is an Illinois licensed hospital or a Medicare participating hospital;
- 2) That the individual distant-site physician is privileged at the distant-site hospital that provides the telemedicine services and provides to the hospital a current list of the distant-site physician's privileges;
- 3) That the individual distant-site physician holds a license issued or recognized by the State of Illinois; and
- 4) That, if the hospital conducts an internal review of the distant-site physician's performance, it provides the distant-site hospital with the performance information for use in the distant-site hospital's periodic appraisal of the distant-site physician. At a minimum, this information shall include all adverse events that result from the telemedicine services provided by the distant-site physician to the hospital's patients and all complaints the hospital has received about the distant-site physician.

g)† The hospital's governing body shall grant privileges to each telemedicine physician providing services at the hospital under an agreement with a distant-site hospital or telemedicine entity before the telemedicine physician may provide telemedicine services. The scope of the privileges granted to the telemedicine physician shall reflect the provision of the services offered via a telecommunications system.

h)g When the hospital's governing body exercises the option to grant privileges based on its medical staff recommendations, which rely upon the privileging decisions of a distant-site telemedicine hospital or entity, the governing body may, but is not required to, maintain a separate file on each telemedicine physician. In lieu of maintaining a separate file on each telemedicine physician, the hospital may have a file on all telemedicine physicians providing services at the hospital under each agreement with a distant-site hospital or telemedicine entity, indicating which telemedicine services privileges the hospital has granted to each physician on the list. The file or files may be kept in a format determined by the hospital.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- ~~i)~~ Regardless of any other categories (divisions of the medical staff) having privileges in the hospital, the hospital shall have an active staff, which shall include physicians and may also include podiatrists and dentists, properly organized, who perform all the organizational duties pertaining to the medical staff. These duties include:
- 1) Maintaining the proper quality of all medical care and treatment of inpatients and outpatients in the hospital. Proper quality of medical care and treatment includes:
 - A) availability and use of accurate diagnostic testing for the types of patients admitted;
 - B) availability and use of medical, surgical, and psychiatric treatment for patients admitted;
 - C) availability and use of consultation, diagnostic tools and treatment modalities for the care of patients admitted, including the care needed for complications that may be expected to occur; and
 - D) availability and performance of auxiliary and associate staff with documented training and experience in diagnostic and treatment modalities in use by the medical staff and documented training and experience in managing complications that may be expected to occur.
 - 2) Organization of the medical staff, including adoption of rules and regulations for its government (which require the approval of the governing body), election of its officers or recommendations to the governing body for appointment of the officers, and recommendations to the governing body upon all appointments to the staff and grants of hospital privileges.
 - 3) Other recommendations to the governing body regarding matters within the purview of the medical staff.
- ~~j)~~ The medical staff may include one or more divisions in addition to the active staff, but this in no way modifies the duties and responsibilities of the active staff.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART T: DESIGN AND CONSTRUCTION STANDARDS

Section 250.2440 General Hospital Standards

Minimum Requirements in the General Hospital:

- a) Administration and Public Areas
 - 1) Main Entrance: Designed to accommodate persons with physical disabilities;
 - 2) Lobby: A reception and information counter or desk, waiting space, public toilet facilities, public telephones, and drinking fountain;
 - 3) Interview Space: Space for private interviews relating to social service, credit or admissions;
 - 4) General or Individual Office: Office for business transactions, medical and financial records, and administrative and professional staffs.
 - 5) Multipurpose Room: For conferences, meetings and education purposes including provision for the use of visual aids;
 - 6) Medical Library Facilities; and
 - 7) Storage Areas.
- b) Medical Records Unit. Adequate space for the reviewing, dictating, sorting, recording, and storage of medical records shall be provided.
- c) Adjunct Diagnostic and Treatment
 - 1) Laboratory Suite. Laboratory facilities shall be provided to meet the work load described in the ~~program narrative~~ Program Narrative. These may be provided within the hospital or through an effective contract arrangement with a nearby laboratory service. If laboratory services are provided by contractual arrangement, then at least the following minimum services

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

shall be available within the hospital- (~~for~~~~For~~ additional requirements, see Subpart E of this Part-);

- A) ~~A laboratory~~~~Laboratory~~ work counter with appropriate services;
 - B) ~~A lavatory~~~~Lavatory~~ or counter sink equipped for ~~hand-~~~~washing~~~~handwashing~~;
 - C) ~~A storage~~~~Storage~~ cabinet or closet;
 - D) Blood storage facilities; and
 - E) Specimen and sample collection facilities, ~~urine-~~~~Urine~~ collection rooms equipped with a water closet and lavatory, ~~and blood-~~~~Blood~~ collection facilities with space for a chair and work counter.
- 2) Morgue and Autopsy Suite
- A) ~~The morgue and autopsy suite~~~~These facilities~~ shall be accessible to an outside entrance and shall be located to avoid movement of bodies through public areas.
 - B) The following shall be provided when autopsies are performed within the hospital:
 - i) Refrigerated facilities for body holding; and
 - ii) ~~An autopsy room~~~~Autopsy Room~~. This room shall contain a work counter with sink equipped for ~~hand-~~~~washing~~~~handwashing~~; storage space for supplies, equipment and specimens; and an autopsy table.
 - C) If no autopsies are performed in the hospital, a well-ventilated body-holding room shall be provided.
- 3) Radiology Suite
- A) Facilities shall be provided for radiology purposes as required by the ~~program narrative~~~~Program Narrative~~. (For additional

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

requirements see Subpart F of this Part.)

- B) The suite shall contain the following elements:
- i) ~~A radiographic~~Radiographic room;:-
 - ii) Film processing facilities, if necessary;:-
 - iii) ~~A viewing~~Viewing and administration area;:-
 - iv) Film storage facilities, if necessary;:-
 - v) ~~A toilet~~Toilet room with hand-washing~~handwashing~~ facilities, directly accessible from each fluoroscopy room without entering the general corridor area;:-
 - vi) ~~A dressing~~Dressing area with access to toilets; and facilities for patients'~~patient's~~ belongings; and-
 - vii) ~~A waiting~~Waiting room or alcove.
- ~~C) viii)~~ Radiation protection requirements for X-ray and gamma ray installations shall conform with National Council on Radiation Protection and Measurements (NCRP), Report ~~No.~~ 49: Structural Shielding Design and Evaluation for Medical Use of X-rays and Gamma Rays of Energies up to 10 MeV and Report ~~No.~~ 102: Medical X-Ray, Electron Beam and Gamma-Ray Protection for Energies Up to 50 MeV (Equipment Design, Performance and Use). Provisions shall be made for testing the completed installation and correcting defects before use.
- ~~D) ix)~~ X-ray installations for fixed and mobile ~~X-ray~~x-ray equipment: shall~~shall~~ conform to Article~~article~~ 660, X-ray Equipment, of NFPA ~~Standard~~ 70 (~~The National Electrical Code~~).
- 4) Pharmacy Suite. The size and type of services to be provided in the pharmacy will depend upon the type of drug distribution system to be used in the hospital and whether the hospital proposes to provide, purchase, or share pharmacy services with other hospitals or other medical facilities.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

This shall be explained in the ~~program narrative~~Program Narrative. (For additional requirements see Subpart R-~~of this Part.~~) Provisions shall be made for the following:

- A) Administrative functions, ~~including~~These include requisitioning, recording and reporting, receiving, storage (including refrigeration), and accounting~~;~~
 - B) ~~A quality~~Quality control area (if bulk compounding ~~and/or~~ packaging functions are performed)~~;~~
 - C) Locked storage for drugs and biologicals~~;~~
 - D) ~~A dispensing~~Dispensing area~~; and~~.
 - E) ~~Hand-washing~~Handwashing facilities. If required by the program, provisions shall be made for the following:
 - i) A drug information area for reference materials and personnel~~; and~~.
 - ii) A sterile products area for compounding ~~of~~I.V. admixtures and other sterile dosage forms. A separate sink for ~~hand-washing~~handwashing shall be provided in this area.
- 5) Physical Therapy Suite
- A) Appropriate services may be planned and arranged for shared use by occupational therapy patients and staff.
 - B) If a physical therapy suite is required by the program narrative~~Program Narrative~~, the following shall be provided:
 - i) Office space~~;~~
 - ii) Waiting space~~;~~
 - iii) ~~A treatment~~Treatment area for ~~such~~ modalities such as

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

thermotherapy, diathermy, ultrasonics; and hydrotherapy. Cubicle curtains shall be provided around each individual treatment area. ~~Hand-washing~~ Handwashing facilities shall be provided. One lavatory or sink may serve more than one cubicle;:-

- iv) Facilities for the collection of wet and soiled linen and other material; ~~shall be provided.~~
 - v) An exercise ~~Exercise~~ area;:-
 - vi) Storage space for clean linen, supplies; and equipment;:-
 - vii) Patients' dressing areas and toilet rooms, for both men and women;:-
 - viii) Wheelchair and stretcher storage; and:-
 - ix) Showers, lockers and service sinks, ~~shall be provided~~ as required by the program narrative ~~Program Narrative~~.
- 6) Occupational Therapy Suite
- A) Appropriate elements may be planned and arranged for shared use by physical therapy patients and staff.
 - B) If an occupational therapy suite is required by the program narrative ~~Program Narrative~~, the following elements shall be provided:
 - i) Office space;
 - ii) An activities ~~Activities~~ area equipped with a sink or lavatory;
 - iii) Storage space for supplies and equipment; and
 - iv) Patients' toilet rooms.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- d) Nursing Unit. The requirements in this subsection (d) do not apply to special care areas such as recovery rooms, intensive care areas and newborn care areas.
- 1) Patient Rooms
 - A) Each patient room shall be an outside room. Windows shall be provided for each patient room and shall be of a size not less than 7.5% of the square footage of the floor of the room.
 - B) Minimum room areas shall be: 100 square feet clear in one-bed rooms and 80 square feet clear per bed in multi-bed rooms (no rooms shall have more than four beds). Clear is defined as the usable dimensions of the room, excluding the vestibule, toilet areas, and closets.
 - C) A minimum of ~~3 feet~~^{3'-0"} clear at the foot and sides of each bed shall be provided.
 - D) Each patient room shall have access to a toilet room without entering the corridor.
 - E) One toilet room shall serve not more than four beds and not more than two patient rooms.
 - F) The toilet room shall contain a water closet and a lavatory. The lavatory may be omitted from a toilet room that serves not more than two single bedrooms if each such single bedroom contains a lavatory.
 - G) Each patient shall have a wardrobe, locker, or closet that is suitable for hanging and storing personal effects.
 - H) Visual privacy shall be provided each patient bed in multi-bed rooms.
 - 2) ~~Nurses~~^{Nurses} Service Center. The requirements in this subsection (d)(2) shall be provided either as part of a centralized cluster serving more than one nursing unit or shall be used as supportive areas within a self-contained nursing unit.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- A) A nurses' station with a work counter, storage areas, and communications equipment shall be provided.
- B) A nurses' office shall be provided.
- C) ~~Hand-washing~~~~Handwashing~~ facilities convenient to both the nurses' station and the drug distribution station shall be provided.
- D) Charting facilities shall be provided for nurses and doctors, including a work counter and charting racks.
- E) A lounge and ~~men's and women's~~ toilet rooms for staff shall be provided.
- F) Closets or compartments for the safekeeping of coats and personal effects of nursing personnel.
- G) A multipurpose room shall be provided for conferences, demonstrations, and consultation. This room may be located outside the nursing unit, but within the hospital.
- H) Accessibility to a room for the examination and treatment of patients shall be provided. This room may be omitted if all patient rooms are single bedrooms. This room shall have a minimum floor area of 100 square feet excluding spaces for vestibules, toilet rooms (if provided), and work counters. The room shall contain a lavatory, a work counter, storage facilities, and a writing space.
- I) At least one tub or shower shall be provided for each 12 beds that do not have bathing facilities within the patients' rooms. Each tub or shower shall be in an individual room or enclosure that provides space for the private use of the bathing fixture and for drying and dressing.
- J) A nourishment station with a sink equipped for ~~hand-~~~~washing~~~~handwashing~~, equipment for serving nourishment between scheduled meals, ~~a~~ refrigerator, storage cabinets, and units to provide ice for patient's service and treatment shall be provided.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- K) A drug distribution station shall be provided for convenient and prompt 24-hour distribution of medicine to patients. This may be from a medicine preparation room or unit, a self-contained medicine dispensing unit, or by another approved system. If a medicine preparation room or unit is used, it shall be under the nursing staff's visual control and contain a work counter, refrigerator, and locked storage for biologicals and drugs. A medicine dispensing unit may be located in an alcove under direct control of the nursing or pharmacy staff.
- 3) Service Area
- A) A clean work room or a clean holding room shall be provided in each nursing unit. The clean work room shall contain a work counter, ~~hand-washing~~handwashing facilities, a nurse signal, and storage facilities. The clean holding room shall be part of a system for storage and distribution of clean and sterile supplies and materials.
- B) A separate designated area within the clean work room shall be provided for clean linen storage. If a cart system is used, the storage of the cart may be in an adjacent alcove.
- C) Parking shall be provided for stretchers and wheelchairs out of the path of normal traffic.
- D) A soiled work room or soiled holding room shall be provided. The soiled work room shall contain a clinical sink or equivalent flushing rim fixture, a nurse signal, a ~~hand-washing~~handwashing sink, a waste receptacle, and a linen receptacle. The soiled holding room shall be part of a system for the collection and disposal of soiled materials. If bed pan flushing attachments are used on every patient room toilet, a clinical sink is not required in the soiled work room, ~~but should be considered~~.
- E) Room for the storage of equipment such as I.V. stands, inhalators, mattresses, and walkers shall be provided.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- F) Space shall be provided for the storage of required emergency equipment, such as a crash cart. This equipment shall be under the direct control of the nursing staff.
- G) Sitz baths shall be provided when required by the program [narrative](#).
- 4) Isolation Room. There shall be a room or rooms as required by the [program narrative](#)~~Program Narrative~~ for the isolation of patients with known or suspected communicable diseases. Each [isolation](#) ~~such~~ room shall have an individual toilet equipped with a bedpan flushing attachment and a lavatory. Isolation rooms shall be provided with an anteroom equipped with a [hand-washing](#)~~handwashing~~ sink, trimmed with valves that can be operated without the use of hands, storage spaces for clean and soiled materials, and a space for gowning. There shall be only one patient per room. All isolation rooms shall be otherwise planned as required for a standard patient room.
- 5) Rooms for Disturbed Patients. Every hospital that does not have a psychiatric nursing unit shall provide facilities for the care of disturbed patients, usually for [a duration of](#) less than 24 hours~~duration~~. The design shall provide for close observation, and shall minimize the dangers of patient escape, suicide, or injury. This may be provided in a special care room used for multiple purposes. This room shall be located either in the [emergency unit](#)~~Emergency Unit~~ or in a private room in a [medical nursing unit](#)~~Medical Nursing Unit~~, or as otherwise provided by the [program narrative](#)~~Program Narrative~~.
- e) Intensive Care Units
- 1) A means of controlling unnecessary noise shall be provided. A means of providing temporary privacy for each patient shall be provided. Windows shall be provided so that each patient may observe the outdoor environment. Beds may be arranged so that one window may serve more than one patient.
- 2) Intensive Care Units shall provide the following:
- A) Patient Rooms. Cardiac intensive care, medical intensive care, and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

surgical intensive care patients may be housed in either single bedrooms or multi-bed rooms; however, at least one single bedroom shall be provided. All beds shall be arranged to permit visual observation by nursing staff. Patient rooms shall meet the following requirements:

- i) Clearance between beds shall be not less than 6 feet6'-0". Single bedrooms shall have a minimum area of 120 square feet and a minimum dimension of 10 feet10'-0".
- ii) Viewing panels shall be provided for nursing staff observation of patients. Curtains or other means shall be provided to cover the viewing panels when the patient requires visual privacy. Glazing in viewing panels shall be safety glass, wire glass, or clear plastic to reduce the hazard from accidental breakage, except that wire glass is required in glazed openings to corridors or passageways used as means of egress for fire safety purposes.
- iii) An I.V. solution support shall be provided for each patient so that the solution is not suspended directly over the patient.
- iv) A lavatory equipped for hand-washinghandwashing shall be provided in each private patient room. In multi-bed rooms, no fewer than one lavatory for each six beds shall be provided.
- v) A nurses' call system shall be provided. (See Section 250.2500(g).)
- vi) Each cardiac intensive care patient shall be provided with a toilet facility that is directly accessible from the bed area. The water closet shall have sufficient clearance around it to facilitate its use by patients needing assistance. Portable water closet units are permitted within patient rooms. If portable units are used, facilities for servicing and storing them shall be conveniently located to the cardiac care unit.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- B) Service Areas. The following service areas shall be located in or readily available to each Intensive Care Unit. One area may serve two or more adjacent Intensive Care Units. The size and location of each service area ~~shall~~will depend upon the number of beds to be served.
- i) A nurses' station shall be located to permit monitoring or visual observation of each patient served.
 - ii) ~~Hand-washing~~Handwashing facilities shall be convenient to the nurses' station and drug distribution station.
 - iii) Charting facilities shall be furnished with work counters and charting racks.
 - iv) A staff toilet room shall contain a water closet and a lavatory equipped for ~~hand-washing~~handwashing.
 - v) Closets or compartments for the safekeeping of coats and personal effects of nursing personnel shall be provided at or near the nurses' station.
 - vi) A clean work room (or a system for storage and distribution of clean and sterile supply materials) shall contain a work counter, ~~a hand-washing~~handwashing facility, and storage facilities.
 - vii) ~~The soiled~~Soiled work room or soiled holding room shall contain a clinical sink or equivalent flushing rim fixture, sink equipped for ~~hand-washing~~handwashing, work counter, waste receptacle, and linen receptacle. A soiled holding room shall be part of a system for collection and disposal of soiled materials and shall be similar to the soiled work room except that the clinical sink and work counter may be omitted.
 - viii) Facilities for washing or flushing bedpans shall be provided within the unit.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- ix) A drug distribution station shall be provided for convenient and prompt 24-hour distribution of medicine to patients either from a medicine preparation room or unit, a self-contained medicine dispensing unit, or by another approved system. If used, a medicine preparation room or unit shall be under the nursing staff's visual control and shall contain a work counter, a sink, refrigerator, and locked storage for biologicals and drugs. A medicine dispensing unit may be located at the nurses' station, in the clean work room, or in an alcove or other space under direct control of the nursing or pharmacy staff.
 - x) Clean Linen Storage. A storage closet or a designated area within the clean work room shall be provided. If a closed cart system is used, storage may be in an alcove.
 - xi) A nourishment station shall contain a sink equipped for hand-washing~~handwashing~~, equipment for serving nourishment between scheduled meals, refrigerator, storage cabinets, and units to provide ice for patients'~~patient's~~ service and treatment.
 - xii) Emergency Equipment Storage. Space shall be provided for a "crash cart" and similar emergency equipment.
 - xiii) Equipment Storage Room. Space for necessary equipment shall be provided.
 - xiv) Patients' storage facilities shall be provided for the storage of patients' personal effects. These may be located outside the intensive care unit.
- C) A waiting room shall be provided for family members and others who may be permitted to visit the intensive care patients. A toilet room, public telephone, and seating accommodations for long waiting periods shall be provided.
- f) Pediatric Nursing Unit. Young children and adolescents shall be housed in a nursing unit separate from adults unless special allowance has been made in the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~program narrative~~Program Narrative. This unit shall meet the following requirements:

- 1) General Unit Requirements Including Patient Rooms. The requirements noted in subsection (d) of this Section shall be applied to a pediatric and adolescent nursing unit~~Pediatric and Adolescent Nursing Unit~~ containing hospital beds, youth beds, or cribs.
- 2) Nursery as Specified~~specified~~ in the Program Narrative. Each nursery serving pediatric patients shall contain no more than eight bassinets. The minimum clear floor area per bassinet shall be 40 square feet. Each room shall contain a lavatory equipped for hand-washing~~handwashing~~, a nurses' emergency calling system as provided in Section 250.2500(g), and glazed viewing windows for observing infants from public areas and the work room.
- 3) Nursery Work Rooms~~work rooms~~ as Specified~~specified~~ in the Program Narrative. Each nursery shall be served by a connecting work room. One work room may serve more than one nursery. It shall contain gowning facilities for staff and housekeeping personnel.
- 4) Examination and Treatment Room. The examination and treatment room shall contain a work counter, storage facilities, and a lavatory equipped for hand-washing~~handwashing~~.
- 5) Service Areas. The service areas in the pediatric and adolescent nursing unit~~Pediatric and Adolescent Nursing Unit~~ shall conform to the conditions listed in subsection (d)(3) ~~of this Section~~ and shall meet the following additional conditions:
 - A) Multipurpose or individual areas shall be provided for dining, educational, and play, or other patient care purposes.
 - B) Space for preparation or storage of infant formula shall be provided in the unit or in a convenient location nearby.
 - C) Patients' toilet rooms shall be provided convenient to multipurpose areas and central bathing facilities.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- D) Storage closets or cabinets for toys and for educational and recreational equipment shall be provided.
 - E) Storage space shall be provided for replacement of youth and adult beds to provide flexibility for interchange of patient accommodations.
- 6) Fixtures and Accessories
- A) Attention shall be given to other details affecting small children as required by the program.
 - B) Switches and plugs for critical equipment shall be designed to preclude shock ~~and/or~~ located for inaccessibility by small children.
 - C) Toilets and washbasins shall be suitable for use by small children as described in the program narrative.
- g) Psychiatric Nursing Unit
- 1) Units intended for psychiatric or other types of disturbed patient nursing care shall provide a safe and secure facility for patients needing close supervision to minimize hiding, escape, injury, or suicide. The unit shall be designed to facilitate care of ambulatory inpatients, to permit flexibility in arranging various types of therapy, and to present as non-institutional~~noninstitutional~~ an atmosphere as possible.
 - 2) Each nursing unit ~~Nursing Unit~~ shall provide the following:
 - A) Patient Rooms and Nurses' Service Center. The requirements noted in subsection (d) ~~of this Section~~ shall be applied to patient rooms and nurses'~~nurses~~ service center in psychiatric nursing units~~Psychiatric Nursing Units~~ except as follows:
 - i) A nurses' calling system is not required. Other types of communications systems may be utilized.
 - ii) Provision for visual privacy is not required.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- B) Service Areas. The service areas noted in subsection (d)(3) ~~of this Section~~ shall be provided or made available to each Psychiatric Nursing Unit except that space for stretchers and wheelchairs is not required and clinical sinks or equivalent may be installed but are not required. The following elements shall be provided within and for the exclusive use of the unit:
- i) Consultation room.
 - ii) Space for dining, recreation, and occupational therapy. The total area for these purposes shall not be less than 40 square feet per patient.
 - iii) Storage closets or cabinets for recreational and occupational therapy equipment.
 - iv) Storage for patients' clothing.
- C) Additional Services. Appropriate additional services shall be provided as determined by the program narrative~~Program Narrative~~.
- h) Newborn Care Unit. Newborn infants shall be housed in nurseries that are conveniently located to the postpartum nursing unit and obstetrical facilities. The nurseries shall be located and arranged to preclude unrelated traffic. No nursery shall open directly into another nursery. ~~The requirements of Subpart O of this Part shall apply. Additionally The units shall meet the following requirements:~~
- 1) ~~General.~~ Each nursery shall contain:
 - A) Lavatory trimmed with valves that are aseptically operated (for example~~i.e.~~, knee or foot controls) at the rate of one for each eight bassinets.
 - B) A nurses' emergency calling system.
 - C) Bassinets in a number at least equal to the number of postpartum beds.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- D) Glazed observation windows to permit the viewing of infants from public areas and from work rooms.
- 2) Full-Term Nursery. The full-term nursery~~It~~ shall contain no more than 12 bassinets; however, this number may be increased to 16 if the extra bassinets are of the isolation type. The minimum floor area shall be 30 square feet for each regular bassinet and 40 square feet for each isolation type bassinet. When a "rooming-in" program is used, the total number of bassinets provided in these units may be ~~appropriately~~ reduced by no more than 50%, but the full-term nursery ~~shall~~may not be omitted.
- 3) Special Care and Observation Nursery
- A) A hospital shall make available a nursery to provide special care for infants in distress ~~if the hospital has~~is required in a hospital having 25 or more maternity beds, unless equivalent facilities for ~~thesesuch~~ infants are conveniently available elsewhere. The floor area per bassinet shall be as determined by the program narrative but shall not be not less than 40 square feet. Additional area shall be provided to accommodate work room functions if these are located within the nursery area.
- B) ~~When~~Where a separate special care nursery is provided, it shall have its own work room areas.
- 4) Work Room. Each nursery shall be served by a connecting work room. It shall contain gowning facilities at the entrance for staff and housekeeping personnel, work space with counter, refrigerator, and lavatory or sink equipped for ~~hand-washing~~handwashing, and storage. One work room may serve more than one nursery. The work room that serves the special care nursery may be omitted if equivalent work area and facilities are provided within the nursery, in which case the gowning facilities shall be located near the entrance to the nursery and shall be separated from the work area.
- 5) Examination and Treatment Room or Space for Infants. The examination and treatment room or space for infants~~It~~ shall contain a work counter, storage, and lavatory equipped for ~~hand-washing~~handwashing trimmed

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

with valves that are aseptically operated (~~for example i.e.~~, knee or foot controls), and shall be located so that doctors need not enter nurseries. It may serve more than one nursery and may be located in the work room. If the examination and treatment of infants will take place in the individual bassinets, space for physicians' and nurses' gowning shall be provided as well as a conveniently accessible ~~hand-washing~~ ~~handwashing~~ sink trimmed with valves that are aseptically operated (~~for example i.e.~~, knee or foot controls).

- 6) Infant Formula Facilities. ~~When~~ ~~Where~~ the ~~program narrative~~ ~~Program Narrative~~ requires it, the hospital shall provide the following:
- A) On-site Formula Preparation
- i) Clean-up facilities for washing and sterilizing supplies. These shall consist of a lavatory or sink equipped for ~~hand-washing~~ ~~handwashing~~, a bottle washer, work counter space, and an equipment sterilizer.
- ii) A separate room for preparing infant formula. It shall contain a lavatory or sink equipped for ~~hand-washing~~ ~~handwashing~~, refrigerator, work counter, formula sterilizer, and storage facilities. It may be located near the nurseries or at another appropriate place within the hospital. ~~Direct~~ ~~No direct~~ access from the formula room to a nursery or to a nursery work room ~~shall not~~ ~~will~~ be permitted.
- B) Commercially Prepared Formula. If a commercial infant formula is used, the storage and handling may be done in the nursery work room or in another appropriate room that has a work counter, a sink equipped for ~~hand-washing~~ ~~handwashing~~, and storage facilities.
- 7) Janitors' Closet. A closet for exclusive use of the housekeeping staff in maintaining the nursery unit shall be provided. It shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 8) Gowning and Scrubbing Areas. Gowning and scrub areas shall be equipped with lockers for doctors' and nurses' belongings, cabinets for clean gowning, receptacles for used gowns, and hand-washing sinks aseptically operated without the use of hands.
 - 9) Clean Utility Area. Clean utility area with work counter and hand-washing sink shall be provided.
 - 10) Soiled Utility Area. Soiled utility area with work counter, hand-washing sink, clinical service sink or equivalent flushing rim fixture, and space for storage hamper (one for diapers and one for soiled linen provided at a ratio of one for each four bassinets or fraction thereof) shall be provided.
 - 11) Storage Areas. Storage space for replacement bassinets, phototherapy units, and other large items shall be provided. These storage areas may be located either within the unit or in the central supplies storage.
- i) Surgical Suite. The number of operating rooms and recovery beds and the sizes of the service areas shall be based on the expected surgical work load. The surgical suite shall be located and arranged to preclude unrelated traffic through the suite. The requirements of Section 250.1300250.1820(h) of this Part shall be used for the surgical suite wherever applicable. The suite shall provide the following elements:
- 1) General Operating Rooms. Each room shall have a minimum clear area of 360 square feet exclusive of fixed cabinets and shelves. The minimum dimension shall be 18 feet18' 0". A communications system shall be provided connecting with the surgical suite control station. At least two x-ray film illuminators shall be provided in each room.
 - 2) Rooms for Surgical Cystoscopic and Other Endoscopic Procedures. These rooms shall have a minimum clear area of 250 square feet exclusive of fixed cabinets and shelves. If necessary to accommodate special functions in one or more of these rooms, additional clear space shall be required by the program narrative ~~Program Narrative to accommodate special functions in one or more of these rooms~~. A communications system connecting with the surgical suite control station shall be provided. Facilities for the disposal of liquid wastes shall be provided.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 3) Fracture Rooms. Fracture rooms ~~shall~~^{should} be provided with an adjacent splint room. The fracture room may be located in the ~~emergency department~~^{Emergency Department}, the surgical suite, or as indicated in the ~~program narrative~~^{Program Narrative}.
- 4) Recovery Room. The recovery room may be part of an approved combined surgical/obstetrical program as provided in Section ~~250.1300~~^{250.1820(h)} of this Part.
 - A) The postoperative recovery room shall be located within or adjacent to the surgical suite. A separate entrance and exit doors remote from each other shall be provided to facilitate a one-way traffic flow within the recovery room.
 - B) A minimum of one recovery room bed shall be provided for each operating room.
 - C) A minimum of 70 square feet per bed shall be provided in open units. This area shall exclude the nursing station, work space, and storage area. In addition, a minimum of ~~4 feet~~^{4'-0"} ~~shall~~^{must} be maintained between the sides of the beds, at least ~~3 feet~~^{3'-0"} between the side of any bed and any wall or other fixed device, and at least ~~six~~⁶ feet between the foot end of any bed and any other equipment or fixed device.
 - D) The ~~recovery room~~^{Recovery Room} shall have adequate lighting ~~of the type~~ to allow accurate observation of the patients.
 - E) A lavatory trimmed with valves operated without the use of hands, and a clinical sink, shall be provided.
 - F) A soiled holding area shall be provided.
 - G) A nursing station shall be provided within the postoperative recovery room. Facilities for medical storage and preparation shall be provided.
 - H) Adequate storage and work space within or adjacent to the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

recovery room shall be available for necessary supplies and equipment.

- D) Each bed site shall be adequately equipped with oxygen, suction and at least two duplex electrical outlets.
- 5) Stage II Recovery Room. If outpatient surgery services are provided in the surgical suite, a Stage II recovery room shall be provided for outpatient observation prior to discharge. The Stage II recovery area may be combined with an outpatient receiving and preparation area and may be located at a site remote from the recovery room. Additionally, it and shall contain the following elements:
- A) ~~The Stage II recovery area may be combined with an outpatient receiving and preparation area, and may be located at a site remote from the recovery room;~~
- A)B) A minimum of four recovery stations per operating room;
- B)C) ~~Lounge chairs at each recovery station with~~The recovery stations are to be furnished with lounge chairs and are to have a minimum clear area of 50 square feet and with a minimum clearance around three sides of the chairs of 4 feet4'-0";
- C)D) A nurses' station with a work counter and space for communications equipment and charting;
- D)E) A drug distribution station with a work counter, locked storage for narcotics, refrigerator, and hand-washinghandwashing sink;
- E)F) A toilet space for the exclusive use of the Stage II recovery area. The toilet shall be equipped with a gray diverter valve; and
- F)G) Clean and soiled utility rooms.
- 6) Service Areas. Individual rooms shall be provided, or when so noted; ~~otherwise~~ alcoves or other open spaces that will not interfere with traffic may be used. Services may be shared with, and organized as part of, the obstetrical facilities, if the approved program narrativeProgram Narrative

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

reflects this sharing concept. ~~Cross-circulation~~ ~~There shall be no cross-circulation~~ between the surgical and delivery suites when using shared service areas shall not be permitted. The following services shall be provided:

- A) ~~A control~~ Control station located to permit direct visual surveillance of all traffic that enters the operating suite;:-
- B) ~~A supervisor's~~ Supervisor's office or station;:-
- C) Sterilizing facilities with high speed autoclaves conveniently located to serve all operating rooms. When the program narrative ~~Program Narrative~~ indicates that adequate provisions have been made for replacement of sterile instruments during surgery, sterilizing facilities in the surgical suite will not be required;:-
- D) ~~A drug distribution station~~ Drug Distribution Station. An area shall be provided for preparation of medication to be administered to patients;:-
- E) Two scrub stations, ~~shall be~~ conveniently located near each operating room. Scrub facilities shall be arranged to minimize any incidental splatter on nearby personnel or supply carts. A scrub sink or sinks shall be provided that shall, ~~which may~~ be aseptically operated without the use of hands;:- (~~wrist~~ Wrist blades are not acceptable);:-
- F) A soiled work room ~~shall be provided~~ for the exclusive use of the surgical suite staff (or a soiled holding room that is part of a system for the collection and disposal of soiled materials). The soiled work room shall contain a clinical sink or equivalent flushing type fixture, work counter, sink equipped for hand- ~~washing~~ handwashing, waste receptacle, and linen receptacle. A soiled holding room shall be similar to the soiled work room except that the clinical sink and work counter may be omitted;:-
- G) Fluid waste disposal facilities. These shall be conveniently located with respect to the general operating rooms. A clinical sink or equivalent equipment in a soiled work room or in a soiled holding

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

room ~~meets~~would meet this requirement_;

- H) ~~A clean~~ Clean work room or a clean supply room. A clean work room is required when clean materials are assembled within the surgical suite prior to use. A clean work room shall contain a work counter, ~~a~~ sink equipped for ~~hand-washing~~handwashing, and space for clean and sterile supplies. A clean supply room shall be provided when the ~~program narrative~~Program Narrative defines a system for the storage and distribution of clean and sterile supplies that would not require the use of a clean work room_;
- I) ~~Anesthesia storage facilities~~Storage Facilities. ~~The use and storage of anesthetic gases shall be in accordance with NFPA 99. Areas for cleaning, testing and storing anesthesia equipment shall be provided;~~Unless the Program Narrative and the official hospital board action prohibits in writing the use of flammable anesthetics, a separate room shall be provided for storage of flammable gases in accordance with the requirements detailed in The National Fire Protection Association Standards 56A (Inhalation Anesthetics) and 56F (Nonflammable Medical Gases).
- J) ~~An anesthesia~~Anesthesia work room for cleaning, testing, and storing anesthesia equipment. It shall contain a work counter and sink_;
- K) ~~Medical gas storage~~Gas Storage. Space for reserve storage of nitrous oxide and oxygen cylinders shall be provided_;
- L) Storage space for splints and traction equipment ~~shall be provided~~ for operating rooms equipped for orthopedic surgery_;
- M) Equipment storage rooms for equipment and supplies used in ~~the surgical suite~~Surgical Suite.
- N) Staff ~~clothing change areas, including appropriate~~Clothing Change Areas. ~~Appropriate areas shall be provided~~ for male and female personnel (orderlies, technicians, nurses, and doctors) working within the surgical suite. The areas shall contain lockers, showers, toilets, lavatories and space for donning scrub suits and boots.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

These areas shall be arranged to provide a one-way traffic pattern so that personnel entering from outside the surgical suite can change, shower, gown, and move directly into the surgical suite. Space for removal of scrub suits and boots shall be designed so that personnel using it will avoid physical contact with clean personnel;:-

- O) Outpatient ~~surgery change areas~~Surgery Change Areas. If the program requires outpatient surgery, a separate area shall be provided where outpatients change from street clothing into hospital gowns and are prepared for surgery. This shall include a waiting room, lockers, toilets, and clothing change or gowning area with a traffic pattern similar to that of the staff clothing change area;:-
 - P) Patients' ~~holding area~~Holding Area. In facilities with two or more operating rooms, a room or alcove shall be provided to accommodate stretcher patients waiting for surgery. This waiting area shall be under control of the surgical suite control station;:-
 - Q) Stretcher ~~storage area~~Storage Area. This area shall be out of the direct line of traffic;:-
 - R) Lounge and ~~toilet facilities~~Toilet Facilities for ~~surgical staff~~Surgical Staff. These facilities shall be provided in hospitals having three or more operating rooms and shall be located to permit use without leaving the surgical suite. A nurses' toilet room shall be provided near the recovery room; ~~and~~:-
 - S) Janitors' ~~closet~~Closet. A closet containing a floor receptor or service sink and storage space for housekeeping supplies and equipment shall be provided exclusively for the surgical suite.
- 7) Central Sterilizing and Supply Room. The central sterile supplies shall be located either within the surgical suite or provided as a separate department within the hospital. The following shall be provided:
- A) A receiving and clean-up room containing work space and equipment for cleaning medical and surgical equipment, and for

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- disposal or processing of unclean material. ~~Hand-~~
~~washing~~Handwashing facilities operated without the use of hands shall be provided;:-
- B) A clean work room containing work space and equipment for sterilizing medical and surgical equipment and supplies;:-
- C) Storage areas for clean supplies and for sterile supplies (these may be in the clean work room);:-
- D) Unsterile ~~supplies storage room~~Supplies Storage Room (this may be located in another department);:-
- E) ~~Separate storage area for soiled~~Soiled or contaminated supplies and equipment, ~~separate must be separated~~ from the clean or sterilized supplies and equipment; and:-
- F) Cart ~~storage areas~~Storage Areas. Cart storage areas and facilities for cleaning and sanitizing carts may be centralized or departmentalized.
- ~~G) Facilities for cleaning and sanitizing carts may be centralized or departmentalized.~~
- j) Obstetrics and Neonatal Suite. The number of delivery rooms, labor rooms and, recovery beds, and the sizes of the service areas shall depend upon the estimated obstetrical work load; ~~and as indicated in the~~ program narrative~~Program Narrative~~. The obstetrical and neonatal suite shall be located and arranged to preclude unrelated traffic through the suite. The requirements of Subpart O ~~of this Part~~ shall apply.
- 1) Delivery Rooms. Each ~~delivery room~~Delivery Room shall have a minimum clear area of 300 square feet exclusive of fixed and movable cabinets and shelves. The minimum dimension shall be ~~16 feet~~16'-0" clear. The communications system shall be connected with the obstetrical suite control station. Separate resuscitation facilities (electrical outlets, oxygen, suction, and compressed air) shall be provided for newborn infants.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 2) Labor Rooms. These rooms shall be single or two-bed rooms with a minimum clear area of 80 square feet per bed. Labor beds shall be provided at the rate of two for each delivery room. In facilities having only one delivery room, two labor rooms shall be provided, one of which shall be large enough to function as an emergency delivery room. Each labor room shall contain a lavatory equipped for ~~hand-~~
~~washing~~~~handwashing~~. Labor rooms shall be arranged so that they are accessible from a nurses' work station and shall also be accessible to facilities for medication, ~~hand-washing~~~~handwashing~~, charting, and storage for supplies and equipment.
- 3) Recovery Room. The recovery room may be part of an approved combined surgical/obstetrical program as provided in Section 250.1820~~(g)(h) of this Part~~.
- A) The postpartum recovery room shall be located within or adjacent to the obstetrics ~~and neonatal~~ suite. A separate entrance and exit doors remote from each other shall be provided to facilitate a one-way traffic flow within the recovery room.
- B) A minimum of 70 square feet per bed shall be provided. This area shall exclude the ~~nurses' nursing~~ station, work space, and storage area. In addition, a minimum ~~of 4 feet shall~~~~4'-0" must~~ be maintained between the sides of the beds, at least ~~3 feet~~~~3'-0"~~ between the side of any bed and any wall or other fixed device, and at least ~~6 feet~~~~6'-0"~~ between the foot end of any bed and any other equipment or fixed device.
- C) The recovery room shall have adequate lighting of the type to allow accurate observation of the patients.
- D) A lavatory operable without the use of hands, and a clinical sink shall be provided.
- E) A soiled holding area shall be provided.
- F) A ~~nurses' nursing~~ station shall be provided within the postoperative recovery room. Facilities for medical storage and preparation shall be provided.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- G) Adequate storage and work space within or adjacent to the ~~recovery room~~Recovery Room shall be available for necessary supplies and equipment.
- H) Each bed site shall be adequately equipped with oxygen, suction and at least two duplex electrical outlets.
- 4) Service Areas. Individual rooms shall be provided, ~~or when so noted;~~ ~~otherwise~~ alcoves or other open spaces that will not interfere with traffic may be used. Services may be shared with and organized as part of the surgical facilities if the approved ~~program narrative~~Program Narrative reflects this sharing concept. Service areas shall be arranged to avoid direct traffic between the operating and the delivery rooms. The following services shall be provided:
- A) Control ~~station,~~Station located to permit direct visual surveillance of all traffic that enters the obstetrics suite~~;~~.
- B) Supervisor's ~~office~~Office or ~~station;~~Station.
- C) Sterilizing facilities with high speed autoclaves conveniently located to serve all delivery rooms. When the ~~program narrative~~Program Narrative indicates that adequate provisions have been made for replacement of sterile instruments during delivery, sterilizing facilities in the delivery suite will not be required~~;~~.
- D) Drug ~~distribution station~~Distribution Station. An area shall be provided for preparation of medication to be administered to patients~~;~~.
- E) Two scrub stations, which shall be conveniently located near each delivery room. Scrub facilities shall be arranged to minimize any incidental splatter on nearby personnel or supply carts. Scrub sinks, ~~that may be~~ aseptically operated without the use of hands, shall be provided. ~~(wrist~~Wrist blades are not acceptable~~);~~.
- F) Soiled work room for the exclusive use of the obstetrical suite staff (or a soiled room that is part of a system for the collection and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

disposal of soiled materials). The soiled work room shall contain a clinical sink or equivalent flushing rim fixture, work counter, sink equipped for ~~hand-washing~~handwashing, waste receptacle, and linen receptacle. A soiled holding room shall be similar to the soiled work room except that the clinical sink and work counter may be omitted;

- G) Fluid ~~waste disposal facilities~~Waste Disposal Facilities. These shall be conveniently located with respect to the delivery rooms. A clinical sink or equivalent flushing rim equipment in a soiled work room or in a soiled holding room would meet this requirement;
- H) Clean ~~work room~~Work Room or a ~~clean supply room~~Clean Supply Room. A clean work room is required when clean materials are assembled within the obstetrical suite prior to use. A clean work room shall contain a work counter, a sink equipped for ~~hand-washing~~handwashing, and space for clean and sterile supplies. A clean supply room shall be provided when the ~~program narrative~~Program Narrative defines a system for the storage and distribution of clean and sterile supplies that would not require the use of a clean work room;
- I) Anesthesia ~~storage facilities~~Storage Facilities. The use and storage of anesthetic gases shall be in accordance with NFPA 99. Areas for cleaning, testing and storing anesthesia equipment shall be provided;~~Unless the Program Narrative and the official hospital board action prohibit in writing the use of flammable anesthetics, a separate room shall be provided for storage of flammable gases in accordance with the requirements detailed in the National Fire Protection Association Standards 56A (Inhalation Anesthetics) and 56F (Nonflammable Medical Gases).~~
- J) Anesthesia work room for cleaning, testing, and storing anesthesia equipment, containing a work counter and sink;
- K) Medical ~~gas storage~~Gas Storage. Space for reserve storage of nitrous oxide and oxygen cylinders shall be provided;
- L) Equipment storage rooms for equipment and supplies used in the

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

obstetrical suite;:-

- M) Staff ~~clothing change areas~~Clothing Change Areas. Appropriate areas shall be provided for male and female personnel (orderlies, technicians, nurses, and doctors) working within the obstetrical suite. The areas shall contain lockers, showers, toilets, lavatories equipped for ~~hand-washing~~handwashing and space for donning scrub suits and boots. These areas shall be arranged to provide a one-way traffic pattern so that personnel entering from outside the obstetrical suite can change, shower, gown, and move directly into the obstetrical suite. Space for removal of scrub suits and boots shall be designed so that personnel ~~using it~~ will avoid physical contact with clean personnel;:-
- N) Stretcher ~~storage area~~Storage Area. This area shall be out of the direct line of traffic;:-
- O) Lounge and ~~toilet facilities~~Toilet Facilities for ~~obstetrics staff~~Obstetrics Staff. These facilities shall be provided in hospitals having three or more delivery rooms and shall be located to permit use without leaving the obstetrics suite. A nurses' toilet room shall be provided near the recovery rooms; ~~and~~-
- P) Janitors' ~~closet~~Closet. A closet containing a floor receptor or service sink and storage space for housekeeping supplies and equipment shall be provided exclusively for the obstetrical suite.
- k) Emergency Suite. Facilities for emergency care shall be provided in each hospital. The extent of the emergency services to be provided in the hospital will depend upon community needs and availability of other organized programs for emergency services within the community. Hospitals having a program narrative~~Program Narrative~~ calling for a minimum level of emergency services shall provide at least the facilities indicated in subsections (k)(1), (k)(4), and (k)(10) ~~of this Section~~ with back-up facilities within the hospital capable of furnishing the necessary support for facilities not provided in the emergency suite. Other hospitals shall provide all of the following to the degree called for in the program narrative~~Program Narrative~~:
- 1) An entrance at grade level, sheltered from the weather with provision for

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

ambulance and pedestrian access;

- 2) A reception and control area conveniently located near the entrance, waiting area and treatment rooms;
 - 3) Public waiting space with men's and women's toilet facilities, public telephone, and drinking fountain;
 - 4) Treatment ~~area~~Area. The treatment area shall contain hand-washing~~handwashing~~ facilities trimmed with valves that are aseptically operated (for example~~i.e.~~, knee or foot controls), general storage cabinets, medication cabinets, work counters, medical suction outlets, x-ray film illuminators as necessary, and space for storage of emergency equipment such as defibrillators, cardiac monitors, and resuscitators;
 - 5) A holding area adjacent to the treatment rooms, ~~shall be provided as required by the~~ program narrative~~Program Narrative~~.
 - 6) A storage area, out of the line of traffic, for stretchers and wheelchairs;
 - 7) Staff work ~~Staff's Work~~ and charting areas~~Charting Areas~~. This may be combined with the reception and control area or located within the treatment area;
 - 8) Clean supply storage, which may be separate or located within the treatment area;
 - 9) Soiled work room or area containing a clinical sink, work counter, and sink equipped for hand-washing~~handwashing~~, waste receptacle, and linen receptacle; and;
 - 10) Men's and women's toilet~~Toilet~~ facilities convenient to the treatment area ~~shall be provided~~.
- 1) Outpatient Department
 - 1) The outpatient department, if provided, should be located on an easily accessible floor convenient to the radiology, pharmacy, and laboratory departments.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 2) Size will vary in different locations with the availability of other examination and diagnostic facilities, and is not necessarily proportionate to the size of the hospital. The estimated patient load ~~shall~~will determine the number, size and scope of individual facilities in the outpatient department.
- 3) Required facilities include~~Recommended Facilities Include:~~
 - A) Waiting room with men's and women's public toilets;
 - B) Information, appointments and records;
 - C) Medical social services;
 - D) Examination rooms;
 - E) Dressing booths;
 - F) Utility rooms;
 - G) Storage room; and
 - H) Janitors' closet.
- m) Service Departments
 - 1) Dietary Facilities ~~facilities~~
 - A) General. Construction, equipment, and installation shall comply with the standards specified in the Department's Food Service Sanitation Code (~~77 Ill. Adm. Code 750~~), and the "Food Service Sanitation Manual," P.H.S. ~~No.~~ 93. Food service facilities shall be designed and equipped to meet the requirements of the program narrative~~Program Narrative~~. These may consist of an on-site conventional food preparing system, a convenience food service system, or an appropriate combination of the two.
 - B) Functional Elements. The following facilities shall be provided as

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

required to implement the type of food service selected:

- i) Control Station. For receiving food supplies;
- ii) Storage Space. Adequate to provide normal and emergency supply needs, including food requiring cold storage and day storage;
- iii) Food Preparation Facilities. Conventional food preparation systems require space and equipment for preparing, cooking, and baking. Convenience food service systems, such as frozen prepared meals, bulk packaged entrees, and individual packaged portions, or systems using contractual commissary service, require space and equipment for thawing, portioning, heating, cooking ~~and, and/or~~ baking;
- iv) ~~Hand-washing~~Handwashing Facilities. Located in the food preparation area;
- v) Patients' Meal Service Facilities. Examples are those required for tray assembly and distribution;
- vi) Dining Space. For ambulatory patients, staff and visitors;
- vii) Ware-Washing Space. Located in a room or an alcove separate from food preparation and serving areas. Commercial-type dishwashing equipment shall be provided. Space shall also be provided for receiving, scraping, sorting, and stacking soiled tableware and for transferring clean tableware to the using areas. A ~~hand-washing~~handwashing lavatory shall be conveniently available;
- viii) Pot-Washing Facilities;
- ix) Storage Areas. For cans, carts, and mobile tray conveyors;
- x) Waste Storage Facilities. Located in a separate room easily accessible to the outside for direct pickup or disposal;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- xv) Offices or Desk Spaces. For dietitians ~~and/or~~ the dietary service manager;:-
 - xii) Men's and Women's Toilets Accessible ~~accessible~~ to the Dietary Staff ~~dietary staff~~. Hand-washing ~~Handwashing~~ facilities shall be immediately available;:-
 - xiii) Janitors' Closet. Located within the dietary department. It shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies;:-
 - xiv) Self-dispensing Ice-making Facilities ~~ice-making facilities~~; and:-
 - xv) Adequate Can, Cart ~~can, cart~~ and Mobile Tray Washing Facilities ~~mobile tray washing facilities shall be provided~~.
- 2) Central Stores. The following shall be provided:
- A) Off-street unloading facilities;:-
 - B) Receiving area;:-
 - C) General storage rooms ~~Storage Rooms~~. These facilities shall have storage spaces adequate to meet the needs of the hospital. They shall ~~generally~~ be concentrated in one area, but in a multiple building complex, they may be in separate concentrated areas in more than one individual building; and:-
 - D) Office space.
- 3) Linen Services:-
- A) On-site Processing. If linen is to be processed at the hospital site, the following shall be provided:
 - i) Soiled linen receiving, holding, and sorting room with hand-washing ~~handwashing~~ facilities;:-

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- ii) ~~A laundry~~Laundry processing room, including hand-washing facilities, with commercial-type equipment that can process seven days' needs within a regularly scheduled work week;~~;- Handwashing facilities shall be provided.~~
 - iii) ~~A separate~~Separate clean linen storage and issuing room or area;~~;-~~
 - iv) ~~A clean~~Clean linen inspection and mending room or area;~~;-~~
 - v) Storage for laundry supplies;~~;-~~
 - vi) ~~A janitors'~~Janitors' closet containing a floor receptor or service sink and storage space for housekeeping equipment and supplies;~~;-~~
 - vii) Cart ~~storage~~Storage; ~~and~~;-
 - viii) Office ~~space~~Space.
- B) Off-site Processing. If linen is processed off the hospital site, the following shall be provided:
- i) A soiled linen holding room with facilities for hand-washing; ~~handwashing~~;-
 - ii) ~~Clean~~A clean linen, receiving, inspection, and storage rooms;~~;-~~
 - iii) Cart storage; ~~and~~;-
 - iv) Office space.
- 4) Facilities for Cleaning and Sanitizing Carts. Facilities shall be provided to clean and sanitize carts serving the central medical and surgical supply department, dietary facilities, and linen services. These may be centralized or departmentalized.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

- 5) Employees' Facilities. In addition to the employees' facilities such as locker rooms, lounges, toilets, or shower facilities called for in certain departments, a sufficient number of ~~thesesuch~~ facilities as required to accommodate the needs of all personnel and volunteers shall be provided.
- 6) Janitors' Closets. In addition to the janitors' closets called for in certain departments, sufficient janitors' closets shall be provided throughout the facility as required to maintain a clean and sanitary environment. Each shall contain a floor receptor or service sink and storage space for housekeeping equipment and supplies. Space for large housekeeping equipment and for back-up supplies may be located in other areas.
- 7) Engineering Service and Equipment Areas. The following shall be provided:
 - A) Rooms or separate buildings for boilers, mechanical equipment, and electrical equipment;~~;~~
 - B) Engineer's space;~~;~~
 - C) ~~A maintenance~~Maintenance shop;~~;~~
 - D) ~~A storage~~Storage room or rooms for building maintenance supplies; ~~and~~.
 - E) Yard ~~equipment storage~~Equipment Storage. Yard maintenance equipment and supplies may be stored in a separate room or building ~~for yard maintenance equipment and supplies may be provided.~~
- 8) Waste Processing Services:
 - A) Storage and Disposal. Space and facilities shall be provided for the sanitary storage and disposal of waste by incineration, mechanical destruction, compaction, containerization, removal, or by a combination of these techniques. Proper handling and disposal of radioactive waste substances shall be provided.
 - B) Incineration. A gas, electric or oil-fired incinerator shall be

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

provided for the complete destruction of pathological and infectious waste. Infectious waste shall include, but shall not be limited to, dressings and material from open wounds, laboratory specimens, and all waste material from isolation rooms.

- i) The incinerator shall be in a separate room or placed outdoors.
 - ii) Design and construction of incinerators and trash chutes shall be in accordance with NFPA ~~Standard-82~~, [Standard on Incinerators and Waste and Linen Handling Systems and Equipment-Incinerators and Rubbish Handling](#).
 - iii) Incinerators shall be designed and equipped to conform to requirements prescribed by air pollution regulations in the area.
- 9) Storage. In addition to the storage areas called for in certain departments of the hospital, suitable additional storage shall be provided.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Public Schools Evaluation, Recognition, and Supervision
- 2) Code Citation: 23 Ill. Adm. Code 1
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
1.77	Amendment
1.280	Amendment
1.420	Amendment
1.705	Amendment
1.720	Amendment
1.790	Amendment
- 4) Statutory Authority: 105 ILCS 5/2-3.6, 10-21.4a, 21B-5, 21B-20 and 24-24
- 5) A Complete Description of the Subjects and Issues Involved: Part 1 is the agency's general set of rules that govern the State Board's required supervision and evaluation of public school districts' compliance with law, rules, and policy. The rules also establish a process for identifying the recognition status awarded to a school district and its schools based on the extent of its compliance; that is, fully recognized, recognized pending further review, on probation, or nonrecognized. The Part informs school districts of the requirements that apply in specific areas of operations and programming, such as school governance, instructional programs, health and safety, staff qualifications, and academic standards.

This rulemaking incorporates a number of changes focusing on educator licensure. In particular, this rulemaking clarifies:

- Regional Offices of Education and Intermediate Service Centers may access the Educator Licensure Information Service in order to ensure educators are properly licensed and endorsed or are qualified for a particular teaching assignment.
- Individuals working as paraprofessionals cannot discipline students.
- Head teachers serving more than 50% full-time employment in place of a principal must hold a professional educator license endorsed for supervision.
- Effective on and after February 1, 2018 for middle grade teachers first assigned to grades 7 or 8 or departmentalized grade 6 teachers first endorsed in the following on or after February 1, 2018 do not need to meet the requirements for middle grades endorsements: agricultural education; business, marketing, and computer education; business, marketing, and computer education (computer

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

programming); computer applications; computer science; family and consumer sciences; health science technology; and technology education.

- Any individual who will serve as a substitute driver's education teacher must be endorsed for driver's education.

Additionally, this rulemaking updates the Kindergarten Individual Development Survey (KIDS). Public school districts and charter schools are required to report to ISBE certain data annually on each student enrolled in their kindergarten programs. Starting with the 2017-2018 school year, public school districts and charter schools will have to fully implement KIDS. School districts are required to report on the following 14 State Readiness Measures:

- Language and Literacy Development
 - Communication and use of language (expressive)
 - Reciprocal communication and conversation
 - Comprehension of age-appropriate text
 - Phonological awareness
 - Letter and word knowledge
- Cognition; Math
 - Classification
 - Number sense of quantity
 - Number sense of math operations
 - Shapes
- Approaches Toward Learning and Social and Emotional Development
 - Curiosity and initiative in learning
 - Self-control of feelings and behavior
 - Engagement and persistence
 - Relationships and social interactions with familiar adults
 - Relationships and social interactions with peers

These measures must be reported for kindergarteners in self-contained special education classrooms or alternative settings unless the special education team deems it inappropriate. The explanation must be included in the student's Individualized Education Program. Similarly, the measures must be reported for kindergarteners who are English Learners unless the Language and Literacy Development measures are deemed inappropriate and should be substituted with more appropriate nonrequired measures.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Reporting must be completed once a school year and done electronically through the KIDSTech rating system. All kindergarten teachers in public or charter schools must have completed ISBE's KIDS teacher training by the end of the 2016-17 school year.

- 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, see 1.420(s)
- 10) Are there any other rulemakings pending on this Part? Yes
- | <u>Section Numbers:</u> | <u>Proposed Actions:</u> | <u>Illinois Register Citation:</u> |
|-------------------------|--------------------------|--------------------------------------|
| 1.423 | New Section | 40 Ill. Reg. 15915; December 2, 2016 |
| 1.443 | New Section | 40 Ill. Reg. 15915; December 2, 2016 |
| 1.APPENDIX B | New Section | 40 Ill. Reg. 15915; December 2, 2016 |
| 1.APPENDIX H | New Section | 40 Ill. Reg. 15915; December 2, 2016 |
- 11) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this Notice to:
- Lindsay M. Bentivegna
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777-0001
- 217/782-5270
rules@isbe.net
- 13) Initial Regulatory Flexibility Analysis:

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 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) This rulemaking was included on the most recent Regulatory Agenda: January 2017

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER a: PUBLIC SCHOOL RECOGNITION

PART 1

PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

SUBPART A: RECOGNITION REQUIREMENTS

Section

- 1.10 Public School Accountability Framework
- 1.20 Operational Requirements
- 1.30 State Assessment
- 1.40 Adequate Yearly Progress
- 1.50 Calculation of Participation Rate
- 1.60 Subgroups of Students; Inclusion of Relevant Scores
- 1.70 Additional Indicators for Adequate Yearly Progress
- 1.75 Student Information System
- 1.77 Educator Licensure Information System (ELIS)
- 1.79 School Report Card
- 1.80 Academic Early Warning and Watch Status
- 1.85 School and District Improvement Plans; Restructuring Plans
- 1.88 Additional Accountability Requirements for Districts Serving Students of Limited English Proficiency under Title III
- 1.90 System of Rewards and Recognition – The Illinois Honor Roll
- 1.95 Appeals Procedure
- 1.97 Survey of Learning Conditions
- 1.100 Waiver and Modification of State Board Rules and School Code Mandates
- 1.110 Appeal Process under Section 22-60 of the School Code

SUBPART B: SCHOOL GOVERNANCE

Section

- 1.210 Approval of Providers of Training for School Board Members under Section 10-16a of the School Code
- 1.220 Duties of Superintendent (Repealed)
- 1.230 Board of Education and the School Code (Repealed)
- 1.240 Equal Opportunities for all Students

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1.242 Temporary Exclusion for Failure to Meet Minimum Academic or Attendance Standards
- 1.245 Waiver of School Fees
- 1.250 District to Comply with 23 Ill. Adm. Code 180 (Repealed)
- 1.260 Commemorative Holidays to be Observed by Public Schools (Repealed)
- 1.270 Book and Material Selection (Repealed)
- 1.280 Discipline
- 1.285 Requirements for the Use of Isolated Time Out and Physical Restraint
- 1.290 Absenteeism and Truancy Policies

SUBPART C: SCHOOL DISTRICT ADMINISTRATION

Section

- 1.310 Administrative Qualifications and Responsibilities
- 1.320 Evaluation of Licensed Educators
- 1.330 Toxic Materials Training

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section

- 1.410 Determination of the Instructional Program
- 1.420 Basic Standards
- 1.422 Electronic Learning (E-Learning) Days Pilot Program
- 1.425 Additional Criteria for Physical Education
- 1.430 Additional Criteria for Elementary Schools
- 1.440 Additional Criteria for High Schools
- 1.442 State Seal of Biliteracy
- 1.445 Required Course Substitute
- 1.450 Special Programs (Repealed)
- 1.460 Credit Earned Through Proficiency Examinations
- 1.462 Uniform Annual Consumer Education Proficiency Test (Repealed)
- 1.465 Ethnic School Foreign Language Credit and Program Approval
- 1.470 Adult and Continuing Education
- 1.480 Correctional Institution Educational Programs

SUBPART E: SUPPORT SERVICES

Section

- 1.510 Transportation

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1.515 Training of School Bus Driver Instructors
- 1.520 Home and Hospital Instruction
- 1.530 Health Services
- 1.540 Undesignated Epinephrine Auto-injectors; Opioid Antagonists

SUBPART F: STAFF LICENSURE REQUIREMENTS

Section

- 1.610 Personnel Required to be Qualified
- 1.620 Accreditation of Staff (Repealed)
- 1.630 Paraprofessionals; Other Unlicensed Personnel
- 1.640 Requirements for Different Certificates (Repealed)
- 1.650 Transcripts of Credits
- 1.660 Records of Professional Personnel

SUBPART G: STAFF QUALIFICATIONS

Section

- 1.700 Requirements for Staff Providing Professional Development
- 1.705 Requirements for Supervisory and Administrative Staff
- 1.710 Requirements for Elementary Teachers
- 1.720 Requirements for Teachers of Middle Grades
- 1.730 Minimum Requirements for Secondary Teachers and Specified Subject Area Teachers in Grades 6 and Above through June 30, 2004
- 1.735 Requirements to Take Effect from July 1, 1991, through June 30, 2004
- 1.736 Requirements to Take Effect from July 1, 1994, through June 30, 2004
- 1.737 Minimum Requirements for the Assignment of Teachers in Grades 9 through 12 Beginning July 1, 2004
- 1.740 Standards for Reading through June 30, 2004
- 1.745 Requirements for Reading Teachers and Reading Specialists at all Levels as of July 1, 2004
- 1.750 Standards for Media Services through June 30, 2004
- 1.755 Requirements for Library Information Specialists Beginning July 1, 2004
- 1.760 Standards for School Support Personnel Services
- 1.762 Supervision of Speech-Language Pathology Assistants
- 1.770 Standards for Special Education Personnel
- 1.780 Standards for Teachers in Bilingual Education Programs
- 1.781 Requirements for Bilingual Education Teachers in Prekindergarten, Kindergarten and any of Grades 1-12

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1.782 Requirements for Teachers of English as a Second Language in Prekindergarten, Kindergarten and any of Grades 1-12
- 1.783 Requirements for Administrators of Bilingual Education Programs
- 1.790 Substitute Teacher
- 1.APPENDIX A Professional Staff Educator Licensure
- 1.APPENDIX B Certification Quick Reference Chart (Repealed)
- 1.APPENDIX C Glossary of Terms (Repealed)
- 1.APPENDIX D State Goals for Learning
- 1.APPENDIX E Evaluation Criteria – Student Performance and School Improvement Determination (Repealed)
- 1.APPENDIX F Criteria for Determination – Student Performance and School Improvement (Repealed)
- 1.APPENDIX G Criteria for Determination – State Assessment (Repealed)

AUTHORITY: Implementing Sections 2-3.25, 2-3.25g, 2-3.44, 2-3.96, 2-3.159, 10-17a, 10-20.14, 10-21.4a, 10-22.43a, 21B-5, 21B-20, 22-30, 22-60, 24-24, 26-13, 27-3.5, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3 and 27-23.8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/2-3.6, 2-3.25, 2-3.25g, 2-3.44, 2-3.96, 2-3.159, 10-17a, 10-20.14, 10-21.4a, 10-22.43a, 21B-5, 21B-20, 22-30, 22-60, 26-13, 27-3.5, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3 and 27-23.8].

SOURCE: Adopted September 21, 1977; codified at 7 Ill. Reg. 16022; amended at 9 Ill. Reg. 8608, effective May 28, 1985; amended at 9 Ill. Reg. 17766, effective November 5, 1985; emergency amendment at 10 Ill. Reg. 14314, effective August 18, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 3073, effective February 2, 1987; amended at 12 Ill. Reg. 4800, effective February 26, 1988; amended at 14 Ill. Reg. 12457, effective July 24, 1990; amended at 15 Ill. Reg. 2692, effective February 1, 1991; amended at 16 Ill. Reg. 18010, effective November 17, 1992; expedited correction at 17 Ill. Reg. 3553, effective November 17, 1992; amended at 18 Ill. Reg. 1171, effective January 10, 1994; emergency amendment at 19 Ill. Reg. 5137, effective March 17, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6530, effective May 1, 1995; amended at 19 Ill. Reg. 11813, effective August 4, 1995; amended at 20 Ill. Reg. 6255, effective April 17, 1996; amended at 20 Ill. Reg. 15290, effective November 18, 1996; amended at 22 Ill. Reg. 22233, effective December 8, 1998; emergency amendment at 24 Ill. Reg. 6111, effective March 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12985, effective August 14, 2000; amended at 25 Ill. Reg. 8159, effective June 21, 2001; amended at 25 Ill. Reg. 16073, effective November 28, 2001; amended at 26 Ill. Reg. 1157, effective January 16, 2002; amended at 26 Ill. Reg. 16160, effective October 21, 2002; amended at 28 Ill. Reg. 8486, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 13637, effective September 27,

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1891, effective January 24, 2005; amended at 29 Ill. Reg. 11811, effective July 13, 2005; amended at 29 Ill. Reg. 12351, effective July 28, 2005; amended at 29 Ill. Reg. 15789, effective October 3, 2005; amended at 29 Ill. Reg. 19891, effective November 23, 2005; amended at 30 Ill. Reg. 8480, effective April 21, 2006; amended at 30 Ill. Reg. 16338, effective September 26, 2006; amended at 30 Ill. Reg. 17416, effective October 23, 2006; amended at 31 Ill. Reg. 5116, effective March 16, 2007; amended at 31 Ill. Reg. 7135, effective April 25, 2007; amended at 31 Ill. Reg. 9897, effective June 26, 2007; amended at 32 Ill. Reg. 10229, effective June 30, 2008; amended at 33 Ill. Reg. 5448, effective March 24, 2009; amended at 33 Ill. Reg. 15193, effective October 20, 2009; amended at 34 Ill. Reg. 2959, effective February 18, 2010; emergency amendment at 34 Ill. Reg. 9533, effective June 24, 2010, for a maximum of 150 days; amended at 34 Ill. Reg. 17411, effective October 28, 2010; amended at 35 Ill. Reg. 1056, effective January 3, 2011; amended at 35 Ill. Reg. 2230, effective January 20, 2011; amended at 35 Ill. Reg. 12328, effective July 6, 2011; amended at 35 Ill. Reg. 16743, effective September 29, 2011; amended at 36 Ill. Reg. 5580, effective March 20, 2012; amended at 36 Ill. Reg. 8303, effective May 21, 2012; amended at 38 Ill. Reg. 6127, effective February 27, 2014; amended at 38 Ill. Reg. 11203, effective May 6, 2014; amended at 39 Ill. Reg. 2773, effective February 9, 2015; emergency amendment at 39 Ill. Reg. 12369, effective August 20, 2015, for a maximum of 150 days; amended at 39 Ill. Reg. 13411, effective September 24, 2015; amended at 40 Ill. Reg. 1900, effective January 6, 2016; amended at 40 Ill. Reg. 2990, effective January 27, 2016; amended at 40 Ill. Reg. 4929, effective March 2, 2016; amended at 40 Ill. Reg. 12276, effective August 9, 2016; emergency amendment at 40 Ill. Reg. 15957, effective November 18, 2016, for a maximum of 150 days; amended at 41 Ill. Reg. 126, effective December 27, 2016; amended at 41 Ill. Reg. _____, effective _____.

SUBPART A: RECOGNITION REQUIREMENTS

Section 1.77 Educator Licensure Information System (ELIS)

Each school district shall ensure that information on the qualifications of its professional and paraprofessional staff is recorded on the electronic data system maintained by the State Board of Education so that the State Board may complete federally required reports and collect data for the school report card required by Section 10-17a of the School Code [105 ILCS 5/10-17a]. (See Section 1.79 of this Part.) A district that lacks the technological capacity to participate in this electronic system shall be given an opportunity to demonstrate to the State Superintendent that this is the case, and the State Superintendent shall make available an alternative means that the district shall use in transmitting the required information. [Regional Offices of Education and Intermediate Service Centers, as agents of the State Board, may access ELIS to ensure an](#)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

educator is qualified to receive or hold a particular license and/or endorsement or to ensure the educator is qualified for a particular teaching assignment.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART B: SCHOOL GOVERNANCE

Section 1.280 Discipline

Section 24-24 of the School Code [105 ILCS 5/~~24-24~~] provides for teachers, other licensed educational employees (except for individuals employed as ~~holding an educator license with stipulations endorsed for~~ paraprofessional educator) and persons providing a related service for or with respect to a student as determined by the board of education to maintain discipline in the schools.

- a) The board of education shall establish and maintain a parent-teacher advisory committee as provided in Section 10-20.14 of the School Code [~~105 ILCS 5/10-20.14~~].
- b) The board of education shall establish a policy on the administration of discipline in accordance with the requirements of Sections 10-20.14 and 24-24 of the School Code [~~105 ILCS 5/10-20.14 and 24-24~~] and disseminate that policy as provided in Section 10-20.14 of the School Code.
- c) Any use of isolated time out or physical restraint permitted by a board's policy shall conform to the requirements of Section 1.285 ~~of this Part~~. If isolated time out or physical restraint is to be permitted, the policy shall include:
 - 1) the circumstances under which isolated time out or physical restraint will be applied;
 - 2) a written procedure to be followed by staff in cases of isolated time out or physical restraint;
 - 3) designation of a school official who will be informed of incidents and maintain the documentation required pursuant to Section 1.285 ~~of this Part~~ when isolated time out or physical restraint is used;
 - 4) the process the district or other administrative entity will use to evaluate

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

any incident that results in an injury that the affected student (or the responsible parent or guardian), staff member, or other individual identifies as serious;

- 5) a description of the alternative strategies that will be implemented when determined advisable pursuant to Section 1.285(f)(4) ~~of this Part~~; and
- 6) a description of the district's or other administrative entity's annual review of the use of isolated time out or physical restraint, which shall include at least:
 - A) the number of incidents involving the use of these interventions,
 - B) the location and duration of each incident,
 - C) identification of the staff members who were involved,
 - D) any injuries or property damage that occurred, and
 - E) the timeliness of parental notification and administrative review.
- d) In addition to, or as part of, its policy on the maintenance of discipline, each board of education shall adopt policies and procedures regarding the use of behavioral interventions for students with disabilities who require intervention. Each board's policies and procedures shall conform to the requirements of Section 14-8.05(c) of the School Code ~~[105 ILCS 5/14-8.05(e)]~~.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section 1.420 Basic Standards

- a) Class schedules shall be maintained in the administrative office in each attendance center of a school district.
- b) Every school district shall have an organized plan for recording pupil progress and/or awarding credit, including credit for courses completed by correspondence, on line, or from other external sources, that can be disseminated to other schools

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

within the State.

- c) Every school district shall:
 - 1) Provide curricula and staff inservice training to help eliminate unconstitutional and unlawful discrimination in schools and society. School districts shall utilize the resources of the community in achieving the stated objective of elimination of discrimination and to enrich the instructional program.
 - 2) Include in its instructional program concepts designed to improve students' understanding of and their relationships with individuals and groups of different ages, sexes, races, national origins, religions and socio-economic backgrounds.
- d) Boards shall adopt and implement a policy for the distribution of teaching assignments, including study hall and extra class duties and responsibilities.
- e) Every school system shall conduct supervisory and inservice programs for its professional staff. The staff shall be involved in planning, conducting and evaluating supervisory and inservice programs.
- f) Sections 10-19, 18-8.05, 18-12, and 18-12.5 of the School Code [105 ILCS ~~5/10-19, 18-8.05, 18-12, and 18-12.5~~] establish certain requirements regarding the school year and the school day. School districts shall observe these requirements when preparing their calendars and when calculating average daily attendance for the purpose of claiming general State financial aid.
 - 1) Section 18-8.05(F)(2)(c) of the School Code provides that, with the approval of the State Superintendent of Education, four or more clock-hours of instruction may be counted as a day of attendance when the regional superintendent certifies that, due to a condition beyond the control of the district, the district has been forced to use multiple sessions. The State Superintendent's approval will be granted when the district demonstrates that, due to a condition beyond the control of the district, its facilities are inadequate to house a program offering five clock-hours daily to all students.
 - A) The district superintendent's request to the State Superintendent

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

shall be accompanied by an assurance that the local school board has approved the plan for multiple sessions, including the date of the meeting at which this occurred, and evidence of the approval of the responsible regional superintendent.

- B) Each request shall include a description of the circumstances that resulted in the need for multiple sessions; information on the buildings and grades affected; the intended beginning and ending dates for the multiple sessions; a plan for remedying the situation leading to the request; and a daily schedule showing that each student will be in class for at least four clock-hours.
 - C) Approval for multiple sessions shall be granted for the school year to which the request pertains. Each request for renewed approval shall conform to the requirements of subsections (f)(1)(A) and (B).
 - D) Students who are in attendance for at least 150 minutes of school work but fewer than 240 minutes may be counted for a half day of attendance. Students in attendance for fewer than 150 minutes of school work shall not be counted for purposes of calculating average daily attendance.
- 2) Section 18-8.05(F)(2)(h) of the School Code allows for a determination under rules of the State Board regarding the necessity for a second year's attendance at kindergarten for certain students so they may be included in a district's calculation of average daily attendance. Districts may count these students when they determine through an assessment of their individual educational development that a second year of kindergarten is warranted.
- 3) A school district shall be considered to have conducted a legal school day, which is eligible to be counted for General State Aid, when the following conditions are met during a work stoppage.
- A) Fifty percent or more of the district's students are in attendance, based on the average daily attendance during the most recent full month of attendance prior to the work stoppage.
 - B) Educational programs are available at all grade levels in the

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

district, in accordance with the minimum standards set forth in this Part.

- C) All teachers hold educator licenses that are registered with the regional superintendent of schools for their county of employment. Other than substitute teachers, licensure appropriate to the grade level and subject areas of instruction is held by all teachers.
- 4) Sections 18-12 and 18-12.5 of the School Code set forth requirements for a school district to claim General State Aid in certain circumstances when one or more, but not all, of the district's school buildings are closed either for a full or partial day. A school district shall certify the reasons for the closure in an electronic format specified by the State Superintendent within 30 days from the date of the incident.
- A) If the certification is submitted under Section 18-12 of the School Code, it shall indicate whether instruction was provided to students using an e-learning day authorized under Section 10-20.56 of the School Code and Section 1.422 of this Part.
 - B) If the certification is submitted for reasons of a public health emergency under Section 18-12.5 of the School Code, it shall be accompanied by a signed statement from the local health department to the State Superintendent that includes:
 - i) the name of the building that is being recommended for closure;
 - ii) the specific public health emergency that warrants the closure; and
 - iii) the anticipated building closure dates recommended by the health department.
- 5) Attendance for General State Aid Purposes
- A) For purposes of determining average daily attendance on the district's General State Aid claim, students in full-day kindergarten and first grade may be counted for a full day of attendance only

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

when they are in attendance for four or more clock hours of school work; provided, however, that students in attendance for more than two clock hours of school work but less than four clock hours may be counted for a half day of attendance. Students in attendance for fewer than two hours of school work shall not be counted for purposes of calculating average daily attendance.

- B) For purposes of determining average daily attendance on the district's General State Aid claim, students enrolled full time in grades 2 through 12 may be counted for a full day of attendance only when they are in attendance for five or more clock hours of school work; provided, however, that students in attendance for more than two and one-half clock hours of school work but less than five clock hours may be counted for a half day of attendance. Students in attendance for fewer than two and one-half hours of school work shall not be counted for purposes of calculating average daily attendance.
- C) For purposes of determining average daily attendance for General State Aid received under Sections 18-12 and 18-12.5 of the School Code, "immediately preceding school day" shall include school days in the previous school year in instances in which the building closure occurs before three or more days of instruction have been provided in the school year for which attendance is being counted.
- D) For the purposes of determining average daily attendance for General State Aid under Section 10-20.56 or 10-29 of the School Code ~~[105 ILCS 5/10-20.56 and 10-29]~~, a school district operating a remote educational program shall document the clock hours of instruction for each student, and make available to the State Superintendent ~~of Education~~ or his or her designee upon request, a written or online record of instructional time for each student enrolled in the program that provides sufficient evidence of the student's active participation in the program (e.g., log in and log off process, electronic monitoring, adult supervision, two-way interaction between teacher and student, video cam). "Clock hours of instruction" shall be calculated in accordance with Section 18-8.05(F)(2)(j) of the School Code ~~[105 ILCS 5/18-8.05(F)(2)(j)]~~.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- g) Each school board shall annually prepare a calendar for the school term, specifying the opening and closing dates and providing a minimum term of at least 185 days to ensure 176 days of actual pupil attendance, computable under Section 18-8.05 of the School Code (see Section 10-19 of the School Code).
- h) Local boards of education shall establish and maintain kindergartens for the instruction of children (see Sections 10-20.19a and 10-22.18 of the School Code [~~105 ILCS 5/10-20.19a and 10-22.18~~]).
- 1) School districts may establish a kindergarten of either half-day or full-day duration. If the district establishes a full-day kindergarten, it must also provide a half-day kindergarten for those students whose parents or guardians request a half-day program.
 - 2) If a school district that establishes a full-day kindergarten also has 20 or more students whose parents request a half-day program, the district must schedule half-day classes, separate and apart from full-day classes, for those children. If there are fewer than 20 children whose parents request a half-day program, those students may be enrolled in either the morning or afternoon session of a full-day program provided that the following conditions are met.
 - A) Distinctive curriculum plans for the half-day and full-day kindergarten programs must be developed by the school district, made available to parents to assist the parents in selecting the appropriate program for their child, and maintained in district files.
 - B) A common core of developmental, readiness and academic activities must be made available to all kindergarten students in the district regardless of the amount of time they attend school.
 - C) All support services (e.g., health counseling and transportation) provided by the district must be equally available to full-day and half-day students.
 - 3) Each public school district, including charter schools, offering a kindergarten program, whether full-day or half-day, shall report to the State Board of Education on the 14 State Readiness Measures listed in subsection (h)(3)(A) administer the Illinois Kindergarten Individual

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

~~Development Survey (KIDS)~~ annually ~~onto~~ each student enrolled in kindergarten, except as otherwise provided under this subsection (h)(3). The Kindergarten Individual Development Survey (KIDS) shall be available to school districts for this purpose. Data for each student, based on local instruction and assessment practices, shall be reported through the KIDSTech rating system. A school district is not obligated to administer KIDS in any school year in which the State does not provide funding sufficient for the cost of ~~reporting the test administration~~ or access to professional development for teachers and administrators.

- A) For the purpose of this subsection (h)(3), the 14 State Readiness Measures shall address "measure of school readiness" addresses, at a minimum, ~~the five essential school readiness domains of~~:
- i) language and literacy development;
 - communication and use of language (Expressive);
 - reciprocal communication and conversation;
 - comprehension of age-appropriate text;
 - phonological awareness;
 - letter and word knowledge;
 - ii) cognition; ~~math; and general knowledge (to at least include mathematics);~~
 - classification;
 - number sense of quantity;
 - number sense of math operations;
 - shapes; and
 - iii) approaches toward learning and social and emotional development;

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- curiosity and initiative in learning;
 - self-control of feelings and behavior;
 - engagement and persistence;
 - relationships and social interactions with familiar adults;
 - relationships and social interactions with peers.
- iv) ~~physical well-being and motor development; and~~
- v) ~~social and emotional development.~~
- B) Each school district shall report electronically the results of the observations conducted and evidence collected ~~once as part of KIDS twice~~ each school year (i.e., after 40 days of enrollment beginning with the first day of official attendance~~after the start of the school year and 170 days after the start of the school year~~).
- The data required under this subsection (h)(3)(B) shall be reported for any student who was enrolled in a kindergarten classroom at least 30 days before the date on which the data is required to be reported.
- C) By August 1 of each school year~~October 15, 2015~~, each school district shall provide to the State Superintendent ~~of Education, the name, title, email address and telephone number for the district staff personnel who will serve as the KIDS contact persons,~~ using a form prescribed for this purpose, ~~the information required under this subsection (h)(3)(C).~~
- i) ~~The name, title, email address and telephone number for the administrator who the school district designates to serve as the KIDS coordinator. The person so designated shall hold a professional educator license endorsed in an administrative field pursuant to 23 Ill. Adm. Code 25.Subpart E (Requirements for Licensure of~~

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

~~Administrative and Supervisory Staff) or for supervision pursuant to 23 Ill. Adm. Code 25.497 (Supervisory Endorsements).~~

- ~~ii) The current status of the school district's implementation of KIDS, as applicable.~~
 - ~~iii) Information regarding the school district's use of assessments other than KIDS on a districtwide basis that measure school readiness, as that term is defined in subsection (h)(3)(A).~~
- D) Each KIDS ~~contact person~~coordinator designated under subsection (h)(3)(C) shall participate in, at a minimum, a KIDS ~~administrator~~orientation training sponsored by the State Board no later than 30 days after the beginning of the school year~~of Education during the 2015-16 school year.~~
- E) For the 2016-17 school year, all teachers teaching in a public or charter school classroom containing kindergarten students shall complete or have had completed the KIDS teacher training sponsored by the State Board.~~only, a school district may choose to conduct a limited implementation of KIDS or a full implementation of KIDS. A school district choosing to conduct a limited implementation shall notify the State Superintendent of its intent by May 1, 2016. School districts that fail to submit the required notification by May 1, 2016 shall fully implement KIDS, as required under subsection (h)(3)(F). For the purposes of this subsection (h)(3)(E), "limited implementation" shall be either:~~
- ~~i) reporting the data required under subsection (h)(3)(B) for each student enrolled in kindergarten that at least addresses the domains of social and emotional development, language and literacy development, cognitive development for mathematics and, additionally for English learners, English language development; or~~
 - ~~ii) reporting the data required under subsection (h)(3)(B) for at least 30 percent of students enrolled in each kindergarten~~

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

~~classroom for each domain listed in subsection (h)(3)(A) and, additionally for English learners, English language development.~~

- F) Beginning in the 2017-18 school year and thereafter, a public school district, including charter schools, shall ~~administer the KIDS to,~~ and report the data required under subsection (h)(3)(B) for, each student enrolled in kindergarten.
- G) The 14 State Readiness Measures shall be reported for kindergarten children taught in a self-contained special education classroom or an alternative setting unless a special education team deems it inappropriate, at which time the justification for this decision must be recorded in the Individualized Education Program.
- H) The 14 State Readiness Measures shall be reported for kindergarten children who are English learners unless it is deemed that required Language and Literacy Measures should be substituted with more appropriate non-required measures.
- i) Career Education
- 1) The educational system shall provide students with opportunities to prepare themselves for entry into the world of work.
 - 2) Every district shall initiate a Career Awareness and Exploration Program that should enable students to make more meaningful and informed career decisions. This program should be available at all grade levels.
- j) Co-Curricular Activities
- 1) Programs for extra classroom activities shall provide opportunities for all students.
 - 2) The desires of the student body in the area of co-curricular activities shall be of critical importance. At all times, activities of this nature shall be carefully supervised by a school-approved sponsor.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- k) Consumer Education and Protection
- 1) A program in consumer education shall include at least the topics required by Section 27-12.1 of the School Code ~~[105 ILCS 5/27-12.1]~~.
 - 2) The superintendent of each unit or high school district shall maintain evidence showing that each student has received adequate instruction in consumer education prior to the completion of grade 12. Consumer education may be included in course content of other courses, or it may be taught as a separate required course.
 - 3) The minimal time allocation shall not be less than nine weeks or the equivalent for grades 9-12.
 - 4) Teachers instructing in consumer education courses shall hold educator licensure valid for the grade levels taught and have completed at least three semester hours in consumer education courses.
- l) Conservation of Natural Resources
Each district shall provide instruction on *current problems and needs in the conservation of natural resources, including, but not limited to, air pollution, water pollution, waste reduction and recycling, the effect of excessive use of pesticides, preservation of wilderness areas, forest management, protection of wildlife, and humane care of domestic animals* (Section 27-13.1 of the School Code [105 ILCS 5/27-13.1]).
- m) Every school district has the responsibility to prepare students for full citizenship. To this end each school district should encourage student discussion and communication in areas of local, State, national and international concern.
- n) Health Education
- 1) Each school system shall provide a program in compliance with the Critical Health Problems and Comprehensive Health Education Act [105 ILCS 110].
 - A) There is no specific time requirement for grades K-6; however, health education shall be a part of the formal regular instructional program at each grade level.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- B) The minimal time allocation shall not be less than one semester or equivalent during the middle or junior high experience.
 - C) The minimal time allocation shall not be less than one semester or equivalent during the secondary school experience.
 - D) If health education is offered in conjunction with another course on a "block of time" basis in a middle school, a junior high school, or a high school, instruction may be offered in any combination of the grade levels in the school, provided that the total time devoted to health education is the equivalent of one full semester's work.
- 2) Nothing in this Section shall be construed as requiring or preventing the establishment of classes or courses in comprehensive sex education or family life education as authorized by Sections 27-9.1 and 27-9.2 of the School Code ~~[105 ILCS 5/27-9.1 and 27-9.2]~~.
- o) **Library Media Programs**
Each school district shall provide a program of library media services for the students in each of its schools. Each district's program shall meet the requirements of this subsection (o).
- 1) **General**
The program shall include an organized collection of resources that circulate to students and staff in order to supplement classroom instruction, foster reading for pleasure, enhance information literacy, and support research, as appropriate to students of all abilities in the grade levels served. A district that relies solely upon the collection of a local public library shall maintain evidence that students receive instruction, direction, or assistance in locating and using resources that are applicable to these purposes from an individual who is qualified under Section 1.755 and who is acting on behalf of the school district.
 - 2) **Financial Resources**
Each district's annual budget shall include an identifiable allocation for resources and supplies for the program, except that a unit district serving fewer than 400 students or an elementary or high school district serving fewer than 200 students may demonstrate that it is meeting its students'

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

needs through alternate means that the district has determined are adequate in light of local circumstances.

3) Facilities

If there is no single location within a particular attendance center that is specifically devoted to a library media center, such as where classroom collections have been established instead, the district shall ensure that equitable access to library media resources is made available to students in all the grade levels served. If students' only access to library media resources is achieved by visiting a location outside their attendance center, the district shall maintain records demonstrating that all students' regular schedules include time for this purpose.

4) Staff

Nothing in this subsection (o)(4) shall be construed as prohibiting districts or schools from sharing the services of individuals qualified under Section 1.755, and nothing in this subsection (o) shall be construed as permitting an individual who is not qualified as a library information specialist to assume that role. Each district shall assign responsibility for overall direction of its program of library media services to an employee who holds a professional educator license endorsed for a teaching or an administrative field. Except as otherwise provided in subsection (o)(4)(A), the individual to whom this responsibility is assigned shall meet the requirements of Section 1.755, and the individual to whom this responsibility is assigned shall not provide the services described in Section 1.755 unless he or she meets the requirements of that Section.

A) In the event that no employee of the district holds any of the qualifications enumerated in Section 1.755, the individual to whom direction of the program is assigned shall be required to participate annually in professional development consisting of:

- i) undergraduate or graduate coursework in library science offered by a regionally accredited institution of higher education; or
- ii) one or more workshops, seminars, conferences, institutes, symposia, or other similar training events that are offered

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

by the Illinois State Library, a regional library system, or another professional librarians' organization; or

iii) one or more "library academies" if these are made available by or at the direction of the State Superintendent of Education.

B) A district that is otherwise unable to fulfill the requirements of this subsection (o)(4) shall ensure that the overall direction of the library media program (e.g., selection and organization of materials, provision of instruction in information and technology literacy, structuring the work of library paraprofessionals) is accomplished with the advice of an individual who is qualified pursuant to Section 1.755.

p) Physical Education

Appropriate activity related to physical education shall be required of all students each day unless otherwise permitted by Section 27-6 of the School Code ~~105 ILCS 5/27-6~~. The time schedule shall compare favorably with other courses in the curriculum. Safety education as it relates to the physical education program should be incorporated. See Section 1.425 for additional requirements that apply to the provision of physical education instruction.

q) School Support Personnel Services

To assure provision of School Support Personnel Services, the local district shall conduct a comprehensive needs assessment to determine the scope of the needs in the areas of:

- 1) Guidance and Counseling Needs;
- 2) Psychological Needs;
- 3) Social Work Needs;
- 4) Health Needs.

r) Social Sciences and History

Each school system shall provide history and social sciences courses that do the following:

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) analyze the principles of representative government, the Constitutions of both the United States and the State of Illinois, the proper use of the flag, and how these concepts have related and currently do relate in actual practice in the world (see Section 27-21 of the School Code ~~[105 ILCS 5/27-21]~~);
 - 2) *include in the teaching of United States history the role and contributions of ethnic groups in the history of this country and the State* (Section 27-21 of the School Code);
 - 3) *include in the teaching of United States history the role of labor unions and their interaction with government in achieving the goals of a mixed free-enterprise system* (Section 27-21 of the School Code);
 - 4) *include the study of that period in world history known as the Holocaust* (Section 27-20.3 of the School Code ~~[105 ILCS 5/27-20.3]~~);
 - 5) *include the study of the events of Black history, including the individual contributions of African-Americans and their collective socio-economic struggles* (Section 27-20.4 of the School Code ~~[105 ILCS 5/27-20.4]~~);
 - 6) *include the study of the events of women's history in America, including individual contributions and women's struggles for the right to vote and for equal treatment* (Section 27-20.5 of the School Code ~~[105 ILCS 5/27-20.5]~~); and
 - 7) *include the study of the events related to the forceful removal and illegal deportation of Mexican-American U.S. citizens during the Great Depression* (Section 27-21 of the School Code).
- s) Protective eye devices shall be provided to and worn by all students, teachers, and visitors when participating in or observing dangerous career and technical education courses and chemical-physical courses of laboratories as specified in Section 1 of the Eye Protection in School Act [105 ILCS 115/1]. The eye protective devices shall meet the nationally accepted standards set forth in "American National Standard Practice for Occupational and Educational Personal Eye and Face Protection Devices", ANSI/ISEA Z87.1-2010, issued by the American National Standards Institute, Inc., 1899 L Street, NW, 11th Floor,

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Washington, D.C. 20036. No later editions or amendments to these standards are incorporated.

- t) Each school district shall provide instruction as required by Sections 27-3.5, 27-13.2, 27-13.3, 27-23.3, 27-23.4 and 27-23.8 of the School Code ~~[105 ILCS 5/27-3.5, 27-13.2, 27-13.3, 27-23.3, 27-23.4 and 27-23.8]~~.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART G: STAFF QUALIFICATIONS

Section 1.705 Requirements for Supervisory and Administrative Staff

Requirements for the receipt of the endorsements specified in this Section shall be as set forth in 23 Ill. Adm. Code 25 (Educator Licensure).

- a) Each district superintendent shall hold a professional educator license with a superintendent endorsement.
- b) Each principal or assistant principal shall hold a professional educator license with a general administrative, ~~or~~ principal or superintendent endorsement, except that a head teacher serving for more than 50% full-time employment in place of a principal as permitted by Section 10-21.4a of the School Code [105 ILCS ~~5/40-21.4a~~] shall hold a professional educator license endorsed for supervision.
- c) Each assistant superintendent shall hold a professional educator license with a general administrative, principal, director of special education or superintendent endorsement.
- d) Each general administrator (e.g., director, assistant director, coordinator or general supervisor) in general education shall hold a professional educator license with a general supervisory, general administrative, principal or superintendent endorsement.
- e) Each head of a general education department or supervisor for a specific subject shall hold either:
- 1) a professional educator license with a general supervisory, general administrative, principal or superintendent endorsement or teacher leader

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

endorsement issued pursuant to 23 Ill. Adm. Code 25.32 (Teacher Leader Endorsement); or

- 2) a professional educator license endorsed for supervision in the area supervised (see 23 Ill. Adm. Code 25.497 (Supervisory Endorsements)).
- f) Each supervisory dean shall hold a professional educator license with a general supervisory, general administrative, director of special education, principal or superintendent endorsement, or teacher leader endorsement issued pursuant to 23 Ill. Adm. Code 25.32 (Teacher Leader Endorsement).
- g) Each dean of students shall hold:
- 1) a professional educator license with a general supervisory, general administrative, director of special education, principal or superintendent endorsement; or
 - 2) a professional educator license endorsed in a teaching field (and for supervision if the holder suspends students pursuant to Section 10-22.6 of the School Code); or
 - 3) a professional educator license endorsed in a school support personnel field other than school nursing (and for supervision if the holder disciplines or suspends students).
- h) Each special education director or assistant director shall meet the requirements of 23 Ill. Adm. Code 226.800(g) (Personnel Required to be Qualified) and hold a professional educator license endorsed for director of special education in accordance with 23 Ill. Adm. Code 25.365 (Endorsement for Director of Special Education).
- i) Each special education supervisor shall hold either:
- 1) a professional educator license with a general supervisory, general administrative, director of special education, principal or superintendent endorsement and teaching qualifications in each area supervised; or
 - 2) a professional educator license endorsed for each area supervised and for supervision (see 23 Ill. Adm. Code 25.497 (Supervisory Endorsements)).

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- j) Each supervisor of more than one school support personnel area shall hold either:
 - 1) a professional educator license and a general administrative, principal or superintendent endorsement; or
 - 2) a professional educator license endorsed for school support personnel and supervision in each field supervised.

- k) Each supervisor of one school support personnel area shall hold:
 - 1) a professional educator license with a general supervisory, general administrative, director of special education, principal or superintendent endorsement; or
 - 2) a professional educator license endorsed for school support personnel in the field supervised and for supervision; or
 - 3) a professional educator license endorsed for speech-language pathology teaching and for supervision (if applicable).

- l) Each director of an area vocational center and each director or supervisor of more than one field in career and technical education (including regional system directors) shall hold a professional educator license with a general administrative, principal or superintendent endorsement and have teaching qualifications in one of the five occupational areas and 2,000 hours of work experience outside the field of education.

- m) Each supervisor of one field in career and technical education shall hold either:
 - 1) a professional educator license with a general supervisory, general administrative, principal or superintendent endorsement and teaching qualifications in one field of career and technical education, including 2,000 hours of work experience in the specific field outside of education; or
 - 2) teaching qualifications in the specific field supervised, including 2,000 hours of work experience in the specific field outside of education, and a professional educator license with a supervisory endorsement.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- n) Each administrator in a bilingual education program shall hold a valid professional educator license with a general administrative, principal, superintendent or supervisory endorsement issued in accordance with the applicable provisions of 23 Ill. Adm. Code 25 and this Part and meet the applicable requirements of Section 1.783 ~~of this Part~~.
- o) Each chief school business official shall hold a professional educator license with a chief school business official endorsement or an educator license with stipulations with a chief school business official endorsement.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 1.720 Requirements for Teachers of Middle Grades

The provisions of subsections (a), (b) and (d) shall be subject to the exception stated in subsection (e) with respect to any school in which the instructional format for any of grades 6 through 8 is being changed from a self-contained to a departmentalized configuration. Additional requirements shall apply to middle-grades assignments and endorsements beginning February 1, 2012 (see subsection (f)).

- a) The requirements of this Section apply to teachers first employed after September 1, 1973, in departmentalized grades 6 through 8 ("middle-grade teachers"). Teachers first employed in grades 6 through 8 prior to September 1, 1973, or employed in non-departmentalized grades 6 through 8 and who hold a kindergarten-through-grade-9 elementary education endorsement issued by September 1, 2019, are subject to the requirements of Section 1.710.
- b) Until February 1, 2018, to qualify as a middle-grade teacher, the teacher must have completed either the coursework identified in subsection (b)(1) prior to July 1, 1997 or completed the coursework identified in subsection (b)(2). The "major teaching assignment" is the subject taught for more time than any other subject. In mathematics and reading and for library information specialists, specific coursework must be included among the 18 semester hours to be earned; see subsections (b)(3), (4) and (5).
 - 1) 18 semester hours in the content area of major teaching assignment (e.g., language arts, mathematics, general science, social science, music), unless the subject taught is a foreign language and Section 25.100 of the State

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Board's rules for Educator Licensure (23 Ill. Adm. Code 25) applies. When a teacher is assigned to deliver instruction in two or more areas (e.g., English and social science or mathematics and science), the teacher shall meet the requirements of this subsection (b)(1) for the major teaching assignment and have no fewer than 5 semester hours in each other subject taught.

- 2) 18 semester hours in the content area of major teaching assignment (e.g., language arts, mathematics, general science, social science, music), unless the subject taught is a foreign language and Section 25.100 of the State Board's rules for Educator Licensure applies. When a middle-grade teacher is assigned to deliver instruction in two or more areas (e.g., English and social science or mathematics and science), the teacher shall meet the requirements of this subsection (b)(2) for the major teaching assignment and have no fewer than 6 semester hours in each other subject taught. In addition:
 - A) 3 semester hours of coursework, approved by the college of education or other institutional unit governing teacher education, that includes middle-grade philosophy, middle-grade curriculum and instruction, and instructional methods for designing and teaching developmentally appropriate programs (i.e., addressing the cognitive, emotional and physical development of each child) in the middle grades, including content area (e.g., science, social sciences) reading instruction.
 - B) 3 semester hours of coursework, approved by the college of education or other institutional unit governing teacher education, that includes educational psychology focusing on the developmental characteristics of early adolescents, the nature and needs of early adolescents, and the role of the middle-grade teacher in assessment, coordination and referral of students to health and social services.
- 3) Mathematics
For teachers of mathematics in grades 6 through 8 first employed on or after September 1, 1985, the required 18 semester hours in the field shall include 3 semester hours in the methods of teaching mathematics in those

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

grades and 15 semester hours to be selected from four of the following areas:

- A) Math content courses for elementary teachers;
 - B) Calculus;
 - C) Modern algebra or number theory;
 - D) Geometry;
 - E) Computer science;
 - F) Probability and statistics; and
 - G) History of mathematics.
- 4) Reading
For major assignments in reading in any of departmentalized grades 6 through 8:
- A) persons first employed on or after September 1, 1978 but before July 1, 2004 are required to have completed the 18 semester hours described in Section 1.740;
 - B) persons first employed on or after July 1, 2004 shall be required to have completed either the 18 semester hours described in Section 1.740 or 18 semester hours in the field that include a practicum and address at least five of the six topics listed at 23 Ill. Adm. Code 25.100(g), provided that:
 - i) the individual completes all the required coursework on or before June 30, 2006; or
 - ii) the individual applies for the reading endorsement on or before June 30, 2006 and completes any coursework identified on a related deficiency statement no later than one year after the date of that statement; and

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- C) new requirements for an endorsement in this field apply to persons who have not met the requirements of either subsection (b)(4)(A) or (B); see also 23 Ill. Adm. Code 25.100(g) and Section 1.745 of this Part.
- 5) **Library Information Specialist**
Persons first employed on or after September 1, 1978 as media professionals or library information specialists serving any of grades 6 through 8 are required to have completed 18 semester hours in the field that address administration, organization (cataloging and classification), reference, and selection of materials, provided that the individual completes all the required coursework on or before June 30, 2006, or has applied for the endorsement on or before June 30, 2006, and completes any coursework identified on a related deficiency statement no later than one year after the date of that statement. New requirements for an endorsement in this field apply to persons who have not qualified on the basis of 18 semester hours; see also 23 Ill. Adm. Code 25.100 and Section 1.755. The provisions of subsection (b)(2) notwithstanding, no individual who has completed only 9 semester hours in the field may serve in this capacity.
- c) On or after February 1, 2018, any individual first assigned to teach in grade 7 or 8, whether departmentalized or self-contained, or in departmentalized grade 6 shall meet the requirements of 23 Ill. Adm. Code 25.99 (Endorsement for the Middle Grades (Grades 5 through 8)) for the major teaching assignment and have no fewer than 6 semester hours in each other subject taught, subject to the exception stated in subsection (a) for assignment in self-contained grades 6 through 8. The requirements of this subsection (c) do not apply to individuals who are first endorsed in agricultural education; business, marketing, and computer education; business, marketing, and computer education (computer programming); computer applications; computer science; family and consumer sciences; health science technology; and technology education on or after February 1, 2018.
- d) No individual may be assigned to teach in departmentalized grades 6 through 8 unless he or she holds a professional educator license that is endorsed and valid for the grade level or levels to be taught and:
- 1) holds a middle-grades endorsement applicable to the content area; or

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 2) meets the relevant requirements of this Section; or
 - 3) met the requirements of this Section or their predecessor requirements at a time when they were applicable, as confirmed by the employing district's verification of the individual's qualifications; or
 - 4) is assigned pursuant to Section 1.745(b)(3) or 1.755(c); or
 - 5) has received an elementary endorsement issued pursuant to 23 Ill. Adm. Code 25.97 (Endorsement for Elementary Education (Grades 1 through 6)) and has met the relevant requirements of subsection (b) of this Section on or before January 31, 2018.
- e) A school district may also assign certain other teachers to departmentalized positions in any of grades 6 through 8 for the 2009-10 school year and thereafter as described in this subsection (e). The provisions of this subsection (e) are no longer applicable starting February 1, 2018; however, any teachers assigned to departmentalized positions in grades 6 through 8 under the provisions of this subsection (e) before that date shall not be affected.
- 1) A teacher who was employed in the district during the school year immediately preceding the year when the instructional format in that teacher's school is changed to a departmentalized configuration and who was appropriately licensed for his or her position but does not meet the requirements of subsection (b) or (c) may be assigned to a departmentalized position in any of grades 6 through 8 for a period not to exceed three school years, provided that he or she has already completed at least 9 semester hours of coursework in the content area of the major teaching assignment. If specific coursework is required for the major teaching assignment under subsection (b), the teacher shall have completed 9 semester hours that will count toward an endorsement in that content area.
 - 2) The school district shall notify the responsible regional superintendent of schools of all assignments made pursuant to this subsection (e) no more than 30 days after they occur. Further, the school district shall maintain on file for each teacher assigned in accordance with this subsection (e) a plan that:

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- A) includes a statement of intent signed by the individual, stipulating that he or she will complete all requirements for the middle-grades endorsement in the content area of his or her major teaching assignment;
 - B) provides a list of the coursework and experiences that the individual will complete in order to qualify; and
 - C) identifies the institution of higher education where the individual will complete the requirements.
- 3) No individual may be assigned for more than three school years without attaining the relevant endorsement, and no individual may be assigned for a third school year unless he or she has completed the six semester hours required under subsection (b)(2).
- 4) If an individual is assigned to deliver instruction in two or more content areas, he or she shall have completed no fewer than 9 semester hours in each content area. If subsection (b) requires specific coursework for any of the content areas taught, the teacher shall have completed 9 semester hours that will count toward an endorsement in that content area.
- f) **New Requirements Applicable in 2012**
All coursework that forms part of an application for a middle-grades endorsement received on or after February 1, 2012 or that is used in determining the eligibility of an individual to be first assigned to teach a particular subject in the middle grades on or after that date, must have been passed with a grade no lower than "C" or equivalent in order to be counted towards fulfillment of the applicable requirements.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 1.790 Substitute Teacher

- a) To serve as a substitute teacher, a person shall hold a valid substitute teaching license issued pursuant to Section 21B-20(3) of the School Code [105 ILCS ~~5/21B-20(3)~~].

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Any individual who holds a valid and active Illinois educator license and at least a bachelor's degree may serve as a substitute teacher without having to also hold the substitute teaching license.
 - 2) Any individual who may serve as a substitute teacher for driver's education must be endorsed for driver's education pursuant to 23 Ill. Adm. Code 25.100(k).
- b) A teacher holding a substitute teaching license may teach only in the place of a licensed teacher who is under contract with the employing board. (See Section 21B-20(3) of the School Code.)
 - c) In accordance with Section 21B-20(3) of the School Code, there is no limit on the number of days that a substitute teacher may teach except that:
 - 1) A person who holds only a substitute teaching license may teach for no longer than 90 paid school days for any one licensed teacher who is under contract with the school district in any one school term.
 - 2) A person who holds a professional educator license or an educator license with stipulations endorsed for a teaching field may teach for no longer than 120 paid school days for any one licensed teacher who is under contract with the school district.
 - d) A school district may employ a substitute teacher to fill a position when there is no licensed teacher under contract with the school district only in an emergency situation, as defined in Section 21B-20(3) of the School Code. Any substitute teacher hired under this subsection (d) shall work no more than 30 calendar days per each vacant position.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Standards for Endorsements in Elementary Education
- 2) Code Citation: 23 Ill. Adm. Code 20
- 3) Section Number: 20.10 Proposed Action:
Amendment
- 4) Statutory Authority: 105 ILCS 5/Art. 21B
- 5) A Complete Description of the Subjects and Issues Involved: Currently, licensure candidates who are enrolled in an elementary education program after October 1, 2015 must complete that program by September 1, 2018 and obtain their elementary education endorsement by September 1, 2019.

This rulemaking will change the current requirements to state the candidate must be entitled for the endorsement by September 1, 2019. This change will ensure all candidates meet the stated deadline while providing Educator Effectiveness with the flexibility to properly evaluate all applications.

Additionally, this rulemaking clarifies that any applicant seeking an elementary or early childhood endorsement undergoing the transcript evaluation process must submit their application by September 1, 2019.

- 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 will not create or enlarge a State mandate.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this Notice to:

Lindsay M. Bentivegna
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777-0001

217/782-5270
rules@isbe.net

- 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) This rulemaking was not included on either of the 2 most recent Regulatory Agendas because: it was not anticipated at the time the Regulatory Agendas were prepared.

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNELPART 20
STANDARDS FOR ENDORSEMENTS IN ELEMENTARY EDUCATION

SUBPART A: GENERAL

Section
20.10 Purpose and Effective Dates of Standards

SUBPART B: STANDARDS

Section
20.100 General Standards
20.110 Literacy Standards for Elementary Teachers
20.120 Mathematics Standards for Elementary Teachers
20.130 Dispositions

AUTHORITY: Implementing Article 21B and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21B and 2-3.6].

SOURCE: Adopted at 37 Ill. Reg. 16664, effective October 2, 2013; amended at 40 Ill. Reg. 12342, effective August 9, 2016; amended at 41 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 20.10 Purpose and Effective Dates of Standards

- a) This Part establishes the standards that, together with the standards set forth in Standards for All Illinois Teachers (23 Ill. Adm. Code 24), shall apply to the issuance of endorsements for elementary education (i.e., grades 1 through 6) on professional educator licenses pursuant to Article 21B of the School Code [105 ILCS 5/~~Art. 21B~~]. The standards set forth in this Part shall apply both to candidates for an endorsement in elementary education and to the programs that prepare them. That is:

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

- 1) beginning July 1, 2013, approval of any teacher preparation program or course of study in elementary education, whether currently approved or newly proposed, pursuant to the State Board's rules for Educator Licensure (23 Ill. Adm. Code 25, Subpart C) shall be based on the congruence of that program's or course's content with the standards identified in this Part;
 - 2) on or before February 1, 2017, the examinations required for issuance of an endorsement in elementary education shall be based on the standards identified in this Part;
 - 3) on or before February 1, 2017, each elementary education program seeking approval for the first time or re-approval of an existing program shall work in consultation with one or more community colleges to ensure the articulation of coursework between the two institutions and, as applicable, the alignment of community college coursework relevant to elementary education to the standards set forth in this Part.
- b) In addition to demonstrating congruence with the standards set forth in this Part, each elementary education program or course of study shall meet the requirements set forth in 23 Ill. Adm. Code 25.97 (Endorsement for Elementary Education (Grades 1 through 6)).
- c) Beginning October 1, 2015, no candidate shall be admitted to an elementary education program that has not been approved under this Part. Any candidate who is enrolled in an elementary program not approved under this Part shall complete the program on or before September 1, 2018 and be entitled for the endorsement~~and have the elementary education endorsement issued~~ by September 1, 2019. Applicants undergoing the State Board's transcript evaluation process must submit their application for the endorsement by September 1, 2019.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Standards for Endorsements in Early Childhood Education and in Elementary Education
- 2) Code Citation: 23 Ill. Adm. Code 26
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
26.100	Amendment
26.300	Amendment
- 4) Statutory Authority: 105 ILCS 5/Art. 21B
- 5) A Complete Description of the Subjects and Issues Involved: Currently, licensure candidates who are enrolled in an elementary education program after October 1, 2015 must complete that program by September 1, 2018 and obtain their elementary education endorsement by September 1, 2019.

This rulemaking will change the current requirements to state the candidate must be entitled for the endorsement by September 1, 2019. This change will ensure all candidates meet the stated deadline while providing Educator Effectiveness with the flexibility to properly evaluate all applications.

Additionally, this rulemaking clarifies that any applicant seeking an elementary or early childhood endorsement undergoing the transcript evaluation process must submit their application by September 1, 2020.

- 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 will not create or enlarge a State mandate.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this Notice to:

Lindsay M. Bentivegna
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777-0001

217/782-5270
rules@isbe.net

- 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) This rulemaking was not included on either of the 2 most recent Regulatory Agendas because: it was not anticipated at the time the Regulatory Agendas were prepared.

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 26
STANDARDS FOR ENDORSEMENTS IN EARLY CHILDHOOD
EDUCATION AND IN ELEMENTARY EDUCATION

SUBPART A: STANDARDS FOR ENDORSEMENTS
IN EARLY CHILDHOOD EDUCATION

Section

- 26.100 Purpose and Effective Dates of Standards in Subpart A
- 26.110 Curriculum: General
- 26.120 Curriculum: English Language Arts Standards Through August 31, 2019
- 26.125 Curriculum: English Language Arts Standards Beginning September 1, 2019
- 26.130 Curriculum: Mathematics Standards Through August 31, 2019
- 26.135 Curriculum: Mathematics Standards Beginning September 1, 2019
- 26.140 Curriculum: Science
- 26.150 Curriculum: Social Science
- 26.160 Curriculum: Physical Development and Health
- 26.170 Curriculum: Fine Arts
- 26.180 Human Development and Learning
- 26.190 Diversity
- 26.200 Planning for Instruction
- 26.210 Learning Environment
- 26.220 Instructional Delivery
- 26.230 Communication
- 26.240 Assessment Standards Through August 31, 2019
- 26.245 Assessment Standards Beginning September 1, 2019
- 26.250 Collaborative Relationships
- 26.260 Reflection and Professional Growth
- 26.270 Professional Conduct and Leadership

SUBPART B: STANDARDS FOR ENDORSEMENTS
IN ELEMENTARY EDUCATION

Section

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

26.300	Purpose and Effective Dates of Standards in Subpart B
26.310	Curriculum
26.320	Curriculum: English Language Arts
26.330	Curriculum: Mathematics
26.340	Curriculum: Science
26.350	Curriculum: Social Science
26.360	Curriculum: Physical Development and Health
26.370	Curriculum: Fine Arts
26.380	Human Development and Learning
26.390	Diversity
26.400	Planning for Instruction
26.410	Learning Environment
26.420	Instructional Delivery
26.430	Communication
26.440	Assessment
26.450	Collaborative Relationships
26.460	Reflection and Professional Growth
26.470	Professional Conduct and Leadership

AUTHORITY: Implementing Article 21B and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art. 21B and 2-3.6].

SOURCE: Adopted at 26 Ill. Reg. 6263, effective April 22, 2002; amended at 37 Ill. Reg. 16759, effective October 2, 2013; amended at 39 Ill. Reg. 2413, effective February 2, 2015; amended at 39 Ill. Reg. 13472, effective September 24, 2015; amended at 40 Ill. Reg. 12433, effective August 9, 2016; amended at 41 Ill. Reg. _____, effective _____.

**SUBPART A: STANDARDS FOR ENDORSEMENTS
IN EARLY CHILDHOOD EDUCATION**

Section 26.100 Purpose and Effective Dates of Standards in Subpart A

Beginning September 1, 2019, the provisions of Sections 26.120, 26.130 and 26.240 are replaced by Sections 26.125, 26.135 and 26.245 as the standards that, together with the standards set forth in Standards for All Illinois Teachers (23 Ill. Adm. Code 24) and the standards in this Subpart A, shall apply to the issuance of endorsements in early childhood education on professional educator licenses pursuant to Article 21B of the School Code [105 ILCS 5/[Art. 21B](#)]. The standards set forth in this Subpart A shall apply both to candidates for an endorsement in early childhood education and to the programs that prepare them.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- a) Approval of any teacher preparation program or course of study in early childhood education pursuant to the State Board's rules for Educator Licensure (23 Ill. Adm. Code 25, Subpart C) shall be based on the congruence of that program's or course's content with the standards identified in this Subpart A.
- b) The examinations required for issuance of an endorsement in early childhood education shall be based on the standards identified in this Subpart A.
- c) Beginning September 1, 2017, no candidate shall be admitted to a program that has not shown alignment to the standards set forth in Sections 26.125, 26.135 and 26.245. Any candidate who is enrolled in an early childhood education program aligned to the standards set forth in Sections 26.120, 26.130 and 26.240 shall complete the program on or before September 1, 2019 and be entitled for have the early childhood education endorsement issued by September 1, 2020. Applicants undergoing the State Board's transcript evaluation process must submit their application for the endorsement by September 1, 2020.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

SUBPART B: STANDARDS FOR ENDORSEMENTS
IN ELEMENTARY EDUCATION

Section 26.300 Purpose and Effective Dates of Standards in Subpart B

Beginning February 1, 2018, the provisions of Sections 26.320 and 26.330 are replaced by 23 Ill. Adm. Code 20 (Standards for Endorsements in Elementary Education) as the standards that, together with the standards set forth in Standards for All Illinois Teachers (see 23 Ill. Adm. Code 24), and the standards in this Subpart B other than those in Sections 26.320 and 26.330 shall apply to the issuance of an endorsement in elementary education on a professional educator license pursuant to Article 21B of the School Code [105 ILCS 5/~~Art. 21B~~]. The standards set forth in this Subpart B shall apply both to candidates for an endorsement in elementary education and to the programs that prepare them.

- a) Approval of any teacher preparation program or course of study in elementary education pursuant to the State Board's rules for Educator Licensure (23 Ill. Adm. Code 25, Subpart C) shall be based on the congruence of that program's or course's content with the standards identified in this Subpart B.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- b) The examinations required for issuance of an elementary endorsement shall be based on the standards identified in this Subpart B.
- c) No candidate shall be admitted to a program approved under the provisions of this Subpart B after October 1, 2015. Any candidate who is enrolled in an elementary program approved under this Part shall complete the program on or before September 1, 2018 and ~~be entitled for~~have the elementary education endorsement ~~issued~~ by September 1, 2019. Applicants undergoing the State Board's transcript evaluation process must submit their application for the endorsement by September 1, 2019.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Evaluation of Educator Licensed Employees under Articles 24a and 34 of The School Code
- 2) Code Citation: 23 Ill. Adm. Code 50
- 3) Section Number: 50.400 Proposed Action: Amendment
- 4) Statutory Authority: 105 ILCS 5/24A-7
- 5) A Complete Description of the Subjects and Issues Involved: Currently, individuals who evaluate certified staff must participate in retraining developed or approved by ISBE. Individual school districts that offer their own retraining must ensure each evaluator completes the retraining at least once during each licensure renewal cycle.

The purpose of this rulemaking is to clarify that before an individual can evaluate certified staff in the next licensure renewal cycle, that individual must complete a retraining program provided or approved by ISBE.
- 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 will not create or enlarge a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days of the publication of this Notice to:

Lindsay M. Bentivegna
Agency Rules Coordinator

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

Illinois State Board of Education
100 North First Street, S-493
Springfield IL 62777-0001

217/782-5270
rules@isbe.net

- 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) This rulemaking was not included on either of the 2 most recent Regulatory Agendas because: it was not anticipated at the time the Regulatory Agendas were prepared.

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 50
EVALUATION OF EDUCATOR LICENSED EMPLOYEES
UNDER ARTICLES 24A AND 34 OF THE SCHOOL CODE

SUBPART A: GENERAL REQUIREMENTS

Section	
50.10	Purpose
50.20	Applicability
50.30	Definitions

SUBPART B: PERFORMANCE EVALUATION PLANS: TEACHERS

Section	
50.100	Plan Components Required for the Evaluation of Teachers
50.110	Student Growth Components
50.120	Professional Practice Components for Teachers
50.130	Reporting

SUBPART C: STATE PERFORMANCE EVALUATION MODEL FOR TEACHERS

Section	
50.200	Implementation Requirements
50.210	Components of the State Performance Evaluation Model
50.220	Student Learning Objective Process
50.230	Performance Evaluation Rating

SUBPART D: PERFORMANCE EVALUATION PLANS:
PRINCIPALS AND ASSISTANT PRINCIPALS

Section	
50.300	Plan Components Required for the Evaluation of Principals and Assistant Principals
50.310	Student Growth Components

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

50.320 Professional Practice Components for Principals and Assistant Principals
50.330 Reporting

SUBPART E: TRAINING FOR EVALUATORS

Section
50.400 School District-Developed Prequalification Process or Retraining Program
50.410 Minimum Requirements for Prequalification Process and Retraining Program
50.420 Competencies of Qualified Evaluators

50.APPENDIX A Illinois Standards for Principal Evaluation

AUTHORITY: Implementing and authorized by Section 24A-7 of the School Code [105 ILCS 5/24A-7].

SOURCE: Old Part repealed at 29 Ill. Reg. 15902, effective October 3, 2005; new Part adopted at 36 Ill. Reg. 8330, effective May 21, 2012; amended at 38 Ill. Reg. 19741, effective September 29, 2014; amended at 38 Ill. Reg. 23175, effective November 19, 2014; amended at 39 Ill. Reg. 11112, effective July 23, 2015; amended at 41 Ill. Reg. _____, effective _____.

SUBPART E: TRAINING FOR EVALUATORS

Section 50.400 School District-Developed Prequalification Process or Retraining Program

Section 24A-3 of the School Code requires that an individual who conducts evaluations of teachers, principals, or assistant principals after September 1, 2012 be prequalified before undertaking any evaluations and participates in a regularly scheduled retraining program, either of which must be developed or approved by the State Board of Education. [The State Board of Education shall supply a form to be used for this purpose.](#) In order to ensure that a school district-developed prequalification process or retraining program meets the rigor of the State Board of Education-developed trainings, any prequalification process or retraining program developed and used by a school district shall, at a minimum, meet the requirements of this Subpart E.

- a) Prequalification Process
 - 1) Beginning September 1, 2012, an evaluator shall not conduct a performance evaluation of a teacher, principal, or assistant principal unless he or she has successfully completed the prequalification process and

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

passed the State-developed assessment specific to rating professional practice.

- 2) Beginning on a school district's applicable implementation date, as set forth in Section 50.20, or by an earlier implementation date as determined by the school district and its teachers, or exclusive bargaining representative, as applicable (see Section 50.20(g)), an evaluator shall not conduct a performance evaluation of a teacher, principal, or assistant principal that addresses student growth unless he or she has successfully completed the prequalification process for student growth and passed the State-developed assessment specific to the consideration of data and indicators of student growth.
- b) Before conducting an evaluation of certified staff in the next renewal cycle, educators must successfully complete a retraining program provided or approved by the State Board of Education.~~A school district offering its own retraining program shall ensure that each qualified evaluator completes the program at least once during each five-year educator licensure renewal cycle.~~ (See Section 24A-3 of the School Code.)
- 1) An individual who has not completed the retraining program, as required, during any applicable five-year cycle shall be ineligible to conduct evaluations until the retraining program is completed.
 - 2) An individual who will be evaluating teachers in a school district that implements a performance evaluation system beginning September 1, 2015 or later shall be required to successfully complete a retraining program specific to professional practice of teachers before conducting any performance evaluations of teachers.
- c) A school district developing its own prequalification process or retraining program shall notify the State Board of Education no later than July 1 immediately preceding the school year in which the process or program will be implemented. The notification shall at least include the type of training to be offered, names of the individuals presenting the training, and date upon which each school district-designated trainer completed the "train-the-trainers" program offered by, or on behalf of, the State Board of Education.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
310.47	Amendment
310.210	Amendment
310.410	Amendment
310.Appendix A Table D	Amendment
310.Appendix A Table E	Amendment
310.Appendix A Table F	Amendment
310.Appendix A Table T	Amendment
310.Appendix A Table W	Amendment
310.Appendix A Table AA	Amendment
- 4) Statutory Authority: Authorized by Sections 8, 8a and 9(7) of the Personnel Code [20 ILCS 415/8, 20 ILCS 415/8a, 20 ILCS 415/8c, 20 ILCS 415/8e, 20 ILCS 415/9(7) and 20 ILCS 415/9(14)], subsection (d) of Section 1-5 of the Illinois Administrative Procedure Act [5 ILCS 100/1-5(d)] and by Sections 4, 6, 15 and 21 of the Illinois Public Labor Relations Act [5 ILCS 315/4, 5 ILCS 315/6, 5 ILCS 315/15 and 5 ILCS 315/21]
- 5) Effective Date of Rules: January 25, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference is on file in the Agency's principal office and is available for public inspection. Copies of all Pay Plan amendments and collective bargaining contracts are available upon request from the Division of Technical Services.
- 9) Notices of Proposed published in the *Illinois Register*: 40 Ill. Reg. 14827; November 4, 2016.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Since the First Notice, the changes are based on JCAR and CMS recommendations. They are:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

The following changes are non-substantive. In Section 310.210 subsection (b), the reference to Section 310.Appendix A Table L is changed. In subsection (f), a space is added between two words, a dash and space are removed and a misspelling is corrected.

In Section 310.Appendix A Table D, the overall formatting of the Notes is standardized. In the first paragraph of the Note for Merit Incentive Program and Gain Sharing Program a comma is retained for consistency with the other Sections' Notes.

In Section 310.Appendix A Table F, the second paragraph of the Note for Merit Incentive Program and Gain Sharing Program a space is added between two words. In the Note for In-Hire Rate, the dash is removed.

In Section 310.Appendix A Table T and in the second paragraph of the Note for FY2016 Bonus, Merit Incentive Program and Gain Sharing Program, "that" replaces "which." In the third paragraph "shares" is no longer plural. In the fourth paragraph, a space is added between one added and one retained word. In the next paragraph, "below" is removed and "(1)" is added. In the last paragraph in the Note, "this" is changed to "the."

In Section 310.Appendix A Table W, the overall formatting of the Notes is standardized.

In Section 310.Appendix A Table AA and in the Note for Rates and Movements, "the " is added. In the first and second paragraphs of the Note for Merit Incentive Program and Gain Sharing Program, a space is added. In the third paragraph "will" is removed.

Since the First Notice Changes, the Second Notice Changes are:

In Section 310.Appendix A Table T and the Note for the FY2016 Bonus, Merit Incentive Program and Gain Sharing Program, the statement that a merit incentive program began in the Fiscal Year starting July 1, 2016 is changed to state began in Fiscal Year 2017. The other change in the same Note is to remove one and one-half percent and to use 1.5 percent instead.

Since the Second Notice Changes, an intervening preemptory amendment was filed to Section 310.210. The Adoption Notice contains the subsection heading (g) removal and FY2016 Merit Pay becoming second level subsection (1) under subsection (f) Merit Incentive (including Time-Off Awards) and Gain Sharing Programs. Second level subsection (2) FY2017 Merit Incentive Program is added. The FY2017 Merit Incentive Program includes merit pay and additional time off that are further explained. Second

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

level subsection (3) is added for the FY2018 and FY2019 Merit Incentive Programs explaining that the further refined programs are expected by future collective bargaining agreement.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citation:</u>
310.Appendix A Table L	Amendment	40 Ill. Reg. 15444; November 18, 2016
310.47	Amendment	41 Ill. Reg. 213; January 13, 2017
310.260	Amendment	41 Ill. Reg. 213; January 13, 2017
310.410	Amendment	41 Ill. Reg. 213; January 13, 2017
310.Appendix A Table I	Amendment	41 Ill. Reg. 213; January 13, 2017

- 15) Summary and Purpose of Rulemaking: In Section 310.47 subsection (f)(2), the Engineering Technician II, III and/or IV titles are removed from specific NR-916 in-hire rates effective January 1, 2012 when the titles' assigned minimum salaries became greater than the in-hire rate. When the NR-916 minimum salaries changed effective January 1, 2012, the in-hire rates were no longer above the minimum salary, not meant to be in use and have not been used by the agencies.

In Section 310.210 subsection (b), a reference to 310.Appendix A Table L is added so that other Boiler Safety Specialist title information may be easily located. In the subsections (c), (f) and (g), existing language is changed to that consistent with administrative code standards and definitions in the Pay Plan.

In Section 310.410, the MS-salary range assigned to the Educator – Career and Technical title (title code 13103) is changed to MS-16 and the Educator – Career and Technical Provisional title (title code 13104) is changed to MS-15. Both changes are based solely on internal salary comparisons between classes with similar requirements and are effective June 20, 2016. The Juvenile Justice School Counselor title, its title code 21970 and its MS- salary range assignment of MS-26 are added effective April 1, 2016. The Public Safety Drug Screening Specialist title, its title code 37006, and salary range assignment of MS-16 are added effective August 1, 2015. The Special Education

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Resources Coordinator title, its title code 41680, and salary range assignment of MS-26 are effective April 1, 2016.

In Sections 310.Appendix A Tables D, E, F, T and AA Notes, existing language is changed to that consistent with administrative code standards and definitions in the Pay Plan.

In the Section 310.Appendix A Table W title table, the Gaming Operations Supervisor title, its 17181 title code, its assigned pay grade 26, the Gaming Shift Supervisor title, its 17187 title code, its assigned pay grade 24, Gaming Unit Supervisor title, its 17201 title code, its assigned pay grade 26, Public Safety Drug Screening Specialist title its 37006 title code, and its assigned pay grade 17 are added. The changes are based on two Memoranda of Understanding between the State of Illinois and the American Federation of State, County and Municipal Employees (AFSCME) RC-062 bargaining unit signed June 20, 2016. In one MOU, the RC-062-24 pay grade is assigned to Gaming Shift Supervisor title and the RC-062-26 pay grade is assigned to the Gaming Unit Supervisor and Gaming Operations Supervisor titles effective September 4, 2015. In the other MOU, the RC-062-17 pay grade is assigned to the Public Safety Drug Screening Specialist title effective June 24, 2015.

Also, in Section 310.Appendix A Table AA Notes, the rate table's effective date is changed to December 31, 2014 and the minimum, midpoint and maximum salaries in the range assigned to each title are changed. These changes are based on the Agreement by and between the General Teamsters/Professional and Technical Employees Local Union Number 916 and the Illinois Departments of Central Management Services, Transportation and Natural Resources effective July 1, 2012 to June 30, 2015 and signed May 23, 2013. In particular, the changes are based on the Article XXV Section 1 provision that effective December 31, 2014, the pay ranges for all salary brackets for titles covered by this Agreement shall be raised 2%.

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

Mr. Jason Doggett
Manager
Compensation Section
Division of Technical Services
Bureau of Personnel
Department of Central Management Services
503 William G. Stratton Building

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Springfield IL 62706

217/ 524-1055

fax: 217/558-4497

CMS.PayPlan@Illinois.gov

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

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS

CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

Section	
310.20	Policy and Responsibilities
310.30	Jurisdiction
310.40	Pay Schedules
310.45	Comparison of Pay Grades or Salary Ranges Assigned to Classifications
310.47	In-Hire Rate
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
310.70	Conversion of Base Salary to Daily or Hourly Equivalents
310.80	Increases in Pay
310.90	Decreases in Pay
310.100	Other Pay Provisions
310.110	Implementation of Pay Plan Changes (Repealed)
310.120	Interpretation and Application of Pay Plan
310.130	Effective Date
310.140	Reinstitution of Within Grade Salary Increases (Repealed)
310.150	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section	
310.205	Introduction
310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-Time Daily or Hourly Special Services Rate (Repealed)
310.240	Daily or Hourly Rate Conversion
310.250	Member, Patient and Inmate Rate
310.260	Trainee Rate

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

310.270	Legislated Rate (Repealed)
310.280	Designated Rate
310.290	Out-of-State Rate (Repealed)
310.295	Foreign Service Rate (Repealed)
310.300	Educator Schedule for RC-063 and HR-010
310.310	Physician Specialist Rate
310.320	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections (Repealed)
310.330	Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

Section	
310.410	Jurisdiction
310.415	Merit Compensation Salary Range Assignments
310.420	Objectives
310.430	Responsibilities
310.440	Merit Compensation Salary Schedule
310.450	Procedures for Determining Annual Merit Increases and Bonuses
310.455	Intermittent Merit Increase (Repealed)
310.456	Merit Zone (Repealed)
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units (Repealed)
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
310.540	Annual Merit Increase and Bonus Guidechart
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)
310.560	Merit Incentive Program
310.570	Gain Sharing Program

SUBPART D: FROZEN NEGOTIATED-RATES-OF-PAY DUE TO
FISCAL YEAR APPROPRIATIONS AND EXPIRED SALARY SCHEDULES IN
COLLECTIVE BARGAINING UNIT AGREEMENTS

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section

310.600	Jurisdiction (Repealed)
310.610	Pay Schedules (Repealed)
310.620	In-Hiring Rate (Repealed)
310.630	Definitions (Repealed)
310.640	Increases in Pay (Repealed)
310.650	Other Pay Provisions (Repealed)
310.660	Effective Date (Repealed)
310.670	Negotiated Rate (Repealed)
310.680	Trainee Rate (Repealed)
310.690	Educator Schedule for Frozen RC-063 and Frozen HR-010 (Repealed)
310.APPENDIX A	Negotiated Rates of Pay
310.TABLE A	RC-104 (Conservation Police Supervisors, Illinois Fraternal Order of Police Labor Council)
310.TABLE B	VR-706 (Assistant Automotive Shop Supervisors, Automotive Shop Supervisors and Meat and Poultry Inspector Supervisors, Laborers' – ISEA Local #2002)
310.TABLE C	RC-056 (Site Superintendents and Departments of Veterans' Affairs, Natural Resources, Human Services and Agriculture and Historic Preservation Agency Managers, IFPE)
310.TABLE D	HR-001 (Teamsters Local #700)
310.TABLE E	RC-020 (Teamsters Locals #330 and #705)
310.TABLE F	RC-019 (Teamsters Local #25)
310.TABLE G	RC-045 (Automotive Mechanics, IFPE)
310.TABLE H	RC-006 (Corrections Employees, AFSCME)
310.TABLE I	RC-009 (Institutional Employees, AFSCME)
310.TABLE J	RC-014 (Clerical Employees, AFSCME)
310.TABLE K	RC-023 (Registered Nurses, INA)
310.TABLE L	RC-008 (Boilermakers)
310.TABLE M	RC-110 (Conservation Police Lodge)
310.TABLE N	RC-010 (Professional Legal Unit, AFSCME)
310.TABLE O	RC-028 (Paraprofessional Human Services Employees, AFSCME)
310.TABLE P	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
310.TABLE Q	RC-033 (Meat Inspectors, IFPE)
310.TABLE R	RC-042 (Residual Maintenance Workers, AFSCME)
310.TABLE S	VR-704 (Departments of Corrections, Financial and Professional Regulation, Juvenile Justice and State Police Supervisors, Laborers' –

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

	ISEA Local #2002)
310.TABLE T	HR-010 (Teachers of Deaf, IFT)
310.TABLE U	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
310.TABLE V	CU-500 (Corrections Meet and Confer Employees)
310.TABLE W	RC-062 (Technical Employees, AFSCME)
310.TABLE X	RC-063 (Professional Employees, AFSCME)
310.TABLE Y	RC-063 (Educators, Educator Trainees, Juvenile Justice School Counselors and Special Education Resources Coordinators, AFSCME)
310.TABLE Z	RC-063 (Physicians, AFSCME)
310.TABLE AA	NR-916 (Departments of Central Management Services, Natural Resources and Transportation, Teamsters)
310.TABLE AB	RC-150 (Public Service Administrators Option 6, AFSCME) (Repealed)
310.TABLE AC	RC-036 (Public Service Administrators Option 8L Department of Healthcare and Family Services, INA)
310.TABLE AD	RC-184 (Blasting Experts, Blasting Specialists and Blasting Supervisors Department of Natural Resources, SEIU Local 73)
310.TABLE AE	RC-090 (Internal Security Investigators, Metropolitan Alliance of Police Chapter 294)
310.APPENDIX B	Frozen Negotiated-Rates-of-Pay (Repealed)
310.TABLE A	Frozen RC-104-Rates-of-Pay (Conservation Police Supervisors, Laborers' – ISEA Local #2002) (Repealed)
310.TABLE C	Frozen RC-056-Rates-of-Pay (Site Superintendents and Departments of Veterans' Affairs, Natural Resources, Human Services and Agriculture and Historic Preservation Agency Managers, IFPE) (Repealed)
310.TABLE H	Frozen RC-006-Rates-of-Pay (Corrections Employees, AFSCME) (Repealed)
310.TABLE I	Frozen RC-009-Rates-of-Pay (Institutional Employees, AFSCME) (Repealed)
310.TABLE J	Frozen RC-014-Rates-of-Pay (Clerical Employees, AFSCME) (Repealed)
310.TABLE K	Frozen RC-023-Rates-of-Pay (Registered Nurses, INA) (Repealed)
310.TABLE M	Frozen RC-110-Rates-of-Pay (Conservation Police Lodge) (Repealed)
310.TABLE N	Frozen RC-010 (Professional Legal Unit, AFSCME) (Repealed)
310.TABLE O	Frozen RC-028-Rates-of-Pay (Paraprofessional Human Services Employees, AFSCME) (Repealed)
310.TABLE P	Frozen RC-029-Rates-of-Pay (Paraprofessional Investigatory and

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

310.TABLE R	Law Enforcement Employees, IFPE) (Repealed) Frozen RC-042-Rates-of-Pay (Residual Maintenance Workers, AFSCME) (Repealed)
310.TABLE S	Frozen VR-704-Rates-of-Pay (Departments of Corrections, Financial and Professional Regulation, Juvenile Justice and State Police Supervisors, Laborers' – ISEA Local #2002) (Repealed)
310.TABLE T	Frozen HR-010-Rates-of-Pay (Teachers of Deaf, IFT) (Repealed)
310.TABLE V	Frozen CU-500-Rates-of-Pay (Corrections Meet and Confer Employees) (Repealed)
310.TABLE W	Frozen RC-062-Rates-of-Pay (Technical Employees, AFSCME) (Repealed)
310.TABLE X	Frozen RC-063-Rates-of-Pay (Professional Employees, AFSCME) (Repealed)
310.TABLE Y	Frozen RC-063-Rates-of-Pay (Educators and Educator Trainees, AFSCME) (Repealed)
310.TABLE Z	Frozen RC-063-Rates-of-Pay (Physicians, AFSCME) (Repealed)
310.TABLE AB	Frozen RC-150-Rates-of-Pay (Public Service Administrators Option 6, AFSCME) (Repealed)
310.TABLE AD	Frozen RC-184-Rates-of-Pay (Public Service Administrators Option 8X Department of Natural Resources, SEIU Local 73) (Repealed)
310.TABLE AE	Frozen RC-090-Rates-of-Pay (Internal Security Investigators, Metropolitan Alliance of Police Chapter 294) (Repealed)
310.APPENDIX C	Comparison of Pay Grades or Salary Ranges Assigned to Classifications
310.ILLUSTRATION A	Classification Comparison Flow Chart: Both Classes are Whole
310.ILLUSTRATION B	Classification Comparison Flow Chart: One Class is Whole and One is Divided
310.ILLUSTRATION C	Classification Comparison Flow Chart: Both Classes are Divided
310.APPENDIX D	Merit Compensation System Salary Schedule
310.APPENDIX E	Teaching Salary Schedule (Repealed)
310.APPENDIX F	Physician and Physician Specialist Salary Schedule (Repealed)
310.APPENDIX G	Broad-Band Pay Range Classes Salary Schedule

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 3230, effective January 24, 1986; preemptory amendment at 10 Ill. Reg. 3325, effective January 22, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 13675, effective July 31, 1986; preemptory amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; preemptory amendment at 10 Ill. Reg. 19132, effective October 28, 1986; preemptory amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 648, effective December 22, 1986; preemptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; preemptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; preemptory amendment at 11 Ill. Reg. 6291, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; preemptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; preemptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; preemptory amendment at 11 Ill. Reg. 17919, effective October 19, 1987; preemptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective December 11, 1987; preemptory

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

amendment at 12 Ill. Reg. 3811, effective January 27, 1988; preemptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; preemptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; preemptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12895, effective July 18, 1988, for a maximum of 150 days; preemptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; preemptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; preemptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; preemptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; preemptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16950, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; preemptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; preemptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14361, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired February 8, 1991; corrected at 14 Ill. Reg. 16092; preemptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; preemptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; preemptory amendment at 15 Ill. Reg. 663, effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; preemptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; preemptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective December 26, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1992; preemptory amendment at 16 Ill. Reg. 5068, effective March 11, 1992; preemptory amendment at 16 Ill. Reg. 7056, effective April 20, 1992; emergency amendment at 16 Ill. Reg. 8239,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

effective May 19, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1992; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1992; preemptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 1819, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 8, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21858, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; preemptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; preemptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; preemptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; preemptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; preemptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; preemptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; preemptory amendment at 19 Ill. Reg. 6688, effective May 1, 1995; amended at 19 Ill. Reg. 7841, effective June 1, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; preemptory amendment at 19 Ill. Reg. 13979, effective September 19, 1995; preemptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December 22, 1995; emergency amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; preemptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; preemptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; preemptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; preemptory amendment at 20

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 6444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; preemptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; preemptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; preemptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; preemptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; preemptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; preemptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; preemptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; preemptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; preemptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; preemptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; preemptory amendment at 22 Ill. Reg. 7320, effective April 10, 1998; preemptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; preemptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective August 31, 1998; preemptory amendment at 22 Ill. Reg. 19105, effective September 30, 1998; preemptory amendment at 22 Ill. Reg. 19943, effective October 27, 1998; preemptory amendment at 22 Ill. Reg. 20406, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; preemptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7065, effective June 3, 1999; emergency amendment at 23 Ill. Reg. 8169, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 11020, effective August 26, 1999; amended at 23 Ill. Reg. 12429, effective September 21, 1999; preemptory amendment at 23 Ill. Reg. 12493, effective September 23, 1999; amended at 23 Ill. Reg. 12604, effective September 24, 1999; amended at 23 Ill. Reg. 13053, effective September 27, 1999; preemptory amendment at 23 Ill. Reg. 13132, effective October 1, 1999; amended at 23 Ill. Reg. 13570, effective October 26, 1999; amended at 23 Ill. Reg. 14020, effective November 15, 1999; amended at 24 Ill. Reg. 1025, effective January 7, 2000; preemptory amendment at 24 Ill. Reg. 3399, effective February 3, 2000; amended at 24 Ill. Reg. 3537, effective February 18, 2000; amended at 24 Ill. Reg. 6874, effective April 21, 2000; amended at 24 Ill. Reg. 7956, effective May 23, 2000; emergency amendment at 24 Ill. Reg. 10328, effective July 1, 2000, for a maximum of 150 days; emergency expired November 27, 2000; preemptory amendment at 24 Ill. Reg. 10767, effective July 3, 2000; amended at 24 Ill. Reg. 13384, effective August 17, 2000; preemptory amendment at 24 Ill. Reg. 14460, effective September 14, 2000;

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

peremptory amendment at 24 Ill. Reg. 16700, effective October 30, 2000; peremptory amendment at 24 Ill. Reg. 17600, effective November 16, 2000; amended at 24 Ill. Reg. 18058, effective December 4, 2000; peremptory amendment at 24 Ill. Reg. 18444, effective December 1, 2000; amended at 25 Ill. Reg. 811, effective January 4, 2001; amended at 25 Ill. Reg. 2389, effective January 22, 2001; amended at 25 Ill. Reg. 4552, effective March 14, 2001; peremptory amendment at 25 Ill. Reg. 5067, effective March 21, 2001; amended at 25 Ill. Reg. 5618, effective April 4, 2001; amended at 25 Ill. Reg. 6655, effective May 11, 2001; amended at 25 Ill. Reg. 7151, effective May 25, 2001; peremptory amendment at 25 Ill. Reg. 8009, effective June 14, 2001; emergency amendment at 25 Ill. Reg. 9336, effective July 3, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 9846, effective July 23, 2001; amended at 25 Ill. Reg. 12087, effective September 6, 2001; amended at 25 Ill. Reg. 15560, effective November 20, 2001; peremptory amendment at 25 Ill. Reg. 15671, effective November 15, 2001; amended at 25 Ill. Reg. 15974, effective November 28, 2001; emergency amendment at 26 Ill. Reg. 223, effective December 21, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 1143, effective January 17, 2002; amended at 26 Ill. Reg. 4127, effective March 5, 2002; peremptory amendment at 26 Ill. Reg. 4963, effective March 15, 2002; amended at 26 Ill. Reg. 6235, effective April 16, 2002; emergency amendment at 26 Ill. Reg. 7314, effective April 29, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 10425, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10952, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13934, effective September 10, 2002; amended at 26 Ill. Reg. 14965, effective October 7, 2002; emergency amendment at 26 Ill. Reg. 16583, effective October 24, 2002, for a maximum of 150 days; emergency expired March 22, 2003; peremptory amendment at 26 Ill. Reg. 17280, effective November 18, 2002; amended at 26 Ill. Reg. 17374, effective November 25, 2002; amended at 26 Ill. Reg. 17987, effective December 9, 2002; amended at 27 Ill. Reg. 3261, effective February 11, 2003; expedited correction at 28 Ill. Reg. 6151, effective February 11, 2003; amended at 27 Ill. Reg. 8855, effective May 15, 2003; amended at 27 Ill. Reg. 9114, effective May 27, 2003; emergency amendment at 27 Ill. Reg. 10442, effective July 1, 2003, for a maximum of 150 days; emergency expired November 27, 2003; peremptory amendment at 27 Ill. Reg. 17433, effective November 7, 2003; amended at 27 Ill. Reg. 18560, effective December 1, 2003; peremptory amendment at 28 Ill. Reg. 1441, effective January 9, 2004; amended at 28 Ill. Reg. 2684, effective January 22, 2004; amended at 28 Ill. Reg. 6879, effective April 30, 2004; peremptory amendment at 28 Ill. Reg. 7323, effective May 10, 2004; amended at 28 Ill. Reg. 8842, effective June 11, 2004; peremptory amendment at 28 Ill. Reg. 9717, effective June 28, 2004; amended at 28 Ill. Reg. 12585, effective August 27, 2004; peremptory amendment at 28 Ill. Reg. 13011, effective September 8, 2004; peremptory amendment at 28 Ill. Reg. 13247, effective September 20, 2004; peremptory amendment at 28 Ill. Reg. 13656, effective September 27, 2004; emergency amendment at 28 Ill. Reg. 14174, effective October 15, 2004, for a maximum of 150 days; emergency expired March 13, 2005; peremptory amendment at 28 Ill. Reg. 14689, effective October 22, 2004; peremptory amendment at 28 Ill. Reg. 15336, effective

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

November 15, 2004; preemptory amendment at 28 Ill. Reg. 16513, effective December 9, 2004; preemptory amendment at 29 Ill. Reg. 726, effective December 15, 2004; amended at 29 Ill. Reg. 1166, effective January 7, 2005; preemptory amendment at 29 Ill. Reg. 1385, effective January 4, 2005; preemptory amendment at 29 Ill. Reg. 1559, effective January 11, 2005; preemptory amendment at 29 Ill. Reg. 2050, effective January 19, 2005; preemptory amendment at 29 Ill. Reg. 4125, effective February 23, 2005; amended at 29 Ill. Reg. 5375, effective April 4, 2005; preemptory amendment at 29 Ill. Reg. 6105, effective April 14, 2005; preemptory amendment at 29 Ill. Reg. 7217, effective May 6, 2005; preemptory amendment at 29 Ill. Reg. 7840, effective May 10, 2005; amended at 29 Ill. Reg. 8110, effective May 23, 2005; preemptory amendment at 29 Ill. Reg. 8214, effective May 23, 2005; preemptory amendment at 29 Ill. Reg. 8418, effective June 1, 2005; amended at 29 Ill. Reg. 9319, effective July 1, 2005; preemptory amendment at 29 Ill. Reg. 12076, effective July 15, 2005; preemptory amendment at 29 Ill. Reg. 13265, effective August 11, 2005; amended at 29 Ill. Reg. 13540, effective August 22, 2005; preemptory amendment at 29 Ill. Reg. 14098, effective September 2, 2005; amended at 29 Ill. Reg. 14166, effective September 9, 2005; amended at 29 Ill. Reg. 19551, effective November 21, 2005; emergency amendment at 29 Ill. Reg. 20554, effective December 2, 2005, for a maximum of 150 days; preemptory amendment at 29 Ill. Reg. 20693, effective December 12, 2005; preemptory amendment at 30 Ill. Reg. 623, effective December 28, 2005; preemptory amendment at 30 Ill. Reg. 1382, effective January 13, 2006; amended at 30 Ill. Reg. 2289, effective February 6, 2006; preemptory amendment at 30 Ill. Reg. 4157, effective February 22, 2006; preemptory amendment at 30 Ill. Reg. 5687, effective March 7, 2006; preemptory amendment at 30 Ill. Reg. 6409, effective March 30, 2006; amended at 30 Ill. Reg. 7857, effective April 17, 2006; amended at 30 Ill. Reg. 9438, effective May 15, 2006; preemptory amendment at 30 Ill. Reg. 10153, effective May 18, 2006; preemptory amendment at 30 Ill. Reg. 10508, effective June 1, 2006; amended at 30 Ill. Reg. 11336, effective July 1, 2006; emergency amendment at 30 Ill. Reg. 12340, effective July 1, 2006, for a maximum of 150 days; preemptory amendment at 30 Ill. Reg. 12418, effective July 1, 2006; amended at 30 Ill. Reg. 12761, effective July 17, 2006; preemptory amendment at 30 Ill. Reg. 13547, effective August 1, 2006; preemptory amendment at 30 Ill. Reg. 15059, effective September 5, 2006; preemptory amendment at 30 Ill. Reg. 16439, effective September 27, 2006; emergency amendment at 30 Ill. Reg. 16626, effective October 3, 2006, for a maximum of 150 days; preemptory amendment at 30 Ill. Reg. 17603, effective October 20, 2006; amended at 30 Ill. Reg. 18610, effective November 20, 2006; preemptory amendment at 30 Ill. Reg. 18823, effective November 21, 2006; preemptory amendment at 31 Ill. Reg. 230, effective December 20, 2006; emergency amendment at 31 Ill. Reg. 1483, effective January 1, 2007, for a maximum of 150 days; preemptory amendment at 31 Ill. Reg. 2485, effective January 17, 2007; preemptory amendment at 31 Ill. Reg. 4445, effective February 28, 2007; amended at 31 Ill. Reg. 4982, effective March 15, 2007; preemptory amendment at 31 Ill. Reg. 7338, effective May 3, 2007; amended at 31 Ill. Reg. 8901, effective July 1, 2007; emergency amendment at 31 Ill. Reg. 10056, effective July 1, 2007, for a maximum of 150 days;

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

peremptory amendment at 31 Ill. Reg. 10496, effective July 6, 2007; peremptory amendment at 31 Ill. Reg. 12335, effective August 9, 2007; emergency amendment at 31 Ill. Reg. 12608, effective August 16, 2007, for a maximum of 150 days; emergency amendment at 31 Ill. Reg. 13220, effective August 30, 2007, for a maximum of 150 days; peremptory amendment at 31 Ill. Reg. 13357, effective August 29, 2007; amended at 31 Ill. Reg. 13981, effective September 21, 2007; peremptory amendment at 31 Ill. Reg. 14331, effective October 1, 2007; amended at 31 Ill. Reg. 16094, effective November 20, 2007; amended at 31 Ill. Reg. 16792, effective December 13, 2007; peremptory amendment at 32 Ill. Reg. 598, effective December 27, 2007; amended at 32 Ill. Reg. 1082, effective January 11, 2008; peremptory amendment at 32 Ill. Reg. 3095, effective February 13, 2008; peremptory amendment at 32 Ill. Reg. 6097, effective March 25, 2008; peremptory amendment at 32 Ill. Reg. 7154, effective April 17, 2008; expedited correction at 32 Ill. Reg. 9747, effective April 17, 2008; peremptory amendment at 32 Ill. Reg. 9360, effective June 13, 2008; amended at 32 Ill. Reg. 9881, effective July 1, 2008; peremptory amendment at 32 Ill. Reg. 12065, effective July 9, 2008; peremptory amendment at 32 Ill. Reg. 13861, effective August 8, 2008; peremptory amendment at 32 Ill. Reg. 16591, effective September 24, 2008; peremptory amendment at 32 Ill. Reg. 16872, effective October 3, 2008; peremptory amendment at 32 Ill. Reg. 18324, effective November 14, 2008; peremptory amendment at 33 Ill. Reg. 98, effective December 19, 2008; amended at 33 Ill. Reg. 2148, effective January 26, 2009; peremptory amendment at 33 Ill. Reg. 3530, effective February 6, 2009; peremptory amendment at 33 Ill. Reg. 4202, effective February 26, 2009; peremptory amendment at 33 Ill. Reg. 5501, effective March 25, 2009; peremptory amendment at 33 Ill. Reg. 6354, effective April 15, 2009; peremptory amendment at 33 Ill. Reg. 6724, effective May 1, 2009; peremptory amendment at 33 Ill. Reg. 9138, effective June 12, 2009; emergency amendment at 33 Ill. Reg. 9432, effective July 1, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 10211, effective July 1, 2009; peremptory amendment at 33 Ill. Reg. 10823, effective July 2, 2009; peremptory amendment at 33 Ill. Reg. 11082, effective July 10, 2009; peremptory amendment at 33 Ill. Reg. 11698, effective July 23, 2009; peremptory amendment at 33 Ill. Reg. 11895, effective July 31, 2009; peremptory amendment at 33 Ill. Reg. 12872, effective September 3, 2009; amended at 33 Ill. Reg. 14944, effective October 26, 2009; peremptory amendment at 33 Ill. Reg. 16598, effective November 13, 2009; peremptory amendment at 34 Ill. Reg. 305, effective December 18, 2009; emergency amendment at 34 Ill. Reg. 957, effective January 1, 2010, for a maximum of 150 days; peremptory amendment at 34 Ill. Reg. 1425, effective January 5, 2010; peremptory amendment at 34 Ill. Reg. 3684, effective March 5, 2010; peremptory amendment at 34 Ill. Reg. 5776, effective April 2, 2010; peremptory amendment at 34 Ill. Reg. 6214, effective April 16, 2010; amended at 34 Ill. Reg. 6583, effective April 30, 2010; peremptory amendment at 34 Ill. Reg. 7528, effective May 14, 2010; amended at 34 Ill. Reg. 7645, effective May 24, 2010; peremptory amendment at 34 Ill. Reg. 7947, effective May 26, 2010; peremptory amendment at 34 Ill. Reg. 8633, effective June 18, 2010; amended at 34 Ill. Reg. 9759, effective July 1, 2010; peremptory amendment at 34 Ill. Reg. 10536, effective

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

July 9, 2010; preemptory amendment at 34 Ill. Reg. 11864, effective July 30, 2010; emergency amendment at 34 Ill. Reg. 12240, effective August 9, 2010, for a maximum of 150 days; preemptory amendment at 34 Ill. Reg. 13204, effective August 26, 2010; preemptory amendment at 34 Ill. Reg. 13657, effective September 8, 2010; preemptory amendment at 34 Ill. Reg. 15897, effective September 30, 2010; preemptory amendment at 34 Ill. Reg. 18912, effective November 15, 2010; preemptory amendment at 34 Ill. Reg. 19582, effective December 3, 2010; amended at 35 Ill. Reg. 765, effective December 30, 2010; emergency amendment at 35 Ill. Reg. 1092, effective January 1, 2011, for a maximum of 150 days; preemptory amendment at 35 Ill. Reg. 2465, effective January 19, 2011; preemptory amendment at 35 Ill. Reg. 3577, effective February 10, 2011; emergency amendment at 35 Ill. Reg. 4412, effective February 23, 2011, for a maximum of 150 days; preemptory amendment at 35 Ill. Reg. 4803, effective March 11, 2011; emergency amendment at 35 Ill. Reg. 5633, effective March 15, 2011, for a maximum of 150 days; preemptory amendment at 35 Ill. Reg. 5677, effective March 18, 2011; amended at 35 Ill. Reg. 8419, effective May 23, 2011; amended at 35 Ill. Reg. 11245, effective June 28, 2011; emergency amendment at 35 Ill. Reg. 11657, effective July 1, 2011, for a maximum of 150 days; emergency expired November 27, 2011; preemptory amendment at 35 Ill. Reg. 12119, effective June 29, 2011; preemptory amendment at 35 Ill. Reg. 13966, effective July 29, 2011; preemptory amendment at 35 Ill. Reg. 15178, effective August 29, 2011; emergency amendment at 35 Ill. Reg. 15605, effective September 16, 2011, for a maximum of 150 days; preemptory amendment at 35 Ill. Reg. 15640, effective September 15, 2011; preemptory amendment at 35 Ill. Reg. 19707, effective November 23, 2011; amended at 35 Ill. Reg. 20144, effective December 6, 2011; amended at 36 Ill. Reg. 153, effective December 22, 2011; preemptory amendment at 36 Ill. Reg. 564, effective December 29, 2011; preemptory amendment at 36 Ill. Reg. 3957, effective February 24, 2012; preemptory amendment at 36 Ill. Reg. 4158, effective March 5, 2012; preemptory amendment at 36 Ill. Reg. 4437, effective March 9, 2012; amended at 36 Ill. Reg. 4707, effective March 19, 2012; amended at 36 Ill. Reg. 8460, effective May 24, 2012; preemptory amendment at 36 Ill. Reg. 10518, effective June 27, 2012; emergency amendment at 36 Ill. Reg. 11222, effective July 1, 2012, for a maximum of 150 days; preemptory amendment at 36 Ill. Reg. 13680, effective August 15, 2012; preemptory amendment at 36 Ill. Reg. 13973, effective August 22, 2012; preemptory amendment at 36 Ill. Reg. 15498, effective October 16, 2012; amended at 36 Ill. Reg. 16213, effective November 1, 2012; preemptory amendment at 36 Ill. Reg. 17138, effective November 20, 2012; preemptory amendment at 37 Ill. Reg. 3408, effective March 7, 2013; amended at 37 Ill. Reg. 4750, effective April 1, 2013; preemptory amendment at 37 Ill. Reg. 5925, effective April 18, 2013; preemptory amendment at 37 Ill. Reg. 9563, effective June 19, 2013; amended at 37 Ill. Reg. 9939, effective July 1, 2013; emergency amendment at 37 Ill. Reg. 11395, effective July 1, 2013, for a maximum of 150 days; preemptory amendment at 37 Ill. Reg. 11524, effective July 3, 2013; preemptory amendment at 37 Ill. Reg. 12588, effective July 19, 2013; preemptory amendment at 37 Ill. Reg. 13762, effective August 8, 2013; preemptory amendment at 37 Ill. Reg. 14219, effective August 23,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

2013; amended at 37 Ill. Reg. 16925, effective October 8, 2013; preemptory amendment at 37 Ill. Reg. 17164, effective October 18, 2013; preemptory amendment at 37 Ill. Reg. 20410, effective December 6, 2013; preemptory amendment at 38 Ill. Reg. 2974, effective January 9, 2014; amended at 38 Ill. Reg. 5250, effective February 4, 2014; preemptory amendment at 38 Ill. Reg. 6725, effective March 6, 2014; emergency amendment at 38 Ill. Reg. 9080, effective April 11, 2014, for a maximum of 150 days; preemptory amendment at 38 Ill. Reg. 9136, effective April 11, 2014; amended at 38 Ill. Reg. 9207, effective April 21, 2014; preemptory amendment at 38 Ill. Reg. 13416, effective June 11, 2014; amended at 38 Ill. Reg. 14818, effective July 1, 2014; preemptory amendment at 38 Ill. Reg. 15739, effective July 2, 2014; preemptory amendment at 38 Ill. Reg. 17481, effective July 29, 2014; amended at 38 Ill. Reg. 17556, effective August 6, 2014; preemptory amendment at 38 Ill. Reg. 18791, effective August 26, 2014; preemptory amendment at 38 Ill. Reg. 19806, effective September 26, 2014; amended at 38 Ill. Reg. 20695, effective October 14, 2014; amended at 38 Ill. Reg. 24005, effective December 9, 2014; preemptory amendment at 39 Ill. Reg. 728, effective December 23, 2014; emergency amendment at 39 Ill. Reg. 708, effective December 26, 2014, for a maximum of 150 days; preemptory amendment at 39 Ill. Reg. 6964, effective April 29, 2015; amended at 39 Ill. Reg. 7878, effective May 22, 2015; amended at 39 Ill. Reg. 11220, effective July 28, 2015; preemptory amendment at 39 Ill. Reg. 12004, effective August 13, 2015; preemptory amendment at 39 Ill. Reg. 15807, effective November 25, 2015; amended at 40 Ill. Reg. 5893, effective March 28, 2016; preemptory amendment at 40 Ill. Reg. 8462, effective June 1, 2016; preemptory amendment at 40 Ill. Reg. 9658, effective June 30, 2016; amended at 40 Ill. Reg. 9356, effective July 1, 2016; preemptory amendment at 40 Ill. Reg. 11207, effective August 5, 2016; preemptory amendment at 41 Ill. Reg. 1210, effective January 19, 2017; amended at 41 Ill. Reg. 1695, effective January 25, 2017.

SUBPART A: NARRATIVE

Section 310.47 In-Hire Rate

- a) Use – No employee in a position in which the position and/or the employee meet the criteria of an in-hire rate receives less than the in-hire rate. The in-hire rate is used when a candidate only meets the minimum requirements of the class specification upon entry to State service (Section 310.100(b)(1), 310.490(b)(1) or 310.495(b)(1)), when an employee moves to a vacant position (Section 310.45) or when an MS salary range is assigned to a Trainee Program (Section 310.415(b)).
- b) Request – An agency head may request in writing that the Director of Central Management Services approve or negotiate an in-hire rate. The in-hire rate is a Step or dollar amount depending on whether the classification title is assigned to a

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

negotiated full scale rate, negotiated pay grade, merit compensation salary range or broad-band salary range. The in-hire rate may be for the classification title or limited within the classification title to the agency, facilities, counties or other criteria. The supporting justifications for the requested in-hire rate and the limitations are included in the agency request. An effective date may be included in the request.

- c) Review – The Director of Central Management Services shall review the supporting justifications, the turnover rate, the length of vacancies, the currently filled positions for the classification title, and the market starting rates for similar classes, and consult with other agencies using the classification title. Other factors may be included in the review and negotiation of negotiated in-hire rates.
- d) Approval or Negotiated –
 - 1) Approval – The Director of Central Management Services indicates in writing the approved in-hire rate and effective date, which is either the date requested by the agency or the beginning of the next pay period after the approval.
 - 2) Negotiated – The Director of Central Management Services and the bargaining unit representative indicate in writing the in-hire rates and effective date, which is either the date indicated in the agreement, the date of the agreement's signature or the beginning of the next pay period after the signatures are secured on the agreement.
- e) Implementation – In the classification title or within the limitations of the classification title and when the in-hire rate is above the normal minimum of the assigned salary range or pay grade, an employee paid below the in-hire rate receives the in-hire rate on the approved effective date. The in-hire rate remains in effect for any employee entering the title or the limits within the title until the title is abolished or an agency request to rescind the in-hire rate is approved by the Director of Central Management Services or negotiated by the Director of Central Management Services and the bargaining unit representative.
- f) Approved or Negotiated In-Hire Rates –
 - 1) Assigned to a Classification –

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

A) Approved and Assigned to a Pay Grade or Salary Range –

Title	Pay Grade or Salary Range	Effective Date	In-Hire Rate
Commerce Commission Police Officer Trainee	MS-10	January 1, 2008	\$2,943
Correctional Officer	RC-006-09	January 1, 2008	Step 1
Correctional Officer Trainee	RC-006-05	January 1, 2008	Step 1
Environmental Engineer I	RC-063-15	January 1, 2008	Step 2
Environmental Protection Engineer I	RC-063-15	January 1, 2008	Step 5
Environmental Protection Engineer II	RC-063-17	January 1, 2008	Step 4
Internal Auditor Trainee	MS-09	January 1, 2008	\$2,854

B) Negotiated and Assigned to a Full Scale Rate – The rates are located in Appendix A Table D for bargaining unit HR-001, in Appendix A Table E for bargaining unit RC-020, in Appendix A Table F for RC-019 and in Appendix A Table G for bargaining unit RC-045.

Title	Bargaining Unit	Effective Date	In-Hire Rate
Auto & Body Repairer	RC-045	July 1, 2013	75%
Automotive Attendant I	RC-045	July 1, 2013	75%
Automotive Attendant II	RC-045	July 1, 2013	75%
Automotive Mechanic	RC-045	July 1, 2013	75%
Automotive Parts Warehouse Specialist	RC-045	July 1, 2013	75%
Automotive Parts Warehouse	RC-045	July 1, 2013	75%
Bridge Mechanic	RC-019	July 8, 2013	75%
Bridge Mechanic	RC-020	June 26, 2013	75%
Bridge Tender	RC-019	July 8, 2013	75%
Bridge Tender	RC-020	June 26, 2013	75%
Building Services Worker	HR-001	July 24, 2013	75%
Deck Hand	RC-019	July 8, 2013	75%

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Elevator Operator	HR-001	July 24, 2013	75%
Ferry Operator I	RC-019	July 8, 2013	75%
Ferry Operator II	RC-019	July 8, 2013	75%
Grounds Supervisor	HR-001	July 24, 2013	75%
Heavy Construction Equipment Operator	HR-001	July 24, 2013	75%
Heavy Construction Equipment Operator	RC-020	June 26, 2013	75%
Highway Maintainer	HR-001	November 1, 2009	75%
Highway Maintainer	RC-019	July 8, 2013	75%
Highway Maintainer	RC-020	June 26, 2013	75%
Highway Maintenance Lead Worker	HR-001	July 24, 2013	75%
Highway Maintenance Lead Worker	RC-019	July 8, 2013	75%
Highway Maintenance Lead Worker	RC-020	June 26, 2013	75%
Highway Maintenance Lead Worker (Lead Lead Worker)	RC-019	July 8, 2013	75%
Highway Maintenance Lead Worker (Lead Lead Worker)	RC-020	June 26, 2013	75%
Janitor I (Including Office of Administration)	RC-019	July 8, 2013	75%
Janitor II (Including Office of Administration)	RC-019	July 8, 2013	75%
Labor Maintenance Lead Worker	RC-019	July 8, 2013	75%
Labor Maintenance Lead Worker	RC-020	June 26, 2013	75%
Laborer (Maintenance)	HR-001	July 24, 2013	75%
Laborer (Maintenance)	RC-019	July 8, 2013	75%
Laborer (Maintenance)	RC-020	June 26, 2013	75%
Maintenance Equipment Operator	HR-001	July 24, 2013	75%
Maintenance Equipment Operator	RC-019	July 8, 2013	75%
Maintenance Equipment Operator	RC-020	June 26, 2013	75%
Maintenance Worker	HR-001	July 24, 2013	75%

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Maintenance Worker	RC-019	July 8, 2013	75%
Maintenance Worker	RC-020	June 26, 2013	75%
Power Shovel Operator (Maintenance)	HR-001	July 24, 2013	75%
Power Shovel Operator (Maintenance)	RC-019	July 8, 2013	75%
Power Shovel Operator (Maintenance)	RC-020	June 26, 2013	75%
Security Guard I	RC-019	July 8, 2013	75%
Security Guard II	RC-019	July 8, 2013	75%
Silk Screen Operator	RC-019	July 8, 2013	75%
Silk Screen Operator	RC-020	June 26, 2013	75%
Small Engine Mechanic	RC-045	July 1, 2013	75%
Storekeeper I*	RC-045	July 1, 2013	75%
Storekeeper II*	RC-045	July 1, 2013	75%

*Storekeeper I & Storekeeper II serving as Automotive Parts Warehouse in Cook County.

- 2) Based on the Position's Work Location or Employee's Credential or Residency –

Title	Pay Grade or Salary Range	Location or Residency	Credential	Effective Date	In-Hire Rate
Civil Engineer Trainee	NR-916	None identified	Bachelor's degree in accredited civil engineering program	January 1, 2008	Add to minimum monthly rate \$40/quarter work experience up to 8
Civil Engineer Trainee	NR-916	None identified	Passed Engineering Intern exam	January 1, 2008	Add to minimum monthly rate \$60/month

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Civil Engineer Trainee	NR-916	None identified	Job-Related Master's degree	January 1, 2012	Add to minimum monthly rate \$40/month for each year of full-time graduate study as a substitute for job-related experience up to two years
Clerical Trainee	MS-01	Work in City of Chicago	None identified beyond class requirements	July 1, 2016	\$10.50/hour or \$1,713/month
Conservation/ Historic Preservation Worker	MS-01	Work in City of Chicago	None identified beyond class requirements	July 1, 2016	\$10.50/hour or \$1,713/month
Engineering Technician I, II, III and IV	NR-916	None identified	Completed 2 years of college in civil engineering or job related technical/ science curriculum (60 semester /90 quarter hours credit)	January 1, 2012	\$2,845
Engineering Technician I, II, III and IV	NR-916	None identified	Completed 3 years of college in areas other than civil engineering or job related technical/ science	January 1, 2012	\$2,730

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

			curriculum (90 semester /135 quarter hours credit)		
Engineering Technician I, II, III and IV	NR-916	None identified	Associate Degree from an accredited 2 year civil engineering technology program	January 1, 2012	\$2,975
Engineering Technician I, II, III and IV	NR-916	None identified	Completed 3 years of college courses in civil engineering or job related technical/ science curriculum (90 semester /135 quarter hours credit)	January 1, 2012	\$2,975
Engineering Technician I, II, III and IV	NR-916	None identified	Completed 4 years of college courses in areas other than civil engineering or job related technical/ science curriculum (120	January 1, 2012	\$2,845

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

semester
/180 quarter
hours credit)

Engineering Technician I, II, III and IV	NR-916	None identified	Completed 4 years of college in civil engineering or job related technical/science curriculum (120 semester/180 quarter hours credit includes appointees from unaccredited engineering programs and those who have not yet obtained a degree)	January 1, 2012	\$3,095
Engineering Technician I and II, III and IV	NR-916	None identified	Bachelor of Science Degree from an accredited 4 year program in civil engineering technology,	January 1, 2012	\$3,510

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

			industrial technology, and construction technology		
Forensic Scientist Trainee	RC-062- 15	None identified	Meets minimum class requirements or completed Forensic Science Residency Program at the U of I- Chicago	January 1, 2008	Step 1
Information Services Intern	RC-063- 15	Work outside Cook County	Computer Science degree at 4- year college	January 1, 2008	Step 4
Information Services Intern	RC-063- 15	Work in Cook County	Computer Science degree at 4- year college	January 1, 2008	Step 6
Information Services Intern	RC-063- 15	Work outside Cook County	Computer Science degree at 2- year technical school	January 1, 2008	Step 2
Information Services Intern	RC-063- 15	Work in Cook County	Computer Science degree at 2- year technical school	January 1, 2008	Step 4

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Information Services Intern	RC-063-15	Work in Cook County	Non-Computer Science degree at 4-year college	January 1, 2008	Step 3
Information Services Specialist I	RC-063-17	Work in Cook County	None identified beyond class requirements	January 1, 2008	Step 2
Juvenile Justice Specialist	RC-006-14	None identified	Master's degree	September 1, 2008	Step 2
Juvenile Justice Specialist Intern	RC-006-11	None identified	Master's degree	September 1, 2008	Step 2
Meat & Poultry Inspector Trainee	RC-033	Work in Regions 1 and 6	None identified beyond class requirements	January 1, 2008	Step 1
Office Occupations Trainee	MS-01	Work in City of Chicago	None identified beyond class requirements	July 1, 2016	\$10.50/hour or \$1,713/month
Physician Specialist, Option C	RC-063-MD-C	Work in Singer, McFarland, Choate, Chester, Alton, Murray, and Mabley facilities	None identified beyond class requirements	January 1, 2008	Step 5
Physician Specialist, Option D	RC-063-MD-D	Work in Singer, McFarland, Choate, Chester, Alton,	None identified beyond class requirements	January 1, 2008	Step 5

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

		Murray, and Mabley facilities			
Products & Standards Inspector Trainee	MS-09	Work in Cook, DuPage, Lake, Kane, and Will counties	None identified beyond class requirements	January 1, 2008	\$3,057
Products & Standards Inspector Trainee	MS-09	Work in counties outside Cook, DuPage, Lake, Kane, and Will counties	None identified beyond class requirements	January 1, 2008	\$2,854
Public Service Trainee	MS-01	Work in City of Chicago	None identified beyond class requirements	July 1, 2016	\$10.50/hour or \$1,713/month
Student Intern (includes Governor's Natural Resources Fellowship Program)	MS-01	Work in City of Chicago	None identified beyond class requirements	July 1, 2016	\$10.50/hour or \$1,713/month

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Student Intern (Governor's Natural Resources Fellowship Program)	MS-01	Department of Natural Resources	Bachelor's degree in plant or animal ecology, botany, forestry, wildlife biology, ecology or environmental zoology and enrolled in Master's program	September 16, 2013	\$1,600
Student Worker	MS-01	Work in City of Chicago	None identified beyond class requirements	July 1, 2016	\$10.50/hour or \$1,713/month
Telecommunicator	RC-014- 12	Work in District 2	None identified beyond class requirements	January 1, 2008	Step 2
Telecommunicator Trainee	RC-014- 10	Work in Kane County	None identified beyond class requirements	January 1, 2008	Step 3
Telecommunicator Trainee	RC-014- 10	Work in Cook County	None identified beyond class requirements	January 1, 2008	Step 7

(Source: Amended at 41 Ill. Reg. 1695, effective January 25, 2017)

SUBPART B: SCHEDULE OF RATES

Section 310.210 Prevailing Rate

- a) Classes – The following are prevailing rate classes:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Baker	Plasterer
Barber	Plumber
Beautician	Roofer
Brickmason	Sewage Plant Operator
Carpenter	Sign Painter
Carpenter Foreman	Sign Painter Helper
Cement Finisher	Stationary Engineer
Electrician	Stationary Engineer – Assistant Chief
Highway Construction Equipment Operator	Stationary Engineer – Chief
Laborer	Stationary Fireman
Laborer (Building)	Steamfitter
Laborer Foreman	Teacher of Barbering
Machinist	Teacher of Beauty Culture
Maintenance Worker (Power Plant)	Tinsmith
Painter	Trades Tender
Painter Foreman	Water Plant Operator

- b) Boiler Safety Specialist – This section shall apply to employees occupying positions in the Boiler Safety Specialist class that are represented by the RC-008 bargaining unit ([see Appendix A, Table L](#)).
- c) Rate Certification Process and Effective Date – Prevailing rate means the rate of pay for each class and locality certified as being correct by the [designated representative](#) ~~Designated Representative~~ of the respective [bargaining unit or representative](#) ~~Union~~ and approved by the Director of Central Management Services or as established under the Prevailing Wage Act [820 ILCS 130]. Copies of signed [agreements](#) ~~Agreements~~ between contractors or other employers and the respective [bargaining unit or representative](#) ~~Union~~ shall be certified to the ~~Illinois~~ Department of Central Management Services ([CMS](#)) for each fiscal year of the State by the following process: The [designated representative](#) ~~Designated Representative~~ of the respective [bargaining unit or representative](#) ~~Union~~ shall certify to ~~CM~~ [the Illinois Department of Central Management Services](#) or its designee copies of signed [agreements](#) ~~Agreements~~ between contractors or other employers and the respective [bargaining unit or representative](#) ~~Union~~. These certified agreements and accompanying CMS [Prevailing Wage Certification](#) Form shall be considered adequate proof of the prevailing rate of wages to be paid, minus the per hour costs of fringe benefits so designated by [the 2015-2019 Collective Bargaining Agreement \(CBA\)](#), if any, in keeping with past practice.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~CMS adjusts~~The Illinois Department of Central Management Services will adjust the wages, retroactive to the effective date reflected in the certified agreements. ~~contract date;~~ and Certifications from the bargaining unit or representative ~~Union~~ will include a copy of the signed agreements ~~Agreements~~ and the negotiated ~~CMS~~ Prevailing Wage Certification Form. The effective dates of wage changes are ~~will be~~ the effective dates reflected in the certified agreements.

- d) Pension Formula Adjustment – Effective January 1, 2006, employees shall be paid an additional 4.00% above the prevailing rate of wages for employees on the standard pension formula and 5.5% above the prevailing rate of wages for employees on the alternative pension formula, minus the per hour costs of fringe benefits. Employees newly hired into a prevailing rate class on or after December 1, 2013 shall be paid the appropriate prevailing rate and shall not be eligible for this pension formula adjustment unless otherwise agreed to by the union representative and the Director of Central Management Services.
- e) Maximum Security Rates – Positions in maximum security institutions shall receive a \$50 a month adjustment to the employee's monthly wages for all employees with seven or more years of continuous service with the Department of Corrections. Employees shall receive the adjustment as long as they remain employees at a maximum security facility.
- f) Merit Incentive (including Time-Off Awards) and Gain Sharing Programs – The bargaining unit or representative and State ~~parties~~ agree to develop and implement a merit incentive program to reward and incentivize high-performing employees, or a group's/unit's performance. As a part of thesesuch efforts, the State shall allocate funds ~~Employer may create an annual bonus fund~~ for payout to those individuals deemed high performers or for a group's/unit's level of performance for the specific group/unit. Payment from the allocated funds is ~~this bonus fund will be~~ based on the satisfaction of performance standards to be developed by the State ~~Employer~~ in consultation with the bargaining unit or representative ~~Union~~. This ~~Such~~ compensation, either for a group/unit or an individual, shall be considered a onetime bonus and will be offered only as a non-pensionable incentive. Any, and that any employee who accepts merit pay compensation does so voluntarily and with the knowledge and on the express condition that the merit pay compensation is ~~will not be~~ included in any pension calculations and does ~~will not~~ affect any future calculations regarding the prevailing wage rate. As a part of thesesuch efforts, the State ~~Employer~~ may reward individual high-performing employees with time-off awards. High-performing employees may earn up to

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

five ~~(5)~~ days of additional time-off in a calendar year, above and beyond the employee's accrued vacation time. Issuance of a time-off award ~~is will be~~ based on the satisfaction of performance standards to be developed by the ~~State Employer~~ in consultation with the bargaining unit or representative Union. Scheduling the time-off requires supervisory approval. ~~Only, and only~~ a non-bargaining-unit supervisor can reward an employee with a time-off award. Time off awards can be issued by any non-bargaining-unit supervisor in the employee's evaluation chain. Time-off awards, when taken by the employee, ~~do will~~ not count against the employee's leave bank. Unused time-off awards shall not convert to a ~~cash payout cash pay out~~. ~~The, nor will the~~ hourly value of the time-off awards ~~shall not~~ be used in any calculation for future wages under the provisions of the Prevailing Wage Act. Additionally, as a part of overall efforts to improve efficiency of ~~State state~~ operations and align the incentives of the ~~State Employer~~ with its employees, the ~~State Employer~~ may develop gain sharing programs. Under ~~thesesuch~~ programs, employees or departments may propose initiatives that would achieve substantial savings for the State. Upon realization of ~~thesesuch~~ savings, the ~~State Employer~~ may elect to return a portion of ~~thesethis~~ savings to the employees who participated in the identified initiative. ~~ThisSuch~~ compensation, either for a group/unit or an individual, shall be considered a one-time bonus and ~~will be~~ offered only as a non-pensionable incentive. ~~Any, and that any~~ employee who accepts merit pay compensation does so voluntarily and with the knowledge and on the express condition that the merit pay compensation ~~is will~~ not be included in any pension calculations. The ~~State develops Employer will develop~~ specific policies for both of these programs and ~~gives will give~~ the bargaining unit or representative Union an opportunity to review and comment on ~~thesesuch~~ policies prior to their implementation. The ~~State's Employer's~~ intent is to develop policies that ~~will~~ reward employees or units of employees based on specific achievements and to prevent rewards that are influenced by favoritism, politics, or other purely subjective criteria. Compliance with the policies for both of these programs shall be subject to the grievance and arbitration procedure. Rights exercised by the State under Section 4 of the Illinois Public Labor Relations Act [5 ILCS 315], 80 Ill. Adm. Code 301 through 331, and the 2015-2019 CBA are subject to all the terms of that CBA. However, it is understood that compensation payable pursuant to merit incentive and gain sharing~~The exercise of such rights by management may not conflict with the provisions of this agreement, except that it is understood that awards payable pursuant to such~~ programs shall be performance-based only. Moreover, an employee's failure or refusal to participate in ~~these programsthis program~~ may not be grounds for any form of discipline. The bargaining unit or representative and State Parties

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

understand that the Merit Incentive Program ~~is will be~~ effective after the Department of Central Management Services and the bargaining unit or representative Unions mutually agree to its process and procedures.

- 1) FY2016 Merit Pay – The Employer and Union have agreed to the terms of a Collective Bargaining Agreement. The Agreement states that public employees represented by the Union will earn merit pay. For the Fiscal Year 2016, all bargaining unit employees who are in active employment status on June 30, 2016 and who have missed fewer than five (5) percent of their assigned work days between the effective date of this Agreement and June 30, 2016 and have committed no work policy violations during that period shall receive equal shares of the performance bonus. The performance bonus shall be paid based on 2% of the annual (fiscal year) base salary payroll costs for the bargaining unit. The effective date of this Agreement is April 1, 2016 through June 30, 2016.
- 2) FY2017 Merit Incentive Program – The State and bargaining unit or representative have agreed to the terms of a 2015-2019 CBA. The CBA states that public employees represented by the bargaining unit or representative shall participate in a merit incentive program which includes earning merit pay and additional time off. Employees shall be active on payroll for at least 3 months of the evaluation period to be eligible for merit pay and additional time off. To identify high performers in the bargaining unit or representative, each employee shall be rated annually on criteria specific to the classification to which the position the employee is appointed is allocated. Employees active on payroll more than 3 months of the evaluation period but less than the entire evaluation period shall have any merit pay and additional time off rewards pro-rated to the ration of time worked during the evaluation period.
 - A) Merit Pay – The performance bonus pool shall be 2% of the annual (fiscal year) base payroll costs for the bargaining unit or representative effective July 1, 2016. All monies paid out as merit pay shall be considered a one-time and non-pensionable bonus. Employees who have retired or terminated service with the State prior to payout of the merit pay for a fiscal year shall not receive a payout for that fiscal year. The bargaining unit or representative shall be furnished with a list of employees receiving merit pay each year detailing the employing agency and amounts paid.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- i) For Limited Undocumented Use of Sick Leave and No Work Violation – Employees who do not utilize more than 56 hours, 28 hours per 6 month period, of undocumented use of sick leave and commit no work policy violation during the evaluation period shall be eligible for 50% of the performance bonus pool.
 - ii) For Satisfactory Rating – Employees who receive a satisfactory rating, defined by a score of 3 in the evaluation, in all categories within the job knowledge and productivity section shall be eligible for the remaining 50% of the performance bonus pool.
- B) Additional Time Off – The additional time off shall be scheduled and used in the calendar year it is received with the following exception. If an employee has made at least 3 requests each for different time periods to use the additional time off and each request is denied, the employee may carry over the additional time off to the next calendar year. Additional time off rewarded under the merit incentive program shall not be subject to liquidation for any reason.
- i) For Limited Undocumented Use of Sick Leave and No Work Violation – Employees who do not utilize more than 56 hours, 28 hours per 6 month period, of undocumented use of sick leave and commit no work policy violation during the review period shall be rewarded with 12 hours additional time off with pay.
 - ii) For Satisfactory Rating – Employees who receive a satisfactory rating, defined by a score of 3 in the evaluation, in all categories within the job knowledge and productivity section shall be rewarded with 8 hours additional time off with pay.
 - iii) For Other Reasons – Additional time off rewards may be granted to employees for reasons including: exceptional performance producing a distinct positive outcome;

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

identifying solutions to significant issues; or providing exceptional customer service. The rewards shall be approved by a non-bargaining-unit or non-bargaining-representative supervisor in the employee's evaluation chain. The bargaining unit or representative shall receive notice of all recipients of additional time off as well as the reason for the reward and the amount of time rewarded. The same information shall be posted in the workplace.

- 3) FY2018 and FY2019 Merit Incentive Program – The parameters of the merit incentive program for FY2018 and FY2019 will be further refined by mutual agreement of the State and bargaining unit or representative.

(Source: Amended at 41 Ill. Reg. 1695, effective January 25, 2017)

SUBPART C: MERIT COMPENSATION SYSTEM

Section 310.410 Jurisdiction

The Merit Compensation System shall apply to classes of positions, or positions excluded from bargaining unit representation, designated below and Broad-Band classes in Appendix G. In addition, the classes are listed in the ALPHABETIC INDEX OF POSITION TITLES. Also see Section 310.495 for the application of the Merit Compensation System for those Broad-Band titles listed with their salary ranges in Appendix G.

Title	Title Code	Salary Range
Account Clerk I	00111	MS-03
Account Clerk II	00112	MS-04
Account Technician I	00115	MS-07
Account Technician II	00116	MS-09
Account Technician Trainee	00118	MS-04
Accountant	00130	MS-11
Accountant Advanced	00133	MS-14
Accountant Supervisor	00135	MS-19
Accounting and Fiscal Administration Career Trainee	00140	MS-09
Activity Program Aide I	00151	MS-04
Activity Program Aide II	00152	MS-05
Activity Therapist	00157	MS-12
Activity Therapist Coordinator	00160	MS-16

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Activity Therapist Supervisor	00163	MS-23
Actuarial Assistant	00187	MS-14
Actuarial Examiner	00195	MS-14
Actuarial Examiner Trainee	00196	MS-10
Actuarial Senior Examiner	00197	MS-21
Actuary I	00201	MS-23
Actuary II	00202	MS-31
Actuary III	00203	MS-33
Administrative Assistant I	00501	MS-16
Administrative Assistant II	00502	MS-21
Administrative Services Worker Trainee	00600	MS-02
Agricultural Executive	00800	MS-23
Agricultural Land and Water Resources Supervisor	00811	MS-25
Agricultural Market News Assistant	00804	MS-09
Agricultural Marketing Generalist	00805	MS-11
Agricultural Marketing Reporter	00807	MS-19
Agricultural Marketing Representative	00810	MS-19
Agricultural Products Promoter	00815	MS-10
Agriculture Land and Water Resource Specialist I	00831	MS-11
Agriculture Land and Water Resource Specialist II	00832	MS-16
Agriculture Land and Water Resource Specialist III	00833	MS-23
Aircraft Dispatcher	00951	MS-09
Aircraft Lead Dispatcher	00952	MS-11
Aircraft Pilot I	00955	MS-21
Aircraft Pilot II	00956	MS-28
Aircraft Pilot II – Dual Rating	00957	MS-29
Animal and Animal Products Investigator	01072	MS-11
Animal and Animal Products Investigator Trainee	01075	MS-09
Apiary Inspector	01215	MS-03
Apparel/Dry Goods Specialist I	01231	MS-04
Apparel/Dry Goods Specialist II	01232	MS-05
Apparel/Dry Goods Specialist III	01233	MS-10
Appraisal Specialist I	01251	MS-11
Appraisal Specialist II	01252	MS-14
Appraisal Specialist III	01253	MS-19
Appraisal Specialist Trainee	01255	MS-09
Arbitrator	01401	MS-33
Architect	01440	MS-28
Arson Investigations Trainee	01485	MS-12

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Arson Investigator I	01481	MS-15
Arson Investigator II	01482	MS-20
Arts Council Associate	01523	MS-09
Arts Council Program Coordinator	01526	MS-19
Arts Council Program Representative	01527	MS-12
Assignment Coordinator	01530	MS-23
Assistant Automotive Shop Supervisor	01565	MS-11
Assistant Reimbursement Officer	02424	MS-05
Audio Visual Technician I	03501	MS-04
Audio Visual Technician II	03502	MS-06
Auto and Body Repairer	03680	MS-13
Automotive Attendant I	03696	MS-03
Automotive Attendant II	03697	MS-03
Automotive Mechanic	03700	MS-13
Automotive Parts Warehouse Specialist	03734	MS-11
Automotive Parts Warehouse	03730	MS-11
Automotive Shop Supervisor	03749	MS-18
Bank Examiner I	04131	MS-14
Bank Examiner II	04132	MS-21
Bank Examiner III	04133	MS-28
Behavioral Analyst Associate	04355	MS-12
Behavioral Analyst I	04351	MS-16
Behavioral Analyst II	04352	MS-21
Blasting Expert	04720	MS-27
Blasting Specialist	04725	MS-25
Blasting Supervisor	04730	MS-29
Boat Safety Inspection Supervisor	04850	MS-22
Boiler Safety Specialist	04910	MS-26
Breath Alcohol Analysis Technician	05170	MS-15
Bridge Mechanic	05310	MS-17
Bridge Tender	05320	MS-18
Building Construction Inspector I	05541	MS-18
Building Construction Inspector II	05542	MS-20
Building Services Worker	05616	MS-05
Building/Grounds Laborer	05598	MS-08
Building/Grounds Lead I	05601	MS-10
Building/Grounds Lead II	05602	MS-12
Building/Grounds Maintenance Worker	05613	MS-09
Building/Grounds Supervisor	05605	MS-12

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Business Administrative Specialist	05810	MS-14
Business Manager	05815	MS-19
Buyer	05900	MS-19
Buyer Assistant	05905	MS-07
Cancer Registrar I	05951	MS-11
Cancer Registrar II	05952	MS-14
Cancer Registrar III	05953	MS-23
Cancer Registrar Assistant Manager	05954	MS-27
Cancer Registrar Manager	05955	MS-31
Canine Specialist	06500	MS-20
Capital Development Board Account Technician	06515	MS-08
Capital Development Board Art In Architecture Technician	06533	MS-09
Capital Development Board Construction Support Analyst	06520	MS-08
Capital Development Board Media Technician	06525	MS-11
Capital Development Board Project Technician	06530	MS-09
Cartographer III	06673	MS-28
Chaplain I	06901	MS-14
Chaplain II	06902	MS-21
Check Issuance Machine Operator	06920	MS-06
Check Issuance Machine Supervisor	06925	MS-08
Chemist I	06941	MS-14
Chemist II	06942	MS-21
Chemist III	06943	MS-25
Child Development Aide	07184	MS-07
Child Protection Advanced Specialist	07161	MS-21
Child Protection Associate Specialist	07162	MS-14
Child Protection Specialist	07163	MS-19
Child Support Specialist I	07198	MS-14
Child Support Specialist II	07199	MS-16
Child Support Specialist Trainee	07200	MS-09
Child Welfare Administrative Case Reviewer	07190	MS-28
Child Welfare Advanced Specialist	07215	MS-21
Child Welfare Associate Specialist	07216	MS-14
Child Welfare Court Facilitator	07196	MS-28
Child Welfare Nurse Specialist	07197	MS-22
Child Welfare Senior Specialist	07217	MS-28
Child Welfare Specialist	07218	MS-19
Child Welfare Staff Development Coordinator I	07201	MS-16
Child Welfare Staff Development Coordinator II	07202	MS-21

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Child Welfare Staff Development Coordinator III	07203	MS-23
Child Welfare Staff Development Coordinator IV	07204	MS-28
Children and Family Service Intern, Option 1	07241	MS-09
Children and Family Service Intern, Option 2	07242	MS-12
Civil Engineer I	07601	MS-22
Civil Engineer II	07602	MS-26
Civil Engineer III	07603	MS-30
Civil Engineer IV	07604	MS-31
Civil Engineer Trainee	07607	MS-16
Clerical Trainee	08050	MS-01
Clinical Laboratory Associate	08200	MS-05
Clinical Laboratory Phlebotomist	08213	MS-04
Clinical Laboratory Technician I	08215	MS-07
Clinical Laboratory Technician II	08216	MS-09
Clinical Laboratory Technologist I	08220	MS-19
Clinical Laboratory Technologist II	08221	MS-21
Clinical Laboratory Technologist Trainee	08229	MS-11
Clinical Pharmacist	08235	MS-32
Clinical Psychologist	08250	MS-29
Clinical Psychology Associate	08255	MS-19
Clinical Services Supervisor	08260	MS-31
Commerce Commission Police Officer I	08451	MS-18
Commerce Commission Police Officer II	08452	MS-22
Commerce Commission Police Officer Trainee	08455	MS-10
Commerce Commission Police Sergeant	08457	MS-24
Commodities Inspector	08770	MS-08
Communications Dispatcher	08815	MS-06
Communications Equipment Technician I	08831	MS-16
Communications Equipment Technician II	08832	MS-21
Communications Equipment Technician III	08833	MS-23
Communications Systems Specialist	08860	MS-29
Community Management Specialist I	08891	MS-12
Community Management Specialist II	08892	MS-16
Community Management Specialist III	08893	MS-21
Community Planner I	08901	MS-12
Community Planner II	08902	MS-16
Community Planner III	08903	MS-21
Compliance Officer	08919	MS-11
Computer Evidence Recovery Specialist	08980	MS-32

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Conservation Education Representative	09300	MS-09
Conservation Grant Administrator I	09311	MS-19
Conservation Grant Administrator II	09312	MS-23
Conservation Grant Administrator III	09313	MS-28
Conservation Police Lieutenant	09339	MS-23
Conservation Police Officer I	09341	MS-18
Conservation Police Officer II	09342	MS-19
Conservation Police Officer Trainee	09345	MS-06
Conservation Police Sergeant	09347	MS-22
Conservation/Historic Preservation Worker	09317	MS-01
Construction Program Assistant	09525	MS-09
Construction Supervisor I	09561	MS-10
Construction Supervisor II	09562	MS-14
Cook I	09601	MS-04
Cook II	09602	MS-07
Correctional Casework Supervisor	09655	MS-25
Correctional Counselor I	09661	MS-12
Correctional Counselor II	09662	MS-16
Correctional Counselor III	09663	MS-21
Correctional Lieutenant	09673	MS-24
Correctional Officer	09675	MS-11
Correctional Officer Trainee	09676	MS-08
Correctional Sergeant	09717	MS-16
Corrections Apprehension Specialist	09750	MS-21
Corrections Clerk I	09771	MS-11
Corrections Clerk II	09772	MS-13
Corrections Clerk III	09773	MS-18
Corrections Command Center Supervisor	09500	MS-32
Corrections Family Services Coordinator	09600	MS-32
Corrections Food Service Supervisor I	09793	MS-13
Corrections Food Service Supervisor II	09794	MS-18
Corrections Food Service Supervisor III	09795	MS-21
Corrections Grounds Supervisor	09796	MS-16
Corrections Identification Supervisor	09800	MS-24
Corrections Identification Technician	09801	MS-13
Corrections Industries Marketing Representative	09803	MS-16
Corrections Industry Lead Worker	09805	MS-16
Corrections Industry Supervisor	09807	MS-21
Corrections Intelligence Program Unit Manager	09798	MS-31

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Corrections Investigations Program Administrator	09799	MS-31
Corrections Laundry Manager I	09808	MS-18
Corrections Laundry Manager II	09809	MS-20
Corrections Law Library Assistant	09819	MS-11
Corrections Leisure Activities Specialist I	09811	MS-12
Corrections Leisure Activities Specialist II	09812	MS-16
Corrections Leisure Activities Specialist III	09813	MS-21
Corrections Leisure Activities Specialist IV	09814	MS-25
Corrections Locksmith	09818	MS-16
Corrections Maintenance Craftsman	09821	MS-16
Corrections Maintenance Supervisor	09822	MS-20
Corrections Maintenance Worker	09823	MS-12
Corrections Medical Technician	09824	MS-12
Corrections Nurse I	09825	MS-20
Corrections Nurse II	09826	MS-25
Corrections Nurse Trainee	09836	MS-16
Corrections Parole Agent	09842	MS-16
Corrections Placement Resources Regional Supervisor	09839	MS-31
Corrections Program Administrator	09849	MS-31
Corrections Psychologist Administrator	09855	MS-32
Corrections Regional Mental Health Services Administrator	09857	MS-32
Corrections Residence Counselor I	09837	MS-13
Corrections Residence Counselor II	09838	MS-20
Corrections Senior Parole Agent	09844	MS-21
Corrections Supply Supervisor I	09861	MS-13
Corrections Supply Supervisor II	09862	MS-18
Corrections Supply Supervisor III	09863	MS-21
Corrections Training Program Supervisor	09860	MS-32
Corrections Transportation Officer I	09871	MS-13
Corrections Transportation Officer II	09872	MS-20
Corrections Unit Superintendent	09868	MS-32
Corrections Utilities Operator	09875	MS-16
Corrections Vocational Instructor	09879	MS-16
Corrections Vocational School Supervisor	09880	MS-20
Court Reporter	09900	MS-12
Court Reporter Supervisor	09903	MS-26
Crime Scene Investigator	09980	MS-25
Criminal Intelligence Analyst I	10161	MS-19
Criminal Intelligence Analyst II	10162	MS-23

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Criminal Intelligence Analyst Specialist	10165	MS-28
Criminal Intelligence Analyst Supervisor	10169	MS-32
Criminal Justice Specialist I	10231	MS-14
Criminal Justice Specialist II	10232	MS-23
Criminal Justice Specialist Trainee	10236	MS-10
Curator Of The Lincoln Collection	10750	MS-14
Data Processing Administrative Specialist	11415	MS-11
Data Processing Assistant	11420	MS-04
Data Processing Operator	11425	MS-03
Data Processing Operator Trainee	11428	MS-02
Data Processing Specialist	11430	MS-09
Data Processing Supervisor I	11435	MS-08
Data Processing Supervisor II	11436	MS-11
Data Processing Supervisor III	11437	MS-19
Data Processing Technician	11440	MS-06
Data Processing Technician Trainee	11443	MS-04
Day Care Licensing Representative I	11471	MS-14
Day Care Licensing Representative II	11472	MS-19
Deck Hand	11500	MS-15
Dental Assistant	11650	MS-07
Dental Hygienist	11700	MS-11
Dentist I	11751	MS-29
Dentist II	11752	MS-33
Developmental Disabilities Council Program Planner I	12361	MS-09
Developmental Disabilities Council Program Planner II	12362	MS-14
Developmental Disabilities Council Program Planner III	12363	MS-19
Developmental Psychological Services Administrator	12380	MS-32
Dietary Manager I	12501	MS-14
Dietary Manager II	12502	MS-19
Dietitian	12510	MS-12
Disability Appeals Officer	12530	MS-28
Disability Claims Adjudicator I	12537	MS-14
Disability Claims Adjudicator II	12538	MS-19
Disability Claims Adjudicator Trainee	12539	MS-10
Disability Claims Analyst	12540	MS-25
Disability Claims Specialist	12558	MS-21
Disaster Services Planner	12585	MS-21
Document Examiner	12640	MS-28
Drafting Worker	12749	MS-08

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Drug Compliance Investigator	12778	MS-31
Economic Development Representative I	12931	MS-16
Economic Development Representative II	12932	MS-21
Economic Development Representative Trainee	12939	MS-10
Economist Associate	12940	MS-12
Educational Diagnostician	12965	MS-09
Educational Media Program Specialist	12980	MS-16
Educator	13100	MS-26
Educator – Career and Technical	13103	MS-16 MS-13
Educator – Career and Technical Provisional	13104	MS-15 MS-12
Educator Aide	13130	MS-08
Educator Intern	13135	MS-10
Educator Trainee	13148	MS-09
Electrical Engineer	13180	MS-28
Electroencephalograph Technician	13300	MS-05
Electronic Equipment Installer/Repairer	13340	MS-07
Electronic Equipment Installer/Repairer Lead Worker	13345	MS-09
Electronics Technician	13360	MS-12
Elevator Inspector	13495	MS-21
Elevator Operator	13500	MS-05
Emergency Response Lead Telecommunicator	13540	MS-10
Emergency Response Telecommunicator	13543	MS-08
Employment Security Field Office Supervisor	13600	MS-23
Employment Security Manpower Representative I	13621	MS-09
Employment Security Manpower Representative II	13622	MS-11
Employment Security Program Representative	13650	MS-11
Employment Security Program Representative – Intermittent	13651	MS-11
Employment Security Service Representative	13667	MS-14
Employment Security Specialist I	13671	MS-11
Employment Security Specialist II	13672	MS-14
Employment Security Specialist III	13673	MS-21
Employment Security Tax Auditor I	13681	MS-16
Employment Security Tax Auditor II	13682	MS-21
End-User Computer Services Specialist I	13691	MS-24
End-User Computer Services Specialist II	13692	MS-28
End-User Computer Systems Analyst	13693	MS-30
Energy and Natural Resources Specialist I	13711	MS-12
Energy and Natural Resources Specialist II	13712	MS-16

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Energy and Natural Resources Specialist III	13713	MS-21
Energy and Natural Resources Specialist Trainee	13715	MS-09
Engineering Technician I	13731	MS-10
Engineering Technician II	13732	MS-13
Engineering Technician III	13733	MS-20
Engineering Technician IV	13734	MS-30
Environmental Engineer I	13751	MS-12
Environmental Engineer II	13752	MS-16
Environmental Engineer III	13753	MS-21
Environmental Engineer IV	13754	MS-28
Environmental Equipment Operator I	13761	MS-09
Environmental Equipment Operator II	13762	MS-11
Environmental Health Specialist I	13768	MS-11
Environmental Health Specialist II	13769	MS-14
Environmental Health Specialist III	13770	MS-19
Environmental Protection Associate	13785	MS-09
Environmental Protection Engineer I	13791	MS-12
Environmental Protection Engineer II	13792	MS-16
Environmental Protection Engineer III	13793	MS-21
Environmental Protection Engineer IV	13794	MS-28
Environmental Protection Geologist I	13801	MS-12
Environmental Protection Geologist II	13802	MS-16
Environmental Protection Geologist III	13803	MS-21
Environmental Protection Legal Investigator I	13811	MS-10
Environmental Protection Legal Investigator II	13812	MS-11
Environmental Protection Legal Investigator Specialist	13815	MS-13
Environmental Protection Specialist I	13821	MS-11
Environmental Protection Specialist II	13822	MS-14
Environmental Protection Specialist III	13823	MS-19
Environmental Protection Specialist IV	13824	MS-28
Environmental Protection Technician I	13831	MS-05
Environmental Protection Technician II	13832	MS-07
Epidemiology Research and Investigation Scientist	13833	MS-29
Equal Pay Specialist	13837	MS-16
Equine Investigator	13840	MS-09
Executive I	13851	MS-19
Executive II	13852	MS-23
Executive Secretary I	14031	MS-08
Executive Secretary II	14032	MS-11

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Executive Secretary III	14033	MS-14
Explosives Inspector I	14051	MS-11
Explosives Inspector II	14052	MS-18
Facility Assistant Fire Chief	14430	MS-10
Facility Fire Chief	14433	MS-13
Facility Fire Safety Coordinator	14435	MS-09
Facility Firefighter	14439	MS-07
Ferry Operator I	14801	MS-18
Ferry Operator II	14802	MS-19
Financial Institutions Examiner I	14971	MS-14
Financial Institutions Examiner II	14972	MS-21
Financial Institutions Examiner III	14973	MS-28
Financial Institutions Examiner Trainee	14978	MS-10
Fingerprint Technician	15204	MS-10
Fingerprint Technician Supervisor	15208	MS-18
Fingerprint Technician Trainee	15209	MS-05
Firearms Eligibility Administrator	15280	MS-32
Firearms Eligibility Analyst I	15371	MS-10
Firearms Eligibility Analyst II	15372	MS-14
Firearms Eligibility Analyst Trainee	15375	MS-08
Fire Certification Specialist I	15281	MS-16
Fire Certification Specialist II	15282	MS-18
Fire Certification Specialist Supervisor	15283	MS-22
Fire Prevention Inspector I	15316	MS-13
Fire Prevention Inspector II	15317	MS-20
Fire Prevention Inspector Trainee	15320	MS-10
Fire Protection Engineer	15340	MS-28
Fire Protection Specialist I	15351	MS-14
Flight Safety Coordinator	15640	MS-28
Florist II	15652	MS-08
Food Services Program Manager	15800	MS-31
Foreign Service Economic Development Executive I	15871	MS-32
Foreign Service Economic Development Executive II	15872	MS-34
Foreign Service Economic Development Representative	15875	MS-30
Forensic Science Administrator I	15911	MS-31
Forensic Science Administrator II	15912	MS-32
Forensic Science Administrator III	15913	MS-33
Forensic Scientist I	15891	MS-19
Forensic Scientist II	15892	MS-23

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Forensic Scientist III	15893	MS-28
Forensic Scientist Trainee	15897	MS-12
Gaming Licensing Analyst	17171	MS-10
Gaming Senior Special Agent	17191	MS-29
Gaming Special Agent	17192	MS-21
Gaming Special Agent Trainee	17195	MS-11
Geographic Information Specialist I	17271	MS-21
Geographic Information Specialist II	17272	MS-29
Geographic Information Trainee	17276	MS-12
Governmental Career Trainee	17325	MS-09
Graduate Pharmacist	17345	MS-23
Graphic Arts Designer	17366	MS-11
Graphic Arts Designer Advanced	17370	MS-14
Graphic Arts Designer Supervisor	17365	MS-19
Graphic Arts Technician	17400	MS-09
Grounds Supervisor	17549	MS-18
Guard I	17681	MS-04
Guard II	17682	MS-06
Guard III	17683	MS-09
Guard Supervisor	17685	MS-11
Guardianship Representative	17710	MS-16
Guardianship Supervisor	17720	MS-24
Habilitation Program Coordinator	17960	MS-16
Handicapped Services Representative I	17981	MS-08
Health Facilities Surveillance Nurse	18150	MS-22
Health Facilities Surveyor I	18011	MS-14
Health Facilities Surveyor II	18012	MS-21
Health Facilities Surveyor III	18013	MS-23
Health Information Associate	18045	MS-07
Health Information Technician	18047	MS-09
Health Services Investigator I, Option A – General	18181	MS-21
Health Services Investigator I, Option B – Controlled Substance Inspector	18182	MS-23
Health Services Investigator II, Option A – General	18185	MS-28
Health Services Investigator II, Option B – Controlled Substance Inspector	18186	MS-28
Health Services Investigator II, Option C – Pharmacy	18187	MS-32
Health Services Investigator II, Option D – Pharmacy/Controlled Substance Inspector	18188	MS-32

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Hearing and Speech Advanced Specialist	18227	MS-28
Hearing and Speech Associate	18231	MS-19
Hearing and Speech Specialist	18233	MS-23
Hearing and Speech Technician II	18262	MS-06
Hearings Referee	18300	MS-29
Hearings Referee – Intermittent	18301	MS-29
Heavy Construction Equipment Operator	18465	MS-18
Highway Construction Supervisor I	18525	MS-25
Highway Construction Supervisor II	18526	MS-30
Highway Maintainer	18639	MS-18
Highway Maintenance Lead Worker	18659	MS-18
Historical Documents Conservator I	18981	MS-10
Historical Exhibits Designer	18985	MS-12
Historical Library Chief Of Acquisitions	18987	MS-21
Historical Research Editor II	19002	MS-11
Historical Research Specialist	19008	MS-23
Housekeeper II	19602	MS-03
Human Relations Representative	19670	MS-14
Human Resources Assistant	19690	MS-05
Human Resources Associate	19691	MS-08
Human Resources Trainee	19694	MS-04
Human Rights Investigator I	19774	MS-14
Human Rights Investigator II	19775	MS-19
Human Rights Investigator III	19776	MS-21
Human Rights Investigator Trainee	19768	MS-09
Human Rights Mediation Supervisor	19769	MS-23
Human Rights Mediator	19771	MS-16
Human Rights Specialist I	19778	MS-11
Human Rights Specialist II	19779	MS-14
Human Rights Specialist III	19780	MS-19
Human Services Casework Manager	19788	MS-23
Human Services Caseworker	19785	MS-14
Human Services Grants Coordinator I	19791	MS-11
Human Services Grants Coordinator II	19792	MS-16
Human Services Grants Coordinator III	19793	MS-23
Human Services Grants Coordinator Trainee	19796	MS-09
Human Services Sign Language Interpreter	19810	MS-14
Iconographer	19880	MS-09
Industrial and Community Development Representative I	21051	MS-16

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Industrial and Community Development Representative II	21052	MS-21
Industrial Commission Reporter	21080	MS-14
Industrial Commission Technician	21095	MS-08
Industrial Services Consultant I	21121	MS-11
Industrial Services Consultant II	21122	MS-14
Industrial Services Consultant Trainee	21125	MS-08
Industrial Services Hygienist	21127	MS-21
Industrial Services Hygienist Technician	21130	MS-14
Industrial Services Hygienist Trainee	21133	MS-09
Information Services Intern	21160	MS-12
Information Services Specialist I	21161	MS-16
Information Services Specialist II	21162	MS-21
Information Systems Analyst I	21165	MS-25
Information Systems Analyst II	21166	MS-29
Information Systems Analyst III	21167	MS-32
Information Technology/Communications Systems Specialist I	21216	MS-21
Information Technology/Communications Systems Specialist II	21217	MS-31
Inhalation Therapist	21259	MS-05
Inhalation Therapy Supervisor	21260	MS-08
Institutional Helper	21460	MS-05
Institutional Maintenance Worker	21465	MS-05
Instrument Designer	21500	MS-19
Insurance Analyst I	21561	MS-06
Insurance Analyst II	21562	MS-09
Insurance Analyst III	21563	MS-11
Insurance Analyst IV	21564	MS-14
Insurance Analyst Trainee	21566	MS-04
Insurance Company Claims Examiner I	21601	MS-16
Insurance Company Claims Examiner II	21602	MS-21
Insurance Company Field Staff Examiner	21608	MS-14
Insurance Company Financial Examiner Trainee	21610	MS-10
Insurance Performance Examiner I	21671	MS-11
Insurance Performance Examiner II	21672	MS-16
Insurance Performance Examiner III	21673	MS-23
Intermittent Clerk	21686	MS-02
Intermittent Laborer (Maintenance)	21687	MS-08
Intermittent Unemployment Insurance Representative	21689	MS-09

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Intermittent Unemployment Insurance Technician	21690	MS-04
Internal Auditor I	21721	MS-16
Internal Auditor Trainee	21726	MS-09
Internal Investigations Principal Evaluation Supervisor	21735	MS-31
Internal Investigations Supervisor	21740	MS-31
Internal Security Investigator I	21731	MS-19
Internal Security Investigator II	21732	MS-25
International Marketing Representative I	21761	MS-11
Janitor I	21951	MS-13
Janitor II	21952	MS-14
Juvenile Justice Chief of Security	21965	MS-31
Juvenile Justice Psychologist Administrator	21967	MS-32
Juvenile Justice School Counselor	21970	MS-26
Juvenile Justice Specialist	21971	MS-20
Juvenile Justice Specialist Intern	21976	MS-13
Juvenile Justice Supervisor	21980	MS-27
Juvenile Justice Unit Superintendent	21985	MS-32
Juvenile Justice Youth and Family Specialist Option 1	21991	MS-19
Juvenile Justice Youth and Family Specialist Option 2	21992	MS-23
Juvenile Justice Youth and Family Specialist Supervisor	21995	MS-28
Kidcare Supervisor	22003	MS-23
Labor Conciliator	22750	MS-23
Labor Maintenance Lead Worker	22809	MS-16
Laboratory Assistant	22995	MS-03
Laboratory Associate I	22997	MS-07
Laboratory Associate II	22998	MS-09
Laboratory Equipment Specialist	22990	MS-19
Laboratory Quality Specialist I	23021	MS-21
Laboratory Quality Specialist II	23022	MS-25
Laboratory Research Scientist	23025	MS-29
Laboratory Research Specialist I	23027	MS-21
Laboratory Research Specialist II	23028	MS-25
Laborer (Maintenance)	23080	MS-15
Land Acquisition Agent I	23091	MS-12
Land Acquisition Agent II	23092	MS-19
Land Acquisition Agent III	23093	MS-25
Land Reclamation Specialist I	23131	MS-11
Land Reclamation Specialist II	23132	MS-16
Land Reclamation Specialist Trainee	23137	MS-09

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Landscape Architect	23145	MS-28
Landscape Planner	23150	MS-21
Laundry Manager I	23191	MS-10
Law Enforcement Training Administrator	23260	MS-32
Legal Research Assistant	23350	MS-10
Liability Claims Adjuster I	23371	MS-11
Liability Claims Adjuster II	23372	MS-19
Liability Claims Adjuster Trainee	23375	MS-09
Librarian I	23401	MS-14
Librarian II	23402	MS-19
Library Aide I	23421	MS-03
Library Aide II	23422	MS-04
Library Aide III	23423	MS-05
Library Associate	23430	MS-09
Library Technical Assistant	23450	MS-07
Licensed Practical Nurse I	23551	MS-09
Licensed Practical Nurse II	23552	MS-10
Licensing Assistant	23568	MS-05
Licensing Investigations Supervisor	23577	MS-32
Licensing Investigator I	23571	MS-10
Licensing Investigator II	23572	MS-13
Licensing Investigator III	23573	MS-15
Licensing Investigator IV	23574	MS-20
Life Sciences Career Trainee	23600	MS-09
Liquor Control Special Agent I	23751	MS-13
Liquor Control Special Agent II	23752	MS-14
Local Historical Services Representative	24000	MS-16
Local Housing Advisor I	24031	MS-11
Local Housing Advisor II	24032	MS-14
Local Housing Advisor III	24033	MS-19
Local Revenue and Fiscal Advisor I	24101	MS-12
Local Revenue and Fiscal Advisor II	24102	MS-16
Local Revenue and Fiscal Advisor III	24103	MS-21
Lock and Dam Tender	24290	MS-07
Locksmith	24300	MS-16
Lottery Commodities Distributor II	24402	MS-09
Lottery Regional Coordinator	24504	MS-21
Lottery Sales Representative	24515	MS-14
Lottery Telemarketing Representative	24520	MS-06

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Maintenance Equipment Operator	25020	MS-18
Maintenance Worker	25500	MS-16
Management Operations Analyst I	25541	MS-19
Management Operations Analyst II	25542	MS-23
Management Operations Analyst Trainee	25545	MS-12
Management Systems Specialist	25583	MS-25
Manpower Planner I	25591	MS-11
Manpower Planner II	25592	MS-16
Manpower Planner III	25593	MS-23
Manpower Planner Trainee	25597	MS-09
Manuscripts Manager	25610	MS-21
Meat and Poultry Inspector	26070	MS-10
Meat and Poultry Inspector Supervisor	26073	MS-13
Meat and Poultry Inspector Trainee	26075	MS-07
Mechanical Engineer I	26201	MS-12
Mechanical Engineer II	26202	MS-16
Mechanical Engineer III	26203	MS-21
Medicaid Management Analyst	26301	MS-20
Medicaid Management Intern	26305	MS-13
Medical Administrator I Option C	26400	MS-60
Medical Administrator I Option D	26401	MS-62
Medical Administrator II Option C	26402	MS-61
Medical Administrator II Option D	26403	MS-64
Medical Administrator III	26404	MS-65
Medical Administrator IV	26405	MS-66
Medical Administrator V	26406	MS-67
Medical Assistance Consultant I	26501	MS-10
Medical Assistance Consultant II	26502	MS-14
Medical Assistance Consultant III	26503	MS-21
Mental Health Administrator I	26811	MS-19
Mental Health Administrator II	26812	MS-23
Mental Health Administrator Trainee	26817	MS-14
Mental Health Program Administrator	26908	MS-63
Mental Health Recovery Support Specialist I	26921	MS-16
Mental Health Recovery Support Specialist II	26922	MS-19
Mental Health Specialist I	26924	MS-09
Mental Health Specialist II	26925	MS-11
Mental Health Specialist III	26926	MS-14
Mental Health Specialist Trainee	26928	MS-08

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Mental Health Technician I	27011	MS-04
Mental Health Technician II	27012	MS-05
Mental Health Technician III	27013	MS-06
Mental Health Technician IV	27014	MS-07
Mental Health Technician V	27015	MS-08
Mental Health Technician VI	27016	MS-09
Mental Health Technician Trainee	27020	MS-03
Meteorologist	27120	MS-19
Methods and Procedures Advisor I	27131	MS-11
Methods and Procedures Advisor II	27132	MS-14
Methods and Procedures Advisor III	27133	MS-23
Methods and Procedures Career Associate I	27135	MS-08
Methods and Procedures Career Associate II	27136	MS-09
Methods and Procedures Career Associate Trainee	27137	MS-06
Metrologist Associate	27146	MS-12
Microbiologist I	27151	MS-14
Microbiologist II	27152	MS-21
Microfilm Laboratory Technician I	27175	MS-04
Microfilm Laboratory Technician II	27176	MS-06
Microfilm Operator I	27181	MS-03
Microfilm Operator II	27182	MS-04
Microfilm Operator III	27183	MS-05
Mine Rescue Station Assistant	28150	MS-07
Motorist Assistance Specialist	28490	MS-05
Musician	28805	MS-05
Narcotics and Currency Unit Supervisor	28750	MS-32
Natural Resources Advanced Specialist	28833	MS-23
Natural Resources Coordinator	28831	MS-12
Natural Resources Coordinator Trainee	28830	MS-09
Natural Resources Education Program Coordinator	28834	MS-23
Natural Resources Grant Coordinator	28835	MS-20
Natural Resources Manager I	28836	MS-23
Natural Resources Manager II	28837	MS-26
Natural Resources Manager III	28838	MS-30
Natural Resources Site Manager I	28841	MS-23
Natural Resources Site Manager II	28842	MS-26
Natural Resources Specialist	28832	MS-19
Natural Resources Technician I	28851	MS-07
Natural Resources Technician II	28852	MS-10

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Nursing Act Assistant Coordinator	29731	MS-25
Nutritionist	29820	MS-19
Occupational Therapist	29900	MS-16
Occupational Therapist Program Coordinator	29908	MS-21
Occupational Therapist Supervisor	29910	MS-25
Office Administrative Specialist	29990	MS-09
Office Administrator I	29991	MS-04
Office Administrator II	29992	MS-06
Office Administrator III	29993	MS-08
Office Administrator IV	29994	MS-11
Office Administrator V	29995	MS-12
Office Aide	30005	MS-02
Office Assistant	30010	MS-04
Office Associate	30015	MS-05
Office Clerk	30020	MS-03
Office Coordinator	30025	MS-06
Office Occupations Trainee	30075	MS-01
Office Specialist	30080	MS-08
Optometrist	30300	MS-11
Oral Health Consultant	30317	MS-19
Paralegal Assistant	30860	MS-11
Pension and Death Benefits Technician I	30961	MS-09
Pension and Death Benefits Technician II	30962	MS-21
Pest Control Operator	31810	MS-07
Pharmacy Lead Technician	32009	MS-06
Pharmacy Services Coordinator	32010	MS-32
Pharmacy Technician	32011	MS-04
Pharmacy Manager	32025	MS-33
Photographer	32080	MS-11
Photographic Technician I	32091	MS-08
Photographic Technician II	32092	MS-11
Photographic Technician III	32093	MS-12
Physical Therapist	32145	MS-16
Physical Therapist Program Coordinator	32153	MS-21
Physical Therapy Aide I	32191	MS-03
Physical Therapy Aide II	32192	MS-05
Physical Therapy Aide III	32193	MS-08
Physician	32200	MS-36
Physician Assistant	32210	MS-27

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Physician Specialist – Option A	32221	MS-37
Physician Specialist – Option B	32222	MS-38
Physician Specialist – Option C	32223	MS-61
Physician Specialist – Option D	32224	MS-63
Physician Specialist – Option E	32225	MS-65
Plant and Pesticide Specialist I	32501	MS-15
Plant and Pesticide Specialist II	32502	MS-20
Plant and Pesticide Specialist Supervisor	32506	MS-20
Plumbing Consultant	32910	MS-28
Plumbing Inspector	32915	MS-22
Podiatrist	32960	MS-11
Police Lieutenant	32977	MS-31
Police Officer I	32981	MS-15
Police Officer II	32982	MS-20
Police Officer III	32983	MS-24
Police Training Specialist	32990	MS-16
Polygraph Examiner I	33001	MS-20
Polygraph Examiner II	33002	MS-24
Polygraph Examiner III	33003	MS-28
Polygraph Examiner Trainee	33005	MS-12
Power Shovel Operator	33360	MS-18
Private Secretary I	34201	MS-14
Private Secretary II	34202	MS-18
Procurement Representative	34540	MS-06
Products and Standards Inspector	34603	MS-11
Products and Standards Inspector Trainee	34605	MS-09
Program Integrity Auditor I	34631	MS-14
Program Integrity Auditor II	34632	MS-21
Program Integrity Auditor Trainee	34635	MS-09
Project Designer	34725	MS-21
Property and Supply Clerk I	34791	MS-03
Property and Supply Clerk II	34792	MS-04
Property and Supply Clerk III	34793	MS-05
Property Consultant	34900	MS-12
Psychologist Associate	35626	MS-12
Psychologist I	35611	MS-16
Psychologist II	35612	MS-23
Psychologist III	35613	MS-28
Psychology Intern	35660	MS-15

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Public Administration Intern	35700	MS-11
Public Aid Eligibility Assistant	35825	MS-05
Public Aid Investigator	35870	MS-21
Public Aid Investigator Trainee	35874	MS-11
Public Aid Lead Casework Specialist	35880	MS-16
Public Aid Program Quality Analyst	35890	MS-21
Public Aid Quality Control Reviewer	35892	MS-16
Public Aid Quality Control Supervisor	35900	MS-21
Public Aid Staff Development Specialist I	36071	MS-12
Public Aid Staff Development Specialist II	36072	MS-16
Public Aid Staff Development Specialist III	36073	MS-22
Public Health Educator	36430	MS-21
Public Health Educator Associate	36434	MS-11
Public Health Program Specialist I	36611	MS-11
Public Health Program Specialist II	36612	MS-14
Public Health Program Specialist III	36613	MS-21
Public Health Program Specialist Trainee	36615	MS-09
Public Information Coordinator	36750	MS-19
Public Information Officer I	37001	MS-09
Public Information Officer II	37002	MS-11
Public Information Officer III	37003	MS-21
Public Information Officer IV	37004	MS-25
Public Safety Drug Screening Specialist	37006	MS-16
Public Safety Inspector	37007	MS-14
Public Safety Inspector Trainee	37010	MS-07
Public Service Executive	37017	MS-31
Public Service Supervisor	37016	MS-28
Public Service Trainee	37025	MS-01
Race Track Maintainer I	37551	MS-10
Race Track Maintainer II	37552	MS-12
Radiologic Technologist	37500	MS-08
Radiologic Technologist Chief	37505	MS-17
Radiologic Technologist Program Coordinator	37507	MS-09
Railroad Safety Specialist I	37601	MS-21
Railroad Safety Specialist II	37602	MS-25
Railroad Safety Specialist III	37603	MS-29
Railroad Safety Specialist IV	37604	MS-32
Ranger	37725	MS-10
Real Estate Investigator	37730	MS-21

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Real Estate Professions Examiner	37760	MS-28
Recreation Worker I	38001	MS-09
Recreation Worker II	38002	MS-11
Refrigeration and Air Conditioning Repairer	38119	MS-12
Registered Nurse – Advanced Practice	38135	MS-26
Registered Nurse I	38131	MS-18
Registered Nurse II	38132	MS-22
Rehabilitation Case Coordinator I	38141	MS-05
Rehabilitation Case Coordinator II	38142	MS-07
Rehabilitation Counselor	38145	MS-16
Rehabilitation Counselor Aide I	38155	MS-06
Rehabilitation Counselor Aide II	38156	MS-08
Rehabilitation Counselor Senior	38158	MS-21
Rehabilitation Counselor Trainee	38159	MS-12
Rehabilitation Services Advisor I	38176	MS-23
Rehabilitation Workshop Instructor I	38192	MS-05
Rehabilitation Workshop Instructor II	38193	MS-09
Rehabilitation Workshop Supervisor I	38194	MS-09
Rehabilitation Workshop Supervisor II	38195	MS-11
Rehabilitation Workshop Supervisor III	38196	MS-14
Rehabilitation/Mobility Instructor	38163	MS-21
Rehabilitation/Mobility Instructor Trainee	38167	MS-12
Reimbursement Officer I	38199	MS-11
Reimbursement Officer II	38200	MS-14
Reproduction Service Supervisor I	38201	MS-10
Reproduction Service Supervisor II	38202	MS-18
Reproduction Service Technician I	38203	MS-03
Reproduction Service Technician II	38204	MS-06
Reproduction Service Technician III	38205	MS-08
Research Economist	38209	MS-18
Research Fellow, Option B	38211	MS-19
Research Scientist I	38231	MS-10
Research Scientist II	38232	MS-14
Research Scientist III	38233	MS-23
Resident Physician	38270	MS-15
Residential Care Program Supervisor I	38271	MS-22
Residential Care Worker	38277	MS-09
Residential Care Worker Trainee	38279	MS-05
Resource Planner I	38281	MS-16

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Resource Planner II	38282	MS-21
Resource Planner III	38283	MS-28
Retirement System Disability Specialist	38310	MS-21
Revenue Audit Supervisor	38369	MS-32
Revenue Auditor I	38371	MS-14
Revenue Auditor II	38372	MS-21
Revenue Auditor III	38373	MS-28
Revenue Auditor Trainee	38375	MS-09
Revenue Collection Officer I	38401	MS-12
Revenue Collection Officer II	38402	MS-16
Revenue Collection Officer III	38403	MS-21
Revenue Collection Officer Trainee	38405	MS-09
Revenue Computer Audit Specialist	38425	MS-29
Revenue Senior Special Agent	38557	MS-29
Revenue Special Agent	38558	MS-21
Revenue Special Agent Trainee	38565	MS-11
Revenue Tax Specialist I	38571	MS-09
Revenue Tax Specialist II	38572	MS-11
Revenue Tax Specialist III	38573	MS-16
Revenue Tax Specialist Trainee	38575	MS-07
Safety Responsibility Analyst	38910	MS-09
Safety Responsibility Analyst Supervisor	38915	MS-11
School Psychologist	39200	MS-21
Security Guard I	39851	MS-13
Security Guard II	39852	MS-14
Security Officer	39870	MS-10
Security Officer Chief	39875	MS-13
Security Officer Lieutenant	39876	MS-11
Security Officer Sergeant	39877	MS-10
Security Therapy Aide I	39901	MS-10
Security Therapy Aide II	39902	MS-11
Security Therapy Aide III	39903	MS-13
Security Therapy Aide IV	39904	MS-16
Security Therapy Aide Trainee	39905	MS-06
Seed Analyst I	39951	MS-09
Seed Analyst II	39952	MS-10
Seed Analyst Trainee	39953	MS-07
Senior Ranger	40090	MS-11
Sex Offender Registration Unit Supervisor	40700	MS-33

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Sex Offender Therapist I	40531	MS-16
Sex Offender Therapist II	40532	MS-21
Shift Supervisor	40800	MS-31
Sign Hanger	40900	MS-16
Sign Hanger Foreman	40910	MS-18
Sign Shop Foreman	41000	MS-12
Silk Screen Operator	41020	MS-17
Site Assistant Superintendent I	41071	MS-12
Site Assistant Superintendent II	41072	MS-16
Site Interpreter	41090	MS-07
Site Interpretive Coordinator	41093	MS-10
Site Security Officer	41115	MS-06
Site Services Specialist I	41117	MS-12
Site Services Specialist II	41118	MS-16
Site Superintendent I	41211	MS-20
Site Superintendent II	41212	MS-25
Site Superintendent III	41213	MS-29
Site Technician I	41131	MS-07
Site Technician II	41132	MS-09
Small Engine Mechanic	41150	MS-10
Social Service Aide I	41281	MS-05
Social Service Aide II	41282	MS-08
Social Service Aide Trainee	41285	MS-03
Social Service Community Planner	41295	MS-08
Social Service Consultant I	41301	MS-19
Social Service Consultant II	41302	MS-21
Social Service Program Planner I	41311	MS-12
Social Service Program Planner II	41312	MS-16
Social Service Program Planner III	41313	MS-23
Social Service Program Planner IV	41314	MS-28
Social Services Career Trainee	41320	MS-09
Social Worker I	41411	MS-16
Social Worker II	41412	MS-21
Social Worker III	41413	MS-23
Social Worker IV	41414	MS-28
Social Worker Intern	41430	MS-15
Special Education Resources Coordinator	41680	MS-26
Staff Development Specialist I	41771	MS-19
Staff Development Technician I	41781	MS-09

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Staff Development Technician II	41782	MS-12
Staff Pharmacist	41787	MS-31
State Mine Inspector	42230	MS-21
State Mine Inspector-At-Large	42240	MS-31
State Police Crime Information Evaluator	41801	MS-08
State Police Evidence Technician I	41901	MS-09
State Police Evidence Technician II	41902	MS-10
State Police Field Specialist I	42001	MS-19
State Police Field Specialist II	42002	MS-23
State Police Inspector	42100	MS-33
Statistical Research Specialist I	42741	MS-09
Statistical Research Specialist II	42742	MS-11
Statistical Research Specialist III	42743	MS-16
Statistical Research Supervisor	42745	MS-23
Statistical Research Technician	42748	MS-08
Storage Tank Safety Specialist	43005	MS-19
Storekeeper I	43051	MS-11
Storekeeper II	43052	MS-12
Storekeeper III	43053	MS-13
Stores Clerk	43060	MS-03
Student Intern	43190	MS-01
Student Worker	43200	MS-01
Supervising Vehicle Testing Compliance Officer	43680	MS-22
Support Service Coordinator I	44221	MS-07
Support Service Coordinator II	44222	MS-09
Support Service Lead	44225	MS-04
Support Service Worker	44238	MS-03
Switchboard Chief Operator	44410	MS-11
Switchboard Operator I	44411	MS-03
Switchboard Operator II	44412	MS-04
Switchboard Operator III	44413	MS-06
Technical Advisor Advanced Program Specialist	45256	MS-31
Technical Advisor I	45251	MS-19
Technical Advisor II	45252	MS-23
Technical Advisor III	45253	MS-29
Technical Manager I	45261	MS-18
Telecommunications Specialist	45295	MS-12
Telecommunications Supervisor	45305	MS-23
Telecommunications Systems Analyst	45308	MS-16

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Telecommunications Systems Technician I	45312	MS-07
Telecommunications Systems Technician II	45313	MS-10
Telecommunications Systems Technician Trainee	45314	MS-05
Telecommunicator	45321	MS-09
Telecommunicator – Command Center	45316	MS-10
Telecommunicator Call Taker	45322	MS-11
Telecommunicator Lead Call Taker	45323	MS-14
Telecommunicator Lead Specialist	45327	MS-16
Telecommunicator Lead Worker	45324	MS-11
Telecommunicator Lead Worker – Command Center	45318	MS-12
Telecommunicator Specialist	45326	MS-12
Telecommunicator Trainee	45325	MS-07
Terrorism Research Specialist I	45371	MS-19
Terrorism Research Specialist II	45372	MS-23
Terrorism Research Specialist III	45373	MS-28
Terrorism Research Specialist Trainee	45375	MS-11
Transportation Officer	45830	MS-11
Truck Weighing Inspector	46100	MS-10
Unemployment Insurance Adjudicator I	47001	MS-08
Unemployment Insurance Adjudicator II	47002	MS-10
Unemployment Insurance Adjudicator III	47003	MS-12
Unemployment Insurance Revenue Analyst I	47081	MS-12
Unemployment Insurance Revenue Analyst II	47082	MS-16
Unemployment Insurance Revenue Specialist	47087	MS-10
Unemployment Insurance Special Agent	47096	MS-19
Utility Engineer I	47451	MS-20
Utility Engineer II	47452	MS-24
Vehicle Compliance Inspector	47570	MS-15
Vehicle Emission Compliance Inspector	47580	MS-10
Vehicle Emission Compliance Supervisor	47583	MS-12
Vehicle Emission Quality Assurance Auditor	47584	MS-10
Vehicle Permit Evaluator	47585	MS-08
Veterans Educational Specialist I	47681	MS-12
Veterans Educational Specialist II	47682	MS-16
Veterans Educational Specialist III	47683	MS-25
Veterans Employment Representative I	47701	MS-11
Veterans Employment Representative II	47702	MS-14
Veterans Nursing Assistant – Certified	47750	MS-05
Veterans Service Officer	47800	MS-11

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Veterans Service Officer Associate	47804	MS-10
Veterinarian I	47901	MS-19
Veterinarian II	47902	MS-23
Veterinarian III	47903	MS-25
Veterinary Consumer Safety Officer	47911	MS-20
Veterinary Pathologist	47916	MS-29
Veterinary Supervisor I	47917	MS-25
Veterinary Supervisor II	47918	MS-26
Vision/Hearing Consultant I	47941	MS-14
Vision/Hearing Consultant II	47942	MS-23
Vision/Hearing Consultant III	47943	MS-25
Vital Records Quality Control Inspector	48000	MS-10
Vocational Instructor	48200	MS-09
Volunteer Services Coordinator I	48481	MS-10
Volunteer Services Coordinator II	48482	MS-14
Volunteer Services Coordinator III	48483	MS-19
Wage Claims Specialist	48770	MS-06
Warehouse Claims Specialist	48780	MS-22
Warehouse Examiner	48881	MS-13
Warehouse Examiner Specialist	48882	MS-18
Warehouse Examiner Supervisor	48786	MS-20
Waterways Construction Supervisor I	49061	MS-14
Waterways Construction Supervisor II	49062	MS-19
Weatherization Specialist I	49101	MS-11
Weatherization Specialist II	49102	MS-16
Weatherization Specialist III	49103	MS-23
Weatherization Specialist Trainee	49105	MS-09
Well Inspector I	49421	MS-11
Well Inspector II	49422	MS-18
Well Inspector Trainee	49425	MS-09
Workers Compensation Insurance Compliance Investigator	49640	MS-23

NOTE: Effective January 1, 2008, the merit compensation grade 12 in the Personnel Code [20 ILCS 415/8b.18(a) and (b) and 8b.19(a) and (b)] that formerly was indicated by MC-12 is MS-32.

(Source: Amended at 41 Ill. Reg. 1695, effective January 25, 2017)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 310.APPENDIX A Negotiated Rates of Pay

Section 310.TABLE D HR-001 (Teamsters Local #700)

Title	Title Code	Bargaining Unit	Pay Plan Code	Full Scale Mo.	Effective Date
Highway Maintainer (Snowbirds)	18639	HR-001	Q	4375.00	July 1, 2014

NOTE: Definition of Snowbirds – Snowbirds are all seasonal, full-time Highway Maintainers whose primary function is snow removal.

Effective July 1, 2015

Title	Title Code	Pay Plan Code	75%		80%		85%		90%		95%		Full Scale	
			Mo.	Hr.	Mo.	Hr.	Mo.	Hr.	Mo.	Hr.	Mo.	Hr.	Mo.	Hr.
Building Services Worker	05616	B	2951	16.96	3148	18.09	3344	19.22	3540	20.34	3737	21.48	3934	22.61
Elevator Operator	13500	B	3011	17.30	3212	18.46	3413	19.61	3613	20.76	3814	21.92	4015	23.07
Elevator Operator – Assistant Starter	13500	B	3050	17.53	3254	18.70	3457	19.87	3660	21.03	3864	22.21	4067	23.37
Elevator Operator – Starter	13500	B	3069	17.64	3274	18.82	3478	19.99	3683	21.17	3887	22.34	4092	23.52
Grounds Supervisor	17549	B	4471	25.70	4769	27.41	5066	29.11	5365	30.83	5663	32.55	5961	34.26
Grounds Supervisor (DHS – Chicago Read)	17549	B	4633	26.63	4942	28.40	5251	30.18	5559	31.95	5868	33.72	6177	35.50
Grounds Supervisor (DHS – Supervisor Tractor Trailer)	17549	B	4854	27.90	5178	29.76	5501	31.61	5825	33.48	6149	35.34	6472	37.20

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Heavy Construction Equipment Operator (Regular – RG)	18465	Q	4739	27.24	5054	29.05	5370	30.86	5687	32.68	6002	34.49	6318	36.31
Heavy Construction Equipment Operator (Bridge Crew – BC)	18465	Q	4806	27.62	5127	29.47	5448	31.31	5768	33.15	6088	34.99	6409	36.83
Highway Maintainer (Regular – RG)	18639	Q	4641	26.67	4950	28.45	5259	30.22	5568	32.00	5878	33.78	6187	35.56
Highway Maintainer (Bridge Crew – BC)	18639	Q	4711	27.07	5026	28.89	5340	30.69	5654	32.49	5968	34.30	6282	36.10
Highway Maintainer (Drill Rig – DR)	18639	Q	4739	27.24	5054	29.05	5370	30.86	5687	32.68	6002	34.49	6318	36.31
Highway Maintainer (Emergency Patrol – EP)	18639	Q	4741	27.25	5057	29.06	5378	30.87	5689	32.70	6005	34.51	6321	36.33
Highway Maintenance Lead Worker (Regular – RG)	18659	Q	4770	27.41	5087	29.24	5405	31.06	5723	32.89	6040	34.71	6359	36.55
Highway Maintenance Lead Worker (Bridge Crew – BC)	18659	Q	4837	27.80	5159	29.65	5483	31.51	5805	33.36	6127	35.21	6449	37.06
Highway Maintenance Lead Worker (Emergency Patrol – EP)	18659	Q	4867	27.97	5192	29.84	5516	31.70	5841	33.57	6165	35.43	6489	37.29
Highway Maintenance Lead Worker (Lead Lead	18659	Q	4817	27.68	5139	29.53	5459	31.37	5780	33.22	6102	35.07	6423	36.91

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Worker) (Regular – RG)															
Highway Maintenance Lead Worker (Lead Lead Worker) (Bridge Crew – BC)	18659	Q	4886	28.08	5211	29.95	5537	31.82	5862	33.69	6188	35.56	6514	37.44	
Highway Maintenance Lead Worker (Lead Lead Worker) (Emergency Patrol – EP)	18659	Q	4916	28.25	5244	30.14	5571	32.02	5899	33.90	6227	35.79	6555	37.67	
Laborer (Maintenance) (Regular – RG)	23080	B	4492	25.82	4792	27.54	5091	29.26	5391	30.98	5690	32.70	5989	34.42	
Maintenance Equipment Operator	25020	B	4583	26.34	4888	28.09	5194	29.85	5499	31.60	5805	33.36	6110	35.11	
Maintenance Equipment Operator (DHS – Tractor Trailer)	25020	B	4605	26.47	4912	28.23	5219	29.99	5526	31.76	5833	33.52	6140	35.29	
Maintenance Equipment Operator (Dispatcher)	25020	B	4751	27.30	5067	29.12	5384	30.94	5701	32.76	6017	34.58	6334	36.40	
Maintenance Worker (not DOT, DHS – Chicago Read or DHS – Forensic)	25500	B	4440	25.52	4736	27.22	5032	28.92	5328	30.62	5624	32.32	5920	34.02	
Maintenance Worker (DHS – Chicago Read)	25500	B	4583	26.34	4888	28.09	5194	29.85	5499	31.60	5805	33.36	6110	35.11	
Maintenance Worker (DHS – Forensic)	25500	Q	4641	26.67	4950	28.45	5259	30.22	5568	32.00	5878	33.78	6187	35.56	

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Maintenance Worker (DOT – Regular – RG)	25500	B	4529	26.03	4831	27.76	5133	29.50	5435	31.24	5736	32.97	6038	34.70
Maintenance Worker (DOT – Emergency Patrol – EP)	25500	B	4626	26.59	4934	28.36	5242	30.13	5550	31.90	5859	33.67	6167	35.44
Power Shovel Operator (Maintenance) (Regular – RG)	33360	B	4806	27.62	5127	29.47	5448	31.31	5768	33.15	6088	34.99	6409	36.83
Sign Hanger	40900	B	4640		4950		5259		5568		5878		6187	
Sign Hanger Foreman	40910	B	4769		5087		5405		5723		6041		6359	

NOTES: Rates and Movements – Effective July 1, 2015, all current rates that are in effect ~~are will be~~ frozen for the duration of the [2015-2019 Collective Bargaining Agreement \(CBA\) agreement](#) (including contractual in-hire movements).

Merit Incentive Program and Gain Sharing Programs – The [bargaining unit and State parties](#) agree to develop and implement a merit incentive program to reward and incentivize high-performing employees, or a group's/unit's performance. As a part of ~~thesesuch~~ efforts, the [State shall allocate funds](#) ~~Employer may create an annual bonus fund~~ for payout to those individuals deemed high performers or for a group's/unit's level of performance for the specific group/unit. Payment from ~~the allocated funds is~~ [this bonus fund will be](#) based on the satisfaction of performance standards to be developed by the [State Employer](#) in consultation with the [bargaining unit Union](#). ~~ThisSuch~~ compensation, either for a group/unit or an individual, shall be considered a one-time bonus and ~~will be~~ offered only as a non-pensionable incentive. ~~Any, and that any~~ employee who accepts merit pay compensation does so voluntarily and with the knowledge and on the express condition that the merit pay compensation ~~is will~~ [is will](#) not ~~be~~ included in any pension calculations.

Additionally, as a part of overall efforts to improve efficiency of State operations and align the incentives of the [State Employer](#) with its employees, the [State Employer](#) may develop gain sharing programs. Under ~~thesesuch~~ programs, employees or departments may propose

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

initiatives that ~~would~~ achieve substantial savings for the State. Upon realization of ~~thesesuch~~ savings, the ~~StateEmployer~~ may elect to return a portion of ~~thesethis~~ savings to the employees who participated in the identified initiative. ~~ThisSuch~~ compensation, either for a group/unit or an individual, shall be considered a one-time bonus and ~~will be~~ offered only as a non-pensionable incentive. ~~Any, and that any~~ employee who accepts merit pay compensation does so voluntarily and with the knowledge and on the express condition that the merit pay compensation ~~iswill~~ not ~~be~~ included in any pension calculations.

In each contract year in which a merit incentive program is created, no less than 25% of the employees subject to ~~the 2015-2019 CBAthis~~ ~~agreement will~~ receive some form of merit compensation under ~~thesesuch~~ programs. Funding for these performance bonuses is subject to annual approval as a part of the State's overall budget.

The ~~State developsEmployer will develop~~ specific policies for both of these programs and ~~giveswill give~~ the ~~bargaining unitUnion~~ an opportunity to review and comment on ~~thesesuch~~ policies prior to their implementation. The ~~State'sEmployer's~~ intent is to develop policies that ~~will~~ reward employees or units of employees based on specific achievements and to prevent payouts that are influenced by favoritism, politics, or other purely subjective criteria. Compliance with the policies for both of these programs shall be subject to the grievance and arbitration procedure.

Rights exercised by the State under Section 4 of the Illinois Public Labor Relations Act [5 ILCS 315], 80 Ill. Adm. Code 301 through 331, and Article 3 of the 2015-2019 CBA are subject to all the terms of that CBA. However, it is understood that compensation payable pursuant to merit incentive and gain sharing~~The exercise of such rights by management (management means State and rights are defined in the Agreement Article 3) may not conflict with the provisions of this agreement, except that it is understood that compensation payable pursuant to such~~ programs shall be performance-based only. Moreover, an employee's failure or refusal to participate in ~~these programs~~~~this program~~ may not be grounds for any form of discipline.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Vacation Payout Restriction – Effective January 1, 2016, employees newly-hired into the bargaining unit shall be entitled to a vacation payout of no more than 45 days.

Shift Differential Pay – Employees (except Snowbirds) required to work a shift different than their normal day shift ~~are will be~~ paid a \$0.50 per hour shift premium provided that ½ or more of their work shift falls before 6:30 a.m. or after 3:00 p.m. This shift premium does not include those employees normally working shifts other than the normal day shift or employees hired into positions where the regular shift hours are not considered day shift hours, or snow or ice season.

Clothing Allowance – Effective July 1, 2011, the clothing allowance for Lead Workers, Lead Lead Workers, Heavy Construction Equipment Operator, Highway Maintainers, and Maintenance Workers (Illinois Department of Transportation) employees increases to \$200.

In-Hire Rate – In-hire rates are located in Section 310.47(a). The State and HR-001 Bargaining Unit agree ~~that~~ the in-hire rate ~~of as was amended to~~ 75% ~~established in for~~ the 2008-2012 ~~and 2012-2015 CBAs~~ ~~Collective Bargaining Agreement~~ shall continue in effect ~~for all classifications.~~ ~~However, The parties also agree that all classifications shall continue the 75% in-hire rate as agreed to in the 2012-2015 Agreement, however,~~ effective July 1, 2015, all employees ~~are will be~~ frozen at their current rate for the duration of ~~the 2015-2019 CBA~~ ~~this agreement~~. Employees within this bargaining unit who are promoted and are in the in-hire progression ~~will~~ promote to the next step of the in-hire rate of the higher classification and ~~would~~ then ~~are be~~ frozen at that new in-hire rate. In addition, temporary assignments to higher ~~level~~ classifications shall also be calculated at the in-hire rates. All full-scale employees within this ~~collective~~ bargaining unit ~~are will be~~ promoted to the full-scale rate as if they were promoted to the next higher classification within the series.

(Source: Amended at 41 Ill. Reg. 1695, effective January 25, 2017)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 310.APPENDIX A Negotiated Rates of Pay**Section 310.TABLE E RC-020 (Teamsters Locals #330 and #705)**

Title	Title Code	Bargaining Unit	Pay Plan Code	Full Scale Mo.	Effective Date
Highway Maintainer (Snowbirds)	18639	RC-020	Q	4375.00	July 1, 2014

NOTE: Definition of Snowbird – Snowbirds are all seasonal, full-time Highway Maintainers whose primary function is snow removal.

Effective July 1, 2015

Title	Pay Title Code	Plan Code	75%		80%		85%		90%		95%		Full Scale	
			Mo.	Hr.	Mo.	Hr.	Mo.	Hr.	Mo.	Hr.	Mo.	Hr.	Mo.	Hr.
Bridge Mechanic	05310	Q	4674	26.86	4986	28.66	5297	30.44	5609	32.24	5920	34.02	6232	35.82
Bridge Tender Heavy	05320	B	4419	25.40	4714	27.09	5008	28.78	5303	30.48	5597	32.17	5892	33.86
Construction Equipment Operator	18465	Q	4807	27.63	5127	29.47	5448	31.31	5768	33.15	6089	34.99	6318	36.31
Heavy Construction Equipment Operator (Bridge Crew – BC)	18465	Q	4739	27.24	5054	29.05	5370	30.86	5686	32.68	6002	34.49	6409	36.83
Highway Maintainer	18639	Q	4712	27.08	5026	28.89	5340	30.69	5654	32.49	5968	34.30	6187	35.56
Highway Maintainer (Bridge Crew – BC)	18639	Q	4739	27.24	5054	29.05	5370	30.86	5686	32.68	6002	34.49	6282	36.10
Highway Maintainer (Drill Rig – DR)	18639	Q	4640	26.67	4950	28.45	5259	30.22	5568	32.00	5878	33.78	6318	36.31

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Highway Maintenance Lead Worker	18659	Q	4886	28.08	5211	29.95	5537	31.82	5863	33.70	6188	35.56	6359	36.55
Highway Maintenance Lead Worker (Bridge Crew – BC)	18659	Q	4817	27.68	5138	29.53	5460	31.38	5781	33.22	6102	35.07	6449	37.06
Highway Maintenance Lead Worker (Lead Lead Worker)	18659	Q	4837	27.80	5159	29.65	5482	31.51	5804	33.36	6127	35.21	6423	36.91
Highway Maintenance Lead Worker (Lead Lead Worker) (Bridge Crew – BC)	18659	Q	4769	27.41	5087	29.24	5405	31.06	5723	32.89	6041	34.72	6514	37.44
Labor Maintenance Lead Worker	22809	B	4547	26.13	4850	27.87	5154	29.62	5457	31.36	5760	33.10	6063	34.84
Laborer (Maintenance)	23080	B	4492	25.82	4791	27.53	5091	29.26	5390	30.98	5690	32.70	5989	34.42
Maintenance Equipment Operator	25020	B	4583	26.34	4888	28.09	5194	29.85	5499	31.60	5805	33.36	6110	35.11
Maintenance Equipment Operator	25020	Q	4739	27.24	5054	29.05	5370	30.86	5686	32.68	6002	34.49	6318	36.31
Maintenance Worker (DHS)	25500	B	4529	26.03	4830	27.76	5132	29.49	5434	31.23	5736	32.97	6117	35.16
Maintenance Worker (DOT, not Emergency Patrol)	25500	B	4588	26.37	4894	28.13	5199	29.88	5505	31.64	5811	33.40	6038	34.70
Power Shovel Operator (Maintenance)	33360	Q	4807	27.63	5127	29.47	5448	31.31	5768	33.15	6089	34.99	6318	36.31
Power Shovel Operator (Maintenance) (Bridge Crew – BC)	33360	Q	4739	27.24	5054	29.05	5370	30.86	5686	32.68	6002	34.49	6409	36.83

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Silk Screen Operator	41020	B	4681	26.90	4993	28.70	5305	30.49	5617	32.28	5929	34.07	6241	35.87
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NOTES: Shift Differential Pay – Employees required to work a shift different than their normal day shift ~~are~~will be paid a \$0.50 per hour shift premium, provided that ½ or more of their work shift falls before 6:30 a.m. or after 3:00 p.m. This shift premium does not include those employees normally working shifts other than the normal day shift or employees hired into positions for which the regular shift hours are not considered day shift hours, or snow or ice season.

Clothing Allowance – Effective July 1, 2011, the clothing allowance for Heavy Construction Equipment Operators, Highway Maintainers, Highway Maintenance Lead Workers, Highway Maintenance Lead Lead Workers, Silk Screen Operators, and Bridge Mechanics employees increases to \$200. Effective July 1, 2011, the clothing allowance for all other titles increases to \$100. The allowance shall be applied only to certified employees who are on the active payroll effective July 1. Employees on authorized leave of absence on July 1 shall be paid the allowance on a prorated basis upon return from leave.

Rates and Movements – Effective July 1, 2015, all current rates that are in effect ~~are~~will be frozen for the duration of the [2015-2019 Collective Bargaining Agreement \(CBA\) agreement](#) (including contractual in-hire movements).

Merit Incentive Program and Gain Sharing Programs – The [bargaining unit and State parties](#) agree to develop and implement a merit incentive program to reward and incentivize high-performing employees, or a group's/unit's performance. As a part of ~~these efforts~~this effort, the [State employer](#) shall allocate funds for payout to those individuals deemed high performers or for a group's/unit's level of performance for the specific group/unit. Payment from the allocated funds ~~is~~will be based on the satisfaction of performance standards to be developed by the employer in consultation with the bargaining [unit representative](#). This compensation, either for a group/unit or an individual, shall be considered a one-time bonus and ~~will be~~ offered only as a non-pensionable incentive. Any employee who accepts merit pay compensation does so voluntarily and with the knowledge and on the express condition that the merit pay compensation ~~is~~will not be included in any pension calculations.

Additionally, as a part of overall efforts to improve efficiency of State operations and align the incentives of the [State employer](#) with its employees, the [State employer](#) may develop gain sharing programs. Under these programs,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

employees or departments may propose initiatives that ~~would~~ achieve substantial savings for the State. Upon realization of ~~thesethose~~ savings, the ~~Stateemployer~~ may elect to return a portion of ~~thesethose~~ savings to the employees who participated in the identified initiative. This compensation, either for a group/unit or an individual, shall be considered a one-time bonus and ~~will be~~ offered only as a non-pensionable incentive. Any employee who accepts merit pay compensation does so voluntarily and with the knowledge and on the express condition that the merit pay compensation ~~iswill~~ not ~~be~~ included in any pension calculations.

In each contract year in which a merit incentive program is created, no less than 25% of the employees subject to ~~the 2015-2019 CBA~~~~this agreement will~~ receive some form of merit compensation under these programs. Funding for these performance bonuses is subject to annual approval as a part of the State's overall budget.

The ~~State develop~~~~employer will develop~~ specific policies for both of these programs and ~~giveswill give~~ the bargaining ~~unit~~~~representative~~ an opportunity to review and comment on these policies prior to their implementation. The ~~State's~~~~employer's~~ intent is to develop policies that ~~will~~ reward employees or units of employees based on specific achievements and to prevent payouts that are influenced by favoritism, politics, or other purely subjective criteria. Compliance with the policies for both of these programs shall be subject to the grievance and arbitration procedure.

Rights exercised by the ~~Stateemployer~~ under Section 4 of the Illinois Public Labor Relations Act [5 ILCS 315], 80 Ill. Adm. Code 301 through 331, and Article 2 of the 2015-2019 ~~CBA~~~~Collective Bargaining Agreement~~ are subject to all the terms of that CBA. However, it is understood that compensation payable pursuant to merit incentive and gain sharing programs shall be performance-based only. Moreover, an employee's failure or refusal to participate in ~~these programsthis program~~ may not be grounds for any form of discipline.

Restriction Payment in Lieu of Vacation and Vacation Benefits on Death of Employee – Effective January 1, 2016, employees newly-hired into the bargaining unit shall be entitled to a vacation payout of no more than 45 days.

In-Hire Rate – In-hire rates are located in Section 310.47(a). The State and RC-020 Bargaining Unit agree that the in-hire rate of 75% established in the 2008-2012 and 2012-2015 ~~CBAs~~~~Collective Bargaining Agreements~~ shall continue in effect

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

for all classifications. However, effective July 1, 2015, all employees ~~are~~will be frozen at their current rate for the duration of the 2015-2019 ~~CBA~~Collective Bargaining Agreement. Employees within this bargaining unit who are promoted and are in the in-hire progression ~~will~~ promote to the next step of the in-hire rate of the higher classification and ~~would then~~ are~~be~~ frozen at that new in-hire rate. In addition, temporary assignments to higher ~~level~~ classifications shall also be calculated at the in-hire rates. All full-scale employees within this ~~collective~~ bargaining unit ~~are~~will be promoted to full-scale rate as if they were promoted to the next higher classification within the series.

(Source: Amended at 41 Ill. Reg. 1695, effective January 25, 2017)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 310.APPENDIX A Negotiated Rates of Pay**Section 310.TABLE F RC-019 (Teamsters Local #25)**

Title	Title Code	Bargaining Unit	Pay Plan Code	Full Scale Mo.	Effective Date
Highway Maintainer (Snowbirds)	18639	RC-019	Q	4375.00	July 1, 2014

NOTE: Definition of Snowbird – Snowbirds are all seasonal, salaried, full-time Highway Maintainers whose primary function is snow removal.

Effective July 1, 2015

Title	Title Code	Pay Plan Code	75%		80%		85%		90%		95%		Full Scale	
			Mo.	Hr.	Mo.	Hr.	Mo.	Hr.	Mo.	Hr.	Mo.	Hr.	Mo.	Hr.
Bridge Mechanic (IDOT)	05310	Q	4668	26.83	4979	28.61	5290	30.40	5602	32.20	5913	33.98	6224	35.77
Bridge Tender (IDOT)	05320	B	4696	26.99	5009	28.79	5322	30.59	5635	32.39	5948	34.18	6261	35.98
Deck Hand (IDOT)	11500	B	4512	25.93	4813	27.66	5114	29.39	5414	31.11	5715	32.84	6016	34.57
Ferry Operator I (IDOT)	14801	B	4696	26.99	5009	28.79	5322	30.59	5635	32.39	5948	34.18	6261	35.98
Ferry Operator II (IDOT)	14802	B	4736	27.22	5052	29.03	5368	30.85	5684	32.67	5999	34.48	6315	36.29
Highway Maintainer (Regular – RG) (IDOT)	18639	Q	4640	26.67	4950	28.45	5259	30.22	5568	32.00	5878	33.78	6187	35.56
Highway Maintainer (Bridge Crew – BC) (IDOT)	18639	Q	4699	27.01	5012	28.80	5325	30.60	5639	32.41	5952	34.21	6265	36.01
Highway Maintainer (Drill Rig – DR) (IDOT)	18639	Q	4722	27.14	5037	28.95	5352	30.76	5666	32.56	5981	34.37	6296	36.18

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Highway Maintainer (Emergency Patrol – EP) (IDOT)	18639	Q	4724	27.15	5039	28.96	5354	30.77	5669	32.58	5984	34.39	6299	36.20
Highway Maintenance Lead Worker (Regular – RG) (IDOT)	18659	Q	4748	27.29	5065	29.11	5381	30.93	5698	32.75	6014	34.56	6331	36.39
Highway Maintenance Lead Worker (Bridge Crew – BC) (IDOT)	18659	Q	4806	27.62	5126	29.46	5447	31.30	5767	33.14	6088	34.99	6408	36.83
Highway Maintenance Lead Worker (Emergency Patrol – EP) (IDOT)	18659	Q	4832	27.77	5154	29.62	5476	31.47	5798	33.32	6120	35.17	6442	37.02
Highway Maintenance Lead Worker (Lead Lead Worker) (Regular – RG) (IDOT)	18659	Q	4790	27.53	5109	29.36	5428	31.20	5747	33.03	6067	34.87	6386	36.70
Highway Maintenance Lead Worker (Lead Lead Worker) (Bridge Crew – BC) (IDOT)	18659	Q	4847	27.86	5170	29.71	5494	31.57	5817	33.43	6140	35.29	6463	37.14
Highway Maintenance Lead Worker (Lead Lead Worker) (Emergency Patrol – EP) (IDOT)	18659	Q	4851	27.88	5174	29.74	5498	31.60	5821	33.45	6145	35.32	6468	37.17

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Janitor I (Including Office of Administration) (CMS, DOC, DHS, DJJ, DNR, ISP and DVA)	21951	B	4349	24.99	4639	26.66	4929	28.33	5219	29.99	5509	31.66	5799	33.33
Janitor II (Including Office of Administration) (CMS, DOC, DHS, DJJ, DNR, ISP and DVA)	21952	B	4375	25.14	4666	26.82	4958	28.49	5250	30.17	5541	31.84	5833	33.52
Labor Maintenance Lead Worker (CMS, DOC, DHS, DJJ, DNR, IDOT, ISP and DVA)	22809	B	4560	26.21	4864	27.95	5168	29.70	5472	31.45	5776	33.20	6080	34.94
Laborer (Maintenance) (IDOT)	23080	B	4514	25.94	4815	27.67	5116	29.40	5417	31.13	5718	32.86	6019	34.59
Maintenance Equipment Operator	25020	B	4590	26.38	4896	28.14	5202	29.90	5508	31.66	5814	33.41	6120	35.17
Maintenance Equipment Operator (DHS Forensics)	25020	Q	4640	26.67	4950	28.45	5259	30.22	5568	32.00	5878	33.78	6187	35.56
Maintenance Equipment Operator (DOC)	25020	Q	4722	27.14	5037	28.95	5352	30.76	5666	32.56	5981	34.37	6296	36.18
Maintenance Equipment Operator (DOC – Maximum Security)	25020	S	4764	27.38	5082	29.21	5399	31.03	5717	32.86	6034	34.68	6352	36.51

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Maintenance Worker (CMS, DOC, DHS, DJJ, DNR, IDOT, ISP and DVA)	25500	B	4544	26.11	4846	27.85	5149	29.59	5452	31.33	5755	33.07	6058	34.82
Maintenance Worker (DHS – Forensics)	25500	Q	4595	26.41	4901	28.17	5207	29.93	5513	31.68	5820	33.45	6126	35.21
Power Shovel Operator (Maintenance) (Regular – RG) (CMS, DOC, DHS, DJJ, DNR, ISP and DVA)	33360	B	4671	26.84	4982	28.63	5294	30.43	5605	32.21	5917	34.01	6228	35.79
Power Shovel Operator (Maintenance) (Regular – RG) (IDOT)	33360	Q	4722	27.14	5037	28.95	5352	30.76	5666	32.56	5981	34.37	6296	36.18
Power Shovel Operator (Maintenance) (Bridge Crew – BC) (IDOT)	33360	Q	4781	27.48	5100	29.31	5419	31.14	5738	32.98	6056	34.80	6375	36.64
Security Guard I (CMS, DOC, DHS, DJJ, DNR, ISP and DVA)	39851	B	4372	25.13	4663	26.80	4955	28.48	5246	30.15	5538	31.83	5829	33.50
Security Guard II (CMS, DOC, DHS, DJJ, DNR, ISP and DVA)	39852	B	4411	25.35	4705	27.04	4999	28.73	5293	30.42	5587	32.11	5881	33.80
Silk Screen Operator (IDOT)	41020	B	4675	26.87	4986	28.66	5298	30.45	5610	32.24	5921	34.03	6233	35.82

NOTES: Shift Differential Pay – Employees required to work a shift different than their normal day shift ~~are~~will be paid a \$0.50 per hour shift premium, provided that ½ or more of their work shift falls before 6:30 a.m. or after 3:00 p.m. This shift premium does not include those employees normally working shifts other than the normal

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

day shift or employees hired into positions for which the regular shift hours are not considered day shift hours, or snow or ice season.

Clothing Allowance – Effective July 1, 2011, the clothing allowance for Highway Maintainers, Highway Maintenance Lead Workers, Highway Maintenance Lead Workers, Deck Hands and Power Shovel Operator Maintenance employees increases to \$200. Effective July 1, 2011, the clothing allowance for all other titles increases to \$100. Effective July 1, 2013, employees who are required to wear steel-toe safety shoes shall receive an additional \$100 clothing allowance. The total ~~does will~~ not exceed \$200 per contract year.

Rates and Movements – Effective July 1, 2015, all current rates that are in effect ~~are will be~~ frozen for the duration of the 2015-2019 Collective Bargaining Agreement (CBA) agreement (including contractual in-hire movements).

Merit Incentive Program and Gain Sharing Programs – The bargaining unit and State parties agree to develop and implement a merit incentive program to reward and incentivize high-performing employees, or a group's/unit's performance. As a part of ~~these efforts this effort~~, the State employer shall allocate funds for payout to those individuals deemed high performers or for a group's/unit's level of performance for the specific group/unit. Payment from the allocated funds ~~is will be~~ based on the satisfaction of performance standards to be developed by the State employer in consultation with the bargaining unit representative. This compensation, either for a group/unit or an individual, shall be considered a one-time bonus and ~~will be~~ offered only as a non-pensionable incentive. Any employee who accepts merit pay compensation does so voluntarily and with the knowledge and on the express condition that the merit pay compensation ~~is will~~ not ~~be~~ included in any pension calculations.

Additionally, as a part of overall efforts to improve efficiency of State operations and align the incentives of the State employer with its employees, the State employer may develop gain sharing programs. Under these programs, employees or departments may propose initiatives that would achieve substantial savings for the State. Upon realization of these savings, the State employer may elect to return a portion of ~~these this~~ savings to the employees who participated in the identified initiative. This compensation, either for a group/unit or an individual, shall be considered a one-time bonus and ~~will be~~ offered only as a non-pensionable incentive. Any employee who accepts merit pay compensation

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

does so voluntarily and with the knowledge and on the express condition that the merit pay compensation ~~is~~~~will~~ not ~~be~~ included in any pension calculations.

In each contract year in which a merit incentive program is created, no less than 25% of the employees subject to ~~the 2015-2019 CBA~~~~this agreement~~ ~~will~~ receive some form of merit compensation under ~~these~~~~such~~ programs. Funding for these performance bonuses is subject to annual approval as a part of the State's overall budget.

The ~~State develops~~~~employer will develop~~ specific policies for both of these programs and ~~gives~~~~will give~~ the bargaining ~~unit~~~~representative~~ an opportunity to review and comment on these policies prior to their implementation. The ~~State's~~~~employer's~~ intent is to develop policies that ~~will~~ reward employees or units of employees based on specific achievements and to prevent payouts that are influenced by favoritism, politics, or other purely subjective criteria. Compliance with the policies for both of these programs shall be subject to the grievance and arbitration procedure.

Rights exercised by the ~~State~~~~employer~~ under Section 4 of the Illinois Public Labor Relations Act [5 ILCS 315], 80 Ill. Adm. Code 301 through 331, and ~~Article 2 of~~ the 2015-2019 ~~CBA~~~~Collective Bargaining Agreement~~ are subject to all the terms of that CBA. However, it is understood that compensation payable pursuant to merit incentive and gain sharing programs shall be performance-based only. Moreover, an employee's failure or refusal to participate in ~~these~~ ~~program~~~~s~~~~this~~ ~~program~~ may not be grounds for any form of discipline.

Restriction Payment in Lieu of Vacation and Vacation Benefits on Death of Employee – Effective January 1, 2016, employees newly-hired into the bargaining unit shall be entitled to a vacation payout of no more than 45 days.

In-Hire Rate – In-hire rates are located in Section 310.47(a). The State and the RC-019 Bargaining Unit agree that the in-hire rate of 75% established in the 2008-2012 and 2012-2015 ~~CBAs~~~~Collective Bargaining Agreements~~ shall continue in effect for all classifications. However, effective July 1, 2015, all employees ~~are~~~~will be~~ frozen at their current rate for the duration of the 2015-2019 ~~CBA~~~~Collective Bargaining Agreement~~. Employees within this bargaining unit who are promoted and are in the in-hire progression ~~will~~ promote to the next step of the in-hire rate of the higher classification and ~~would then~~ ~~are~~~~be~~ frozen at that new in-hire rate. In addition, temporary assignments to higher-~~level~~

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

classifications shall also be calculated at the in-hire rates. All full-scale employees within this bargaining unit are~~will be~~ promoted to the full-scale rate of the next higher classification~~classifications~~, upon promotion.

(Source: Amended at 41 Ill. Reg. 1695, effective January 25, 2017)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 310.APPENDIX A Negotiated Rates of Pay

Section 310.TABLE T HR-010 (Teachers of Deaf, IFT)

<u>Title</u>	<u>Title Code</u>	<u>Bargaining Unit</u>	<u>Pay Plan Code</u>
Educator	13100	HR-010	N

Effective July 1, 2015
Bargaining Unit: HR-010

<u>Lane</u>	<u>Educational Level</u>	<u>STEPS</u>										
		<u>1c</u>	<u>1b</u>	<u>1a</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
1	BA	3135	3238	3342	3445	3635	3832	4023	4229	4427	4854	5049
2	BA + 8 Hours	3234	3341	3447	3554	3744	3949	4154	4370	4576	5014	5215
3	BA + 16 Hours	3316	3425	3535	3644	3860	4076	4288	4493	4720	5178	5385
4	BA + 24 Hours	3409	3521	3634	3746	3973	4196	4418	4648	4868	5344	5560
5	MA	3514	3630	3746	3862	4088	4317	4548	4786	5011	5501	5721
6	MA + 16 Hours	3597	3716	3834	3953	4182	4412	4646	4886	5110	5607	5828
7	MA + 32 Hours	3706	3829	3951	4073	4301	4535	4772	5010	5239	5743	5973

NOTES: Bilingual Pay – For positions for which job descriptions require the use of sign language, or which require the employee to be bilingual, bilingual pay is paid on a percentage scale based on the sign communication proficiency interview (SCPI) test. An employee is paid the following percentage of the employee's monthly base salary depending on the skill level that the employee achieved on the SCPI test and paid monthly as bilingual pay in addition to the base salary:

- 1% Survival
- 2% Survival Plus
- 3% Intermediate
- 4% Intermediate Plus
- 5% Advanced

Longevity Pay – Effective August 16, 2000, the Step 7 was increased by \$25 per month for the employees who attained 10 years of continuous service and have three or more years of creditable service on Step 7 in the same pay grade.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Effective August 16, 2004, the Step 8 rate was increased by \$25 per month for the employees who attained 10 years of continuous service and have three years or more years of creditable service on Step 8 in the same or higher pay grade. For the employees who attained 15 years of continuous service and have three or more years of creditable service on Step 8 in the same or higher pay grade, the Step 8 rate was raised by \$50 per month. Longevity is paid each month per calendar year. Effective August 16, 2010, the Step 8 was raised by \$50 per month for the employees who attained 10 years of continuous service and have three or more years of creditable service on Step 8 in the same or higher pay grade on or before August 16, 2010. For the employees who attained 15 years of continuous service and have three or more years of creditable service on Step 7 in the same or higher pay grade on or before August 16, 2010, the Step 8 rate was increased by \$75 per month. Effective August 16, 2013, the Step 8 was raised by \$25 per month to \$75 per month for the employees who attained 10 years of continuous service and have three or more years of creditable service on Step 8 in the same or higher pay grade on or before August 16, 2013. For the employees who attained 15 years of continuous service and have three or more years of creditable service on Step 8 in the same or higher pay grade on or before August 16, 2013, the Step 8 rate was increased by \$25 per month to \$100 per month. Employees who are eligible for longevity on or before January 1, 2002 shall continue to receive longevity pay after being placed on Step 8 while they remain in the same or lower pay grade. Employees not eligible for longevity pay on or before the date they are placed on Step 8 shall begin to receive longevity pay after three years or more of creditable service on Step 8.

Frozen Step Increases – Effective July 1, 2015, step increases shall be frozen for the duration of the [2015-2019 Collective Bargaining Agreement \(CBA\) agreement](#).

FY2016 Bonus, Merit Incentive Program and Gain Sharing Program – All bargaining unit employees who are in active employment status on June 30, 2016, and who have missed fewer than five ~~(5)~~ percent of their assigned work days between the effective date of [the 2015-2019 CBA this Agreement](#) and June 30, 2016 shall receive a one ~~(1)~~ time, non-pensionable bonus of \$1,000. This bonus shall be paid no later than 30 days from the date upon which the contract is signed by the [bargaining unit and State parties](#), subject to any Pay Plan change that is necessary to effectuate this provision.

The [bargaining unit and State parties](#) agree to develop and implement a merit incentive program ~~that began which will begin~~ in ~~the~~ Fiscal Year [2017 starting](#)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

~~July 1, 2016,~~ to reward and incentivize high-performing employees, or a group's/unit's performance. As a part of ~~thesesueh~~ efforts, the ~~StateEmployer~~ shall ~~allocate funds~~~~create an annual bonus fund~~ for payout to those individuals deemed high performers or for a group's/unit's level of performance for the specific group/unit. Payment from ~~the allocated funds~~ ~~isthis bonus fund will be~~ based on the satisfaction of performance standards to be developed by the ~~StateEmployer~~ in consultation with the ~~bargaining unit~~ ~~Union~~. ~~ThisSueh~~ merit compensation, either for a group/unit or an individual, shall be considered a one-time bonus and ~~will be~~ offered only as a non-pensionable incentive. ~~Any, and that any~~ employee who accepts merit pay compensation does so voluntarily and with the knowledge and on the express condition that the merit pay compensation ~~iswill~~ not ~~be~~ included in any pension calculations.

Additionally, as a part of overall efforts to improve efficiency of ~~Statestate~~ operations and align the incentives of the ~~StateEmployer~~ with its employees, the ~~StateEmployer~~ shall develop gain sharing programs. Under ~~thesesueh~~ programs, employees or agencies that achieve savings for the State ~~sharewill share~~ in ~~thesesueh~~ savings. Savings shall be calculated based on achieved savings for the State and shall not include savings from other funds, such as Federal funds, if the State is forbidden from disbursing ~~thesueh~~ monies as rewards. ~~ThisSueh~~ compensation, either for a group or an individual, shall be considered a one-time bonus and ~~will be~~ offered only as a non-pensionable incentive. Any employee who accepts gain-sharing compensation does so voluntarily and with the knowledge and on the express condition that the merit pay or gain-sharing compensation ~~iswill~~ not ~~be~~ included in any pension calculations.

In each contract year in which a merit incentive program is created, and subject to annual approval as a part of the State's overall budget, the ~~StateEmployer~~ shall set aside for payments pursuant to this Section, a separate budgetary line item in an amount equal to two ~~(2)~~ percent of the budgeted base payroll costs for ~~thea~~ bargaining unit employees ("Bonus Pool"). Employee bonuses ~~arewill~~ then ~~be~~ distributed as follows:

- 1) One-half (.5) percent of the Bonus Pool ~~iswill be~~ distributed among all bargaining unit employees subject to ~~the 2015-2019 CBA~~ ~~this Agreement~~ and who meet the conditions stated in ~~subsections-(1)(a) and (b) of this Section~~ in proportion to each employee's base salary. To be eligible to receive the first one-half ~~(.5)~~ percent of the ~~Bonus Pool~~ ~~bonus pool~~, an employee:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

- a) ~~Shall~~ Must have missed no more than seven ~~(7)~~ of their assigned work days (or no more than 56 of their assigned work hours) in the fiscal year during which a bonus is distributed, and
 - b) ~~Shall~~ Must have committed no work policy violations during the same fiscal year.
- 2) The remaining ~~one and one half (1.5)~~ percent of the Bonus Pool ~~is~~ will be distributed to no fewer than 25% of employees based on the satisfaction of performance standards to be developed by the ~~State Employer~~ in consultation with the ~~bargaining unit~~ Union as part of a merit incentive program described ~~in subsection B~~ above, as well as meeting the criterion set out in ~~subsection (1)(a)~~ above.

The ~~State Employer~~ shall form a joint committee with the ~~bargaining unit~~ Union comprised of at least three ~~(3)~~ representatives from the ~~bargaining unit~~ Union and a comparable number of ~~representatives from the State Employer~~ representatives. The purpose of ~~the such~~ committee ~~is~~ will be to allow the ~~bargaining unit~~ Union the opportunity to consult on ~~the~~ development of specific policies and criteria for both of these programs. Further, once developed, the ~~bargaining unit is~~ Union will be given an opportunity to review and comment on ~~these such~~ policies and criteria prior to their implementation. The ~~State's Employer's~~ intent is to develop policies that ~~will~~ reward employees or group of employees based on specific achievements and to prevent payouts that are influenced by favoritism, politics, or other purely subjective criteria. Compliance with the policies for both of these programs shall be subject to the grievance and arbitration procedure. Whenever the ~~State Employer~~ pays an employee or group of employees as part of the merit incentive program or gain-sharing initiatives, the payments shall be funded by the employing ~~agency's~~ Agency's operating funds. The ~~State Employer~~ shall forward all requests for payment to the Comptroller, and payments shall be issued as required by the obligations of ~~the 2015-2019 CBA~~ this Agreement.

~~The This~~ Memorandum of ~~Understanding signed May 31, 2016~~ Agreement shall remain in effect until the expiration of the ~~2015-2019 CBA~~ current collective bargaining agreement between the ~~bargaining unit and State~~ parties, or until there is a mutual agreement between the ~~bargaining unit and State~~ parties to terminate

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

[the Memorandum of Understanding signed May 31, 2016](#)~~this memorandum of understanding~~ prior to ~~the~~[such](#) expiration.

(Source: Amended at 41 Ill. Reg. 1695, effective January 25, 2017)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 310.APPENDIX A Negotiated Rates of Pay**Section 310.TABLE W RC-062 (Technical Employees, AFSCME)**

<u>Title</u>	<u>Title Code</u>	<u>Bargaining Unit</u>	<u>Pay Grade</u>
Accountant	00130	RC-062	14
Accountant Advanced	00133	RC-062	16
Accountant Supervisor	00135	RC-062	18
Accounting and Fiscal Administration Career Trainee	00140	RC-062	12
Activity Therapist	00157	RC-062	15
Activity Therapist Coordinator	00160	RC-062	17
Activity Therapist Supervisor	00163	RC-062	20
Actuarial Assistant	00187	RC-062	16
Actuarial Examiner	00195	RC-062	16
Actuarial Examiner Trainee	00196	RC-062	13
Actuarial Senior Examiner	00197	RC-062	19
Actuary I	00201	RC-062	20
Actuary II	00202	RC-062	24
Agricultural Market News Assistant	00804	RC-062	12
Agricultural Marketing Generalist	00805	RC-062	14
Agricultural Marketing Reporter	00807	RC-062	18
Agricultural Marketing Representative	00810	RC-062	18
Agriculture Land and Water Resource Specialist I	00831	RC-062	14
Agriculture Land and Water Resource Specialist II	00832	RC-062	17
Agriculture Land and Water Resource Specialist III	00833	RC-062	20
Aircraft Pilot I	00955	RC-062	19
Aircraft Pilot II	00956	RC-062	22
Aircraft Pilot II – Dual Rating	00957	RC-062	23
Appraisal Specialist I	01251	RC-062	14
Appraisal Specialist II	01252	RC-062	16
Appraisal Specialist III	01253	RC-062	18
Arts Council Associate	01523	RC-062	12
Arts Council Program Coordinator	01526	RC-062	18
Arts Council Program Representative	01527	RC-062	15
Assignment Coordinator	01530	RC-062	20
Bank Examiner I	04131	RC-062	16
Bank Examiner II	04132	RC-062	19
Bank Examiner III	04133	RC-062	22

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Behavioral Analyst Associate	04355	RC-062	15
Behavioral Analyst I	04351	RC-062	17
Behavioral Analyst II	04352	RC-062	19
Business Administrative Specialist	05810	RC-062	16
Business Manager	05815	RC-062	18
Buyer	05900	RC-062	18
Cancer Registrar I	05951	RC-062	14
Cancer Registrar II	05952	RC-062	16
Cancer Registrar III	05953	RC-062	20
Cancer Registrar Assistant Manager	05954	RC-062	22
Cancer Registrar Manager	05955	RC-062	24
Capital Development Board Account Technician	06515	RC-062	11
Capital Development Board Art in Architecture Technician	06533	RC-062	12
Capital Development Board Construction Support Analyst	06520	RC-062	11
Capital Development Board Project Technician	06530	RC-062	12
Chemist I	06941	RC-062	16
Chemist II	06942	RC-062	19
Chemist III	06943	RC-062	21
Child Protection Advanced Specialist	07161	RC-062	19
Child Protection Associate Specialist	07162	RC-062	16
Child Protection Specialist	07163	RC-062	18
Child Support Specialist I	07198	RC-062	16
Child Support Specialist II	07199	RC-062	17
Child Support Specialist Trainee	07200	RC-062	12
Child Welfare Associate Specialist	07216	RC-062	16
Child Welfare Staff Development Coordinator I	07201	RC-062	17
Child Welfare Staff Development Coordinator II	07202	RC-062	19
Child Welfare Staff Development Coordinator III	07203	RC-062	20
Child Welfare Staff Development Coordinator IV	07204	RC-062	22
Children and Family Service Intern – Option I	07241	RC-062	12
Children and Family Service Intern – Option II	07242	RC-062	15
Clinical Laboratory Technologist I	08220	RC-062	18
Clinical Laboratory Technologist II	08221	RC-062	19
Clinical Laboratory Technologist Trainee	08229	RC-062	14
Communications Systems Specialist	08860	RC-062	23
Community Management Specialist I	08891	RC-062	15
Community Management Specialist II	08892	RC-062	17
Community Management Specialist III	08893	RC-062	19
Community Planner I	08901	RC-062	15

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Community Planner II	08902	RC-062	17
Community Planner III	08903	RC-062	19
Conservation Education Representative	09300	RC-062	12
Conservation Grant Administrator I	09311	RC-062	18
Conservation Grant Administrator II	09312	RC-062	20
Conservation Grant Administrator III	09313	RC-062	22
Construction Program Assistant	09525	RC-062	12
Correctional Counselor I	09661	RC-062	15
Correctional Counselor II	09662	RC-062	17
Correctional Counselor III	09663	RC-062	19
Corrections Apprehension Specialist	09750	RC-062	19
Corrections Industries Marketing Representative	09803	RC-062	17
Corrections Leisure Activities Specialist I	09811	RC-062	15
Corrections Leisure Activities Specialist II	09812	RC-062	17
Corrections Leisure Activities Specialist III	09813	RC-062	19
Corrections Parole Agent	09842	RC-062	17
Corrections Senior Parole Agent	09844	RC-062	19
Criminal Intelligence Analyst I	10161	RC-062	18
Criminal Intelligence Analyst II	10162	RC-062	20
Criminal Intelligence Analyst Specialist	10165	RC-062	22
Criminal Justice Specialist I	10231	RC-062	16
Criminal Justice Specialist II	10232	RC-062	20
Criminal Justice Specialist Trainee	10236	RC-062	13
Curator of the Lincoln Collection	10750	RC-062	16
Data Processing Supervisor I	11435	RC-062	11
Data Processing Supervisor II	11436	RC-062	14
Data Processing Supervisor III	11437	RC-062	18
Day Care Licensing Representative I	11471	RC-062	16
Developmental Disabilities Council Program Planner I	12361	RC-062	12
Developmental Disabilities Council Program Planner II	12362	RC-062	16
Developmental Disabilities Council Program Planner III	12363	RC-062	18
Dietary Manager I	12501	RC-062	16
Dietary Manager II	12502	RC-062	18
Dietitian	12510	RC-062	15
Disability Appeals Officer	12530	RC-062	22
Disability Claims Adjudicator I	12537	RC-062	16
Disability Claims Adjudicator II	12538	RC-062	18
Disability Claims Adjudicator Trainee	12539	RC-062	13
Disability Claims Analyst	12540	RC-062	21

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Disability Claims Specialist	12558	RC-062	19
Disaster Services Planner	12585	RC-062	19
Document Examiner	12640	RC-062	22
Economic Development Representative I	12931	RC-062	17
Economic Development Representative II	12932	RC-062	19
Educational Diagnostician	12965	RC-062	12
Employment Security Field Office Supervisor	13600	RC-062	20
Employment Security Manpower Representative I	13621	RC-062	12
Employment Security Manpower Representative II	13622	RC-062	14
Employment Security Program Representative	13650	RC-062	14
Employment Security Program Representative – Intermittent	13651	RC-062	14H
Employment Security Service Representative	13667	RC-062	16
Employment Security Service Representative (Intermittent)	13667	RC-062	16H
Employment Security Specialist I	13671	RC-062	14
Employment Security Specialist II	13672	RC-062	16
Employment Security Specialist III	13673	RC-062	19
Employment Security Tax Auditor I	13681	RC-062	17
Employment Security Tax Auditor II	13682	RC-062	19
Energy and Natural Resources Specialist I	13711	RC-062	15
Energy and Natural Resources Specialist II	13712	RC-062	17
Energy and Natural Resources Specialist III	13713	RC-062	19
Energy and Natural Resources Specialist Trainee	13715	RC-062	12
Engineering Technician IV (Department of Public Health)	13734	RC-062	18
Environmental Health Specialist I	13768	RC-062	14
Environmental Health Specialist II	13769	RC-062	16
Environmental Health Specialist III	13770	RC-062	18
Environmental Protection Associate	13785	RC-062	12
Environmental Protection Specialist I	13821	RC-062	14
Environmental Protection Specialist II	13822	RC-062	16
Environmental Protection Specialist III	13823	RC-062	18
Environmental Protection Specialist IV	13824	RC-062	22
Equal Pay Specialist	13837	RC-062	17
Executive I	13851	RC-062	18
Executive II	13852	RC-062	20
Financial Institutions Examiner I	14971	RC-062	16
Financial Institutions Examiner II	14972	RC-062	19
Financial Institutions Examiner III	14973	RC-062	22
Financial Institutions Examiner Trainee	14978	RC-062	13
Firearms Eligibility Analyst I	15371	RC-062	13

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Firearms Eligibility Analyst II	15372	RC-062	16
Firearms Eligibility Analyst Trainee	15375	RC-062	11
Fire Protection Specialist I	15351	RC-062	16
Flight Safety Coordinator	15640	RC-062	22
Forensic Scientist I	15891	RC-062	18
Forensic Scientist II	15892	RC-062	20
Forensic Scientist III	15893	RC-062	22
Forensic Scientist Trainee	15897	RC-062	15
Gaming Licensing Analyst	17171	RC-062	13
Gaming Operations Supervisor	17181	RC-062	26
Gaming Senior Special Agent	17191	RC-062	23
Gaming Shift Supervisor	17187	RC-062	24
Gaming Special Agent	17192	RC-062	19
Gaming Special Agent Trainee	17195	RC-062	14
Gaming Unit Supervisor	17201	RC-062	26
Guardianship Representative	17710	RC-062	17
Habilitation Program Coordinator	17960	RC-062	17
Handicapped Services Representative I	17981	RC-062	11
Health Facilities Surveyor I	18011	RC-062	16
Health Facilities Surveyor II	18012	RC-062	19
Health Facilities Surveyor III	18013	RC-062	20
Health Information Administrator	18041	RC-062	15
Health Services Investigator I – Opt. A	18181	RC-062	19
Health Services Investigator I – Opt. B	18182	RC-062	20
Health Services Investigator II – Opt. A	18185	RC-062	22
Health Services Investigator II – Opt. B	18186	RC-062	22
Health Services Investigator II – Opt. C	18187	RC-062	25
Health Services Investigator II – Opt. D	18188	RC-062	25
Historical Documents Conservator I	18981	RC-062	13
Historical Exhibits Designer	18985	RC-062	15
Historical Research Editor II	19002	RC-062	14
Human Relations Representative	19670	RC-062	16
Human Resources Representative	19692	RC-062	17
Human Resources Specialist	19693	RC-062	20
Human Rights Investigator I	19774	RC-062	16
Human Rights Investigator II	19775	RC-062	18
Human Rights Investigator III	19776	RC-062	19
Human Rights Mediator	19771	RC-062	17
Human Rights Specialist I	19778	RC-062	14

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Human Rights Specialist II	19779	RC-062	16
Human Rights Specialist III	19780	RC-062	18
Human Services Casework Manager	19788	RC-062	20
Human Services Caseworker	19785	RC-062	16
Human Services Grants Coordinator I	19791	RC-062	14
Human Services Grants Coordinator II	19792	RC-062	17
Human Services Grants Coordinator III	19793	RC-062	20
Human Services Grants Coordinator Trainee	19796	RC-062	12
Human Services Sign Language Interpreter	19810	RC-062	16
Iconographer	19880	RC-062	12
Industrial and Community Development Representative I	21051	RC-062	17
Industrial and Community Development Representative II	21052	RC-062	19
Industrial Services Consultant I	21121	RC-062	14
Industrial Services Consultant II	21122	RC-062	16
Industrial Services Consultant Trainee	21125	RC-062	11
Industrial Services Hygienist	21127	RC-062	19
Industrial Services Hygienist Technician	21130	RC-062	16
Industrial Services Hygienist Trainee	21133	RC-062	12
Information Technology/Communication Systems Specialist I	21216	RC-062	19
Information Technology/Communication Systems Specialist II	21217	RC-062	24
Instrument Designer	21500	RC-062	18
Insurance Analyst III	21563	RC-062	14
Insurance Analyst IV	21564	RC-062	16
Insurance Company Claims Examiner II	21602	RC-062	19
Insurance Company Field Staff Examiner	21608	RC-062	16
Insurance Company Financial Examiner Trainee	21610	RC-062	13
Insurance Performance Examiner I	21671	RC-062	14
Insurance Performance Examiner II	21672	RC-062	17
Insurance Performance Examiner III	21673	RC-062	20
Intermittent Unemployment Insurance Representative	21689	RC-062	12H
Internal Auditor I	21721	RC-062	17
Internal Security Investigator I, not Department of Corrections	21731	RC-062	18
Internal Security Investigator II, not Department of Corrections	21732	RC-062	21
International Marketing Representative I, Department of Agriculture	21761	RC-062	14
Juvenile Justice Youth and Family Specialist, Option 1	21991	RC-062	18
Juvenile Justice Youth and Family Specialist, Option 2	21992	RC-062	20
KidCare Supervisor	22003	RC-062	20
Labor Conciliator	22750	RC-062	20

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Laboratory Equipment Specialist	22990	RC-062	18
Laboratory Quality Specialist I	23021	RC-062	19
Laboratory Quality Specialist II	23022	RC-062	21
Laboratory Research Specialist I	23027	RC-062	19
Laboratory Research Specialist II	23028	RC-062	21
Land Acquisition Agent I	23091	RC-062	15
Land Acquisition Agent II	23092	RC-062	18
Land Acquisition Agent III	23093	RC-062	21
Land Reclamation Specialist I	23131	RC-062	14
Land Reclamation Specialist II	23132	RC-062	17
Liability Claims Adjuster I	23371	RC-062	14
Liability Claims Adjuster II	23372	RC-062	18
Library Associate	23430	RC-062	12
Life Sciences Career Trainee	23600	RC-062	12
Liquor Control Special Agent II	23752	RC-062	15
Local Historical Services Representative	24000	RC-062	17
Local Housing Advisor I	24031	RC-062	14
Local Housing Advisor II	24032	RC-062	16
Local Housing Advisor III	24033	RC-062	18
Local Revenue and Fiscal Advisor I	24101	RC-062	15
Local Revenue and Fiscal Advisor II	24102	RC-062	17
Local Revenue and Fiscal Advisor III	24103	RC-062	19
Lottery Regional Coordinator	24504	RC-062	19
Lottery Sales Representative	24515	RC-062	16
Management Operations Analyst I	25541	RC-062	18
Management Operations Analyst II	25542	RC-062	20
Manpower Planner I	25591	RC-062	14
Manpower Planner II	25592	RC-062	17
Manpower Planner III	25593	RC-062	20
Manpower Planner Trainee	25597	RC-062	12
Medical Assistance Consultant I	26501	RC-062	13
Medical Assistance Consultant II	26502	RC-062	16
Medical Assistance Consultant III	26503	RC-062	19
Mental Health Administrator I	26811	RC-062	18
Mental Health Administrator II	26812	RC-062	20
Mental Health Administrator Trainee	26817	RC-062	16
Mental Health Recovery Support Specialist I	26921	RC-062	17
Mental Health Recovery Support Specialist II	26922	RC-062	18
Mental Health Specialist I	26924	RC-062	12

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Mental Health Specialist II	26925	RC-062	14
Mental Health Specialist III	26926	RC-062	16
Mental Health Specialist Trainee	26928	RC-062	11
Meteorologist	27120	RC-062	18
Methods and Procedures Advisor I	27131	RC-062	14
Methods and Procedures Advisor II	27132	RC-062	16
Methods and Procedures Advisor III	27133	RC-062	20
Methods and Procedures Career Associate I	27135	RC-062	11
Methods and Procedures Career Associate II	27136	RC-062	12
Methods and Procedures Career Associate Trainee	27137	RC-062	09
Metrologist Associate	27146	RC-062	15
Microbiologist I	27151	RC-062	16
Microbiologist II	27152	RC-062	19
Natural Resources Advanced Specialist	28833	RC-062	20
Natural Resources Coordinator	28831	RC-062	15
Natural Resources Specialist	28832	RC-062	18
Oral Health Consultant	30317	RC-062	18
Paralegal Assistant	30860	RC-062	14
Pension and Death Benefits Technician I	30961	RC-062	12
Pension and Death Benefits Technician II	30962	RC-062	19
Plumbing Consultant (Department of Public Health)	32910	RC-062	22
Police Training Specialist	32990	RC-062	17
Private Secretary I	34201	RC-062	16
Program Integrity Auditor I	34631	RC-062	16
Program Integrity Auditor II	34632	RC-062	19
Program Integrity Auditor Trainee	34635	RC-062	12
Property Consultant	34900	RC-062	15
Public Aid Investigator	35870	RC-062	19
Public Aid Investigator Trainee	35874	RC-062	14
Public Aid Lead Casework Specialist	35880	RC-062	17
Public Aid Program Quality Analyst	35890	RC-062	19
Public Aid Quality Control Reviewer	35892	RC-062	17
Public Aid Quality Control Supervisor	35900	RC-062	19
Public Aid Staff Development Specialist I	36071	RC-062	15
Public Aid Staff Development Specialist II	36072	RC-062	17
Public Health Educator Associate	36434	RC-062	14
Public Health Program Specialist I	36611	RC-062	14
Public Health Program Specialist II	36612	RC-062	16
Public Health Program Specialist III	36613	RC-062	19

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Public Health Program Specialist Trainee	36615	RC-062	12
Public Information Coordinator	36750	RC-062	18
Public Information Officer I	37001	RC-062	12
Public Information Officer II	37002	RC-062	14
Public Information Officer III	37003	RC-062	19
Public Information Officer IV	37004	RC-062	21
<u>Public Safety Drug Screening Specialist</u>	<u>37006</u>	<u>RC-062</u>	<u>17</u>
Public Safety Inspector	37007	RC-062	16
Public Safety Inspector Trainee	37010	RC-062	10
Public Service Administrator, Option 8Z	37015	RC-062	19
Public Service Administrator, Options 2, 6, 7 Gaming Board and Departments of Healthcare and Family Services and Revenue, 8C, 9A and 9B	37015	RC-062	24
Public Service Administrator, Options 8B and 8Y	37015	RC-062	23
Railroad Safety Specialist I	37601	RC-062	19
Railroad Safety Specialist II	37602	RC-062	21
Railroad Safety Specialist III	37603	RC-062	23
Railroad Safety Specialist IV	37604	RC-062	25
Real Estate Investigator	37730	RC-062	19
Real Estate Professions Examiner	37760	RC-062	22
Recreation Worker I	38001	RC-062	12
Recreation Worker II	38002	RC-062	14
Rehabilitation Counselor	38145	RC-062	17
Rehabilitation Counselor Senior	38158	RC-062	19
Rehabilitation Counselor Trainee	38159	RC-062	15
Rehabilitation Services Advisor I	38176	RC-062	20
Rehabilitation Workshop Supervisor I	38194	RC-062	12
Rehabilitation Workshop Supervisor II	38195	RC-062	14
Rehabilitation Workshop Supervisor III	38196	RC-062	16
Reimbursement Officer I	38199	RC-062	14
Reimbursement Officer II	38200	RC-062	16
Research Economist I	38207	RC-062	18
Research Scientist I	38231	RC-062	13
Research Scientist II	38232	RC-062	16
Research Scientist III	38233	RC-062	20
Residential Services Supervisor	38280	RC-062	15
Resource Planner I	38281	RC-062	17
Resource Planner II	38282	RC-062	19
Resource Planner III	38283	RC-062	22

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Retirement System Disability Specialist	38310	RC-062	19
Revenue Audit Supervisor	38369	RC-062	25
Revenue Audit Supervisor (states other than IL and not assigned to RC-062-29 – Hired prior to April 1, 2013)	38369	RC-062	27
Revenue Audit Supervisor (See Note – Hired prior to April 1, 2013)	38369	RC-062	29
Revenue Auditor I	38371	RC-062	16
Revenue Auditor I (states other than IL and not assigned to RC-062-21 – Hired prior to April 1, 2013)	38371	RC-062	19
Revenue Auditor I (See Note – Hired prior to April 1, 2013)	38371	RC-062	21
Revenue Auditor II	38372	RC-062	19
Revenue Auditor II (states other than IL and not assigned to RC-062-24 – Hired prior to April 1, 2013)	38372	RC-062	22
Revenue Auditor II (See Note – Hired prior to April 1, 2013)	38372	RC-062	24
Revenue Auditor III	38373	RC-062	22
Revenue Auditor III (states other than IL and not assigned to RC-062-26 – Hired prior to April 1, 2013)	38373	RC-062	24
Revenue Auditor III (See Note – Hired prior to April 1, 2013)	38373	RC-062	26
Revenue Auditor Trainee	38375	RC-062	12
Revenue Auditor Trainee (states other than IL and not assigned to RC-062-15 – Hired prior to April 1, 2013)	38375	RC-062	13
Revenue Auditor Trainee (See Note – Hired prior to April 1, 2013)	38375	RC-062	15
Revenue Collection Officer I	38401	RC-062	15
Revenue Collection Officer II	38402	RC-062	17
Revenue Collection Officer III	38403	RC-062	19
Revenue Collection Officer Trainee	38405	RC-062	12
Revenue Computer Audit Specialist	38425	RC-062	23
Revenue Computer Audit Specialist (states other than IL and not assigned to RC-062-27 – Hired prior to April 1, 2013)	38425	RC-062	25
Revenue Computer Audit Specialist (See Note – Hired prior to April 1, 2013)	38425	RC-062	27
Revenue Senior Special Agent	38557	RC-062	23
Revenue Special Agent	38558	RC-062	19
Revenue Special Agent Trainee	38565	RC-062	14
Revenue Tax Specialist I	38571	RC-062	12
Revenue Tax Specialist II (IL)	38572	RC-062	14
Revenue Tax Specialist II (states other than IL, CA)	38572	RC-062	17

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

or NJ)			
Revenue Tax Specialist II (CA or NJ)	38572	RC-062	19
Revenue Tax Specialist III	38573	RC-062	17
Revenue Tax Specialist Trainee	38575	RC-062	10
Senior Public Service Administrator, Option 7 Gaming Board and Department of Revenue	40070	RC-062	26
Sex Offender Therapist I	40531	RC-062	17
Sex Offender Therapist II	40532	RC-062	19
Site Assistant Superintendent I	41071	RC-062	15
Site Assistant Superintendent II	41072	RC-062	17
Site Interpretive Coordinator	41093	RC-062	13
Site Services Specialist I	41117	RC-062	15
Site Services Specialist II	41118	RC-062	17
Social Service Consultant I	41301	RC-062	18
Social Service Consultant II	41302	RC-062	19
Social Service Program Planner I	41311	RC-062	15
Social Service Program Planner II	41312	RC-062	17
Social Service Program Planner III	41313	RC-062	20
Social Service Program Planner IV	41314	RC-062	22
Social Services Career Trainee	41320	RC-062	12
Social Worker I	41411	RC-062	17
Staff Development Specialist I	41771	RC-062	18
Staff Development Technician I	41781	RC-062	12
Staff Development Technician II	41782	RC-062	15
State Mine Inspector	42230	RC-062	19
State Mine Inspector-at-Large	42240	RC-062	21
State Police Field Specialist I	42001	RC-062	18
State Police Field Specialist II	42002	RC-062	20
Statistical Research Specialist I	42741	RC-062	12
Statistical Research Specialist II	42742	RC-062	14
Statistical Research Specialist III	42743	RC-062	17
Storage Tank Safety Specialist	43005	RC-062	18
Telecommunications Specialist	45295	RC-062	15
Telecommunications Systems Analyst	45308	RC-062	17
Telecommunications Systems Technician I	45312	RC-062	10
Telecommunications Systems Technician II	45313	RC-062	13
Terrorism Research Specialist I	45371	RC-062	18
Terrorism Research Specialist II	45372	RC-062	20
Terrorism Research Specialist III	45373	RC-062	22

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Terrorism Research Specialist Trainee	45375	RC-062	14
Unemployment Insurance Adjudicator I	47001	RC-062	11
Unemployment Insurance Adjudicator II	47002	RC-062	13
Unemployment Insurance Adjudicator III	47003	RC-062	15
Unemployment Insurance Revenue Analyst I	47081	RC-062	15
Unemployment Insurance Revenue Analyst II	47082	RC-062	17
Unemployment Insurance Revenue Specialist	47087	RC-062	13
Unemployment Insurance Special Agent	47096	RC-062	18
Vehicle Emission Compliance Supervisor, Environmental Protection Agency	47583	RC-062	15
Veterans Educational Specialist I	47681	RC-062	15
Veterans Educational Specialist II	47682	RC-062	17
Veterans Educational Specialist III	47683	RC-062	21
Veterans Employment Representative I	47701	RC-062	14
Veterans Employment Representative II	47702	RC-062	16
Volunteer Services Coordinator I	48481	RC-062	13
Volunteer Services Coordinator II	48482	RC-062	16
Volunteer Services Coordinator III	48483	RC-062	18
Wage Claims Specialist	48770	RC-062	09
Weatherization Specialist I	49101	RC-062	14
Weatherization Specialist II	49102	RC-062	17
Weatherization Specialist III	49103	RC-062	20
Weatherization Specialist Trainee	49105	RC-062	12
Workers Compensation Insurance Compliance Investigator	49640	RC-062	20

NOTES: Shift Differential Pay – Employees shall be paid a shift differential of \$0.80 per hour in addition to their base salary rate for all hours worked if their normal work schedule for that day provides that they are scheduled to work and they work ½ or more of the work hours before 7 a.m. or after 3 p.m. The payment shall be for all paid time. Incumbents who currently receive a percentage shift differential providing more than the cents per hour indicated in this Note based on the base rate of pay prior to the effective date shall have that percentage converted to the cents per hour equivalent rounded to the nearest cent and shall continue to receive the higher cents per hour rate. This provision shall not apply to employees who, because of "flex-time" scheduling made at their request, are scheduled and work hours that would otherwise qualify them for premium pay under this provision.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Option Clarification – The positions allocated to the Public Service Administrator title that are assigned to a negotiated RC-062 pay grade have the following Options: 2; 6; 7; 8B; 8C; 8Y; 8Z; 9A; and 9B. The positions allocated to the Senior Public Service Administrator title that are assigned to a negotiated RC-062 pay grade have the Option 7. See the definition of option in Section 310.50.

Longevity Pay – Effective January 1, 2002, the Step 8 rate shall be increased by \$25 per month for those employees who attain 10 years of continuous service and have three or more years of creditable service on Step 7 in the same or higher pay grade on or before January 1, 2002. For those employees who attain 15 years of continuous service and have three or more years of creditable service on Step 7 in the same or higher pay grade on or before January 1, 2002, the Step 8 rate shall be increased by \$50 per month. For employees not eligible for longevity pay on or before January 1, 2002, the Step 8 rate shall be increased by \$25 per month for those employees who attain 10 years of continuous service and have three or more years of creditable service on Step 8 in the same or higher pay grade. For those employees who attain 15 years of continuous service and have three or more years of creditable service on Step 8 in the same or higher pay grade, the Step 8 rate shall be increased by \$50 per month. Effective July 1, 2010, the Step 8 rate shall be increased by \$50 per month for those employees who attain 10 years of continuous service and have three or more years of creditable service on Step 8 in the same or higher pay grade on or before July 1, 2010. For those employees who attain 15 years of continuous service and have three or more years of creditable service on Step 8 in the same or higher pay grade on or before July 1, 2010, the Step 8 rate shall be increased by \$75 per month. Effective July 1, 2013, the Step 8 rate shall be increased by \$25 per month to \$75 a month for those employees who attain 10 years of continuous service and have three or more years of creditable service on Step 8 in the same or higher pay grade on or before July 1, 2013. For those employees who attain 15 years of continuous service and have three or more years of creditable service on Step 8 in the same or higher pay grade on or before July 1, 2013, the Step 8 rate shall be increased by \$25 per month to \$100 a month. Employees whose salaries are red-circled above the maximum Step rate continue to receive all applicable general increases and any other adjustments (except the longevity pay) provided for in the Agreement. For these employees, the longevity pay shall be limited to the amount that would increase the employee's salary to the amount that is equal to that of an employee on the maximum Step rate with the same number of years of continuous and creditable service. Employees receiving the longevity pay shall continue to receive the

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

longevity pay as long as they remain in the same or successor classification as a result of a reclassification or reevaluation. Employees who are eligible for the increase provided for longevity pay on or before January 1, 2002, shall continue to receive longevity pay after being placed on Step 8 while they remain in the same or lower pay grade.

For the Revenue Tax Specialist II position classification title only – The pay grade assigned to the employee is based on the location of the position and the residence held by the employee. In the same position classification, the employee holding a position and residence outside the boundaries of the State of Illinois is assigned to a different pay grade than the pay grade assigned to the employee holding a position within the boundaries of the State of Illinois. The pay grade assigned to the employee holding a position located within the boundaries of the State of Illinois is the pay grade with the (IL) indication next to the position classification. The pay grade assigned to the employee holding the position located outside the boundaries of the State of Illinois is determined by the location of the employee's residence or position location (e.g., IL, CA or NJ or a state other than IL, CA or NJ). If the employee's residence moves to another state while the employee is in the same position located outside the boundaries of the State of Illinois, or moves into another position located outside the boundaries of the State of Illinois in the same position classification, the base salary may change depending on the location of the employee's new residence. In all cases, change in base salary shall be on a step for step basis (e.g., if the original base salary was on Step 5 in one pay grade, the new base salary will also be on Step 5 of the newly appropriate pay grade).

For the Revenue Audit Supervisor, Revenue Auditor I, II and III, Revenue Auditor Trainee, and Revenue Computer Audit Specialist position classification titles only – Effective July 1, 2010, State employees appointed to positions allocated to the Revenue Audit Supervisor, Revenue Auditor I, II and III, Revenue Auditor Trainee, and Revenue Computer Audit Specialist classifications shall be assigned to the pay grades:

Revenue Audit Supervisor, RC-062-29
Revenue Auditor I, RC-062-21
Revenue Auditor II, RC-062-24
Revenue Auditor III, RC-062-26
Revenue Auditor Trainee, RC-062-15
Revenue Computer Audit Specialist, RC-062-27

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

if the employee lives in California, 50% or more of the employee's work is within a 200 mile radius of the Paramus NJ Illinois Department of Revenue office, or 50% or more of the employee's work is within the District of Columbia. This shall not apply to employees who are hired after April 1, 2013.

Effective July 1, 2014
Bargaining Unit: RC-062

<u>Pay Grade</u>	<u>Pay Plan Code</u>	<u>STEPS</u>										
		<u>1c</u>	<u>1b</u>	<u>1a</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>4</u>	<u>5</u>	<u>6</u>	<u>7</u>	<u>8</u>
9	B	3027	3127	3227	3327	3430	3539	3649	3766	3877	4061	4223
9	Q	3151	3254	3358	3462	3568	3683	3796	3920	4037	4230	4401
9	S	3215	3321	3427	3533	3641	3759	3874	3999	4116	4311	4484
10	B	3124	3227	3330	3433	3559	3664	3785	3905	4025	4231	4402
10	Q	3250	3358	3465	3572	3702	3814	3944	4067	4195	4418	4594
10	S	3318	3427	3536	3645	3776	3891	4020	4144	4280	4500	4679
11	B	3240	3347	3453	3560	3681	3800	3938	4067	4194	4416	4592
11	Q	3371	3481	3592	3704	3836	3961	4102	4240	4373	4610	4793
11	S	3436	3550	3663	3777	3910	4036	4181	4319	4456	4692	4879
12	B	3371	3481	3592	3704	3840	3965	4114	4248	4405	4641	4826
12	Q	3508	3625	3740	3856	3998	4130	4289	4435	4595	4846	5041
12	S	3577	3694	3813	3931	4074	4208	4371	4520	4681	4933	5132
12H	B	20.74	21.42	22.10	22.79	23.63	24.40	25.32	26.14	27.11	28.56	29.70
12H	Q	21.59	22.31	23.02	23.73	24.60	25.42	26.39	27.29	28.28	29.82	31.02
12H	S	22.01	22.73	23.46	24.19	25.07	25.90	26.90	27.82	28.81	30.36	31.58
13	B	3498	3612	3728	3843	3984	4136	4290	4446	4614	4871	5063
13	Q	3642	3762	3883	4002	4148	4312	4481	4645	4816	5090	5294

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

13	S	3711	3834	3956	4078	4229	4396	4567	4727	4902	5178	5385
14	B	3647	3767	3887	4008	4159	4321	4511	4675	4852	5137	5342
14	Q	3803	3928	4053	4178	4336	4515	4709	4886	5073	5367	5580
14	S	3872	4000	4127	4255	4422	4594	4793	4973	5159	5453	5668
14H	B	22.44	23.18	23.92	24.66	25.59	26.59	27.76	28.77	29.86	31.61	32.87
14H	Q	23.40	24.17	24.94	25.71	26.68	27.78	28.98	30.07	31.22	33.03	34.34
14H	S	23.83	24.62	25.40	26.18	27.21	28.27	29.50	30.60	31.75	33.56	34.88
15	B	3792	3917	4042	4167	4351	4530	4706	4898	5082	5388	5601
15	Q	3957	4087	4218	4348	4538	4727	4918	5121	5310	5626	5854
15	S	4029	4163	4295	4428	4623	4810	5004	5208	5396	5715	5943
16	B	3969	4099	4230	4362	4556	4758	4954	5162	5368	5685	5913
16	Q	4141	4278	4415	4550	4758	4975	5182	5395	5610	5944	6184
16	S	4221	4361	4498	4638	4843	5060	5269	5480	5699	6027	6267
16H	B	24.42	25.22	26.03	26.84	28.04	29.28	30.49	31.77	33.03	34.98	36.39
16H	Q	25.48	26.33	27.17	28.00	29.28	30.62	31.89	33.20	34.52	36.58	38.06
16H	S	25.98	26.84	27.68	28.54	29.80	31.14	32.42	33.72	35.07	37.09	38.57
17	B	4159	4295	4432	4570	4780	4999	5212	5423	5643	5979	6218
17	Q	4338	4481	4625	4767	4996	5226	5444	5665	5898	6248	6500
17	S	4417	4562	4708	4853	5085	5314	5534	5753	5982	6339	6591
18	B	4377	4522	4665	4809	5041	5274	5516	5740	5971	6326	6581
18	Q	4571	4722	4873	5024	5271	5515	5766	6001	6240	6615	6878
18	S	4646	4800	4953	5106	5355	5601	5853	6088	6330	6697	6967
19	B	4612	4764	4916	5067	5325	5577	5834	6083	6336	6722	6990
19	J	4612	4764	4916	5067	5325	5577	5834	6083	6336	6722	6990
19	Q	4821	4980	5138	5297	5568	5825	6103	6357	6624	7023	7304
19	S	4901	5062	5224	5387	5656	5915	6189	6445	6711	7109	7393

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

20	B	4873	5033	5194	5354	5625	5885	6167	6435	6701	7108	7392
20	Q	5092	5259	5427	5596	5877	6155	6447	6724	7003	7432	7729
20	S	5172	5344	5514	5684	5965	6240	6532	6810	7090	7514	7815
21	B	5146	5315	5485	5655	5946	6233	6523	6820	7105	7548	7849
21	U	5146	5315	5485	5655	5946	6233	6523	6820	7105	7548	7849
21	Q	5377	5555	5732	5910	6214	6513	6817	7129	7428	7889	8204
21	S	5457	5637	5817	5997	6299	6597	6906	7215	7511	7975	8293
22	B	5441	5619	5799	5978	6290	6595	6908	7228	7529	7998	8318
22	Q	5683	5871	6058	6245	6573	6896	7219	7552	7870	8358	8689
22	S	5766	5957	6146	6336	6656	6982	7304	7641	7960	8445	8783
23	B	5770	5961	6151	6341	6677	7020	7352	7690	8023	8531	8873
23	Q	6033	6233	6432	6630	6980	7337	7682	8040	8387	8912	9268
23	S	6111	6313	6514	6716	7065	7424	7769	8124	8474	9000	9357
24	B	6141	6344	6546	6749	7107	7482	7838	8202	8570	9109	9472
24	J	6141	6344	6546	6749	7107	7482	7838	8202	8570	9109	9472
24	Q	6419	6630	6843	7054	7431	7816	8194	8567	8956	9519	9900
24	S	6499	6714	6928	7142	7513	7901	8277	8657	9044	9604	9988
25	B	6547	6763	6979	7194	7586	7988	8385	8783	9184	9773	10163
25	J	6547	6763	6979	7194	7586	7988	8385	8783	9184	9773	10163
25	Q	6838	7065	7289	7514	7927	8342	8766	9183	9598	10212	10622
25	S	6919	7147	7376	7603	8014	8430	8849	9266	9681	10299	10714
26	B	6984	7214	7445	7676	8097	8527	8957	9375	9796	10427	10844
26	U	6984	7214	7445	7676	8097	8527	8957	9375	9796	10427	10844
26	Q	7323	7563	7805	8047	8482	8931	9382	9822	10259	10924	11361
26	S	7390	7634	7876	8120	8563	9018	9473	9914	10359	11032	11473
27	B	7456	7702	7949	8195	8641	9096	9556	10005	10455	11129	11576
27	J	7456	7702	7949	8195	8641	9096	9556	10005	10455	11129	11576
27	U	7456	7702	7949	8195	8641	9096	9556	10005	10455	11129	11576

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

27	Q	7794	8051	8308	8565	9031	9506	9992	10459	10928	11634	12100
28	B	7823	8081	8340	8598	9063	9544	10029	10499	10969	11679	12148
29	U	8211	8481	8752	9022	9513	10016	10523	11017	11511	12256	12745

(Source: Amended at 41 Ill. Reg. 1695, effective January 25, 2017)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section 310.APPENDIX A Negotiated Rates of Pay**Section 310.TABLE AA NR-916 (Departments of Central Management Services, Natural Resources and Transportation, Teamsters)****Effective ~~December 31, 2014~~ January 1, 2012**

<u>Title</u>	<u>Title Code</u>	<u>Bargaining Unit</u>	<u>Pay Plan Code</u>	<u>Minimum Salary</u>	<u>Midpoint Salary</u>	<u>Maximum Salary</u>
Cartographer III	06673	NR-916	B	46704575	64836353	82958130
Civil Engineer I	07601	NR-916	B	45404450	57755660	70106870
Civil Engineer II	07602	NR-916	B	48454750	64406313	80357875
Civil Engineer III	07603	NR-916	B	53205215	71607018	90008820
Civil Engineer Trainee	07607	NR-916	B	42754190	51185015	59605840
End-User Computer Services Specialist I	13691	NR-916	B	41054020	57105595	73157170
End-User Computer Services Specialist II	13692	NR-916	B	46704575	64836353	82958130
End-User Computer Systems Analyst	13693	NR-916	B	50154915	70856945	91558975
Engineering Technician I	13731	NR-916	B	26402585	36883613	47354640
Engineering Technician II	13732	NR-916	B	31703105	44304340	56905575
Engineering Technician III	13733	NR-916	B	38403760	53085200	67756640
Engineering Technician IV	13734	NR-916	B	46954600	67356600	87758600
Highway Construction Supervisor I	18525	NR-916	B	42554170	59305813	76057455
Highway Construction Supervisor II	18526	NR-916	B	47554660	67736638	87908615
Technical Manager I	45261	NR-916	B	36053530	50034900	64006270

NOTES: Shift Differential Pay – ~~Effective As of~~ July 1, 2013, employees shall be paid a shift differential of \$0.80 per hour in addition to their base salary for that day provided

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

that they are scheduled to work and they work ½ or more of the work hours before 7:00 a.m. or after 3:00 p.m. The regular base rate of pay shall apply for liquidation of any benefit time, including holidays.

Vacation Payment – Effective January 1, 2016, employees newly-hired into the bargaining unit shall be entitled to a vacation payout of no more than 45 days.

Rates and Movements – Effective July 1, 2015, all current rates that are in effect ~~are will be~~ frozen for the duration of the [2015-2019 Collective Bargaining Agreement \(CBA\) agreement](#) (including all mid-point increases, bracket movements and [cost of living adjustments \(COLAs\)](#)).

Merit Incentive Program and Gain Sharing Programs – The [bargaining unit and State parties](#) agree to develop and implement a merit incentive program to reward and incentivize high-performing employees, or a group's/unit's performance. As a part of ~~these efforts~~~~this effort~~, the ~~State employer~~ shall allocate funds for payout to those individuals deemed high performers or for a group's/unit's level of performance for the specific group/unit. Payment from the allocated funds ~~is will be~~ based on the satisfaction of performance standards to be developed by the ~~State employer~~ in consultation with the bargaining ~~unit representative~~. This compensation, either for a group/unit or an individual, shall be considered a one-time bonus and ~~will be~~ offered only as a non-pensionable incentive. Any employee who accepts merit pay compensation does so voluntarily and with the knowledge and on the express condition that the merit pay compensation ~~is will be~~ not ~~be~~ included in any pension calculations.

Additionally, as a part of overall efforts to improve efficiency of State operations and align the incentives of the ~~State employer~~ with its employees, the ~~State employer~~ may develop gain sharing programs. Under these programs, employees or departments may propose initiatives that ~~would~~ achieve substantial savings for the State. Upon realization of these savings, the ~~State employer~~ may elect to return a portion of these savings to the employees who participated in the identified initiative. This compensation, either for a group/unit or an individual, shall be considered a one-time bonus and ~~will be~~ offered only as a non-pensionable incentive. Any employee who accepts merit pay compensation does so voluntarily and with the knowledge and on the express condition that the merit pay compensation ~~is will be~~ not ~~be~~ included in any pension calculations.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

In each contract year in which a merit incentive program is created, no less than 25% of the employees subject to [the 2015-2019 CBA](#)~~this agreement will~~ receive some form of merit compensation under [thesesuch](#) programs. Funding for these performance bonuses is subject to annual approval as a part of the State's overall budget.

The [State develop](#)~~employer will develop~~ specific policies for both of these programs and [gives](#)~~will give~~ the bargaining [unit](#)~~representative~~ an opportunity to review and comment on these policies prior to their implementation. The [State's](#)~~employer's~~ intent is to develop policies that ~~will~~ reward employees or units of employees based on specific achievements and to prevent payouts that are influenced by favoritism, politics, or other purely subjective criteria. Compliance with the policies for both of these programs shall be subject to the grievance and arbitration procedure.

Rights exercised by the [State](#)~~employer~~ under Section 4 of the Illinois Public Labor Relations Act [5 ILCS 315], 80 Ill. Adm. Code 301 through 331, and Article IV of the 2015-2019 [CBA](#)~~Collective Bargaining Agreement~~ are subject to all the terms of that CBA. However, it is understood that compensation payable pursuant to merit incentive and gain sharing programs shall be performance-based only. Moreover, an employee's failure or refusal to participate in [these program](#)~~this program~~ may not be grounds for any form of discipline.

(Source: Amended at 41 Ill. Reg. 1695, effective January 25, 2017)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Schedule of Controlled Substances
- 2) Code Citation: 77 Ill. Adm. Code 2070
- 3) Section Number: 2070.271 Adopted Action:
New Section
- 4) Statutory Authority: Implementing and authorized by Section 100 of the Illinois Controlled Substances Act [720 ILCS 570/100]
- 5) Effective Date of Rule: January 25, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any 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*: 40 Ill. Reg. 13502; September 30, 2016
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No substantive changes were made to the text of the proposed rulemaking.
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? Yes
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Based upon a recommendation from the Medical Director for the Attorney General, the Prescription Monitoring Program Advisory Committee (PMPAC) evaluated the potential threat to the public health and welfare caused by the distribution and consumption of U-47700 in Illinois. U-47700 is a synthetic opioid developed in the mid-1970s designed to provide greater pain coverage

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

with fewer side effects than other opioids. The effects of U-47700, 7.5 times more potent than morphine, were never studied or tested on humans. U-47700 was introduced to the U.S. from China, via the internet, around December 2015. Since its introduction, the product has been associated with over 50 deaths in the United States. Ohio, Wyoming and Georgia have already scheduled U-47700 as a Schedule I product and Kansas is undertaking emergency scheduling to ban the product from their state. Based upon a review of this information, the PMPAC determined the risk of increased overdoses, deaths and addiction treatment interventions caused by U-47700 poses a great risk to the public's safety and welfare and voted unanimously at its June 15, 2016 meeting to schedule U-47700 as a Schedule I product. The PMPAC further determined the most effective way to protect the public's safety and welfare regarding U-47700, was to include U-47700 on Illinois' list of Schedule I substances through this amendment.

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

Tracie Drew, Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
Harris Building, 3rd Floor
Springfield IL 62762

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER X: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER e: CONTROLLED SUBSTANCES ACTIVITIESPART 2070
SCHEDULE OF CONTROLLED SUBSTANCES

SUBPART A: GENERAL

Section	
2070.10	Definitions
2070.20	Designated Products
2070.30	Names Given to Listed Drugs
2070.40	Excluded Substances
2070.50	Excepted Compounds

SUBPART B: SCHEDULE OF CONTROLLED SUBSTANCES – SCHEDULE I

Section	
2070.100	Schedule I – Criteria
2070.110	Schedule I – Enumeration
2070.115	Opiates
2070.117	AB-CHMINACA <i>N</i> -(1-amino-3-methyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1 <i>H</i> -indazole-3-carboxamide
2070.118	AB-PINACA <i>N</i> -(1-amino-3-methyl-1-oxobutan-2-yl)-1-pentyl-1 <i>H</i> -indazole-3-carboxamide
2070.120	Acetylmethadol
2070.122	Acetyl-alpha-methylfentanyl
2070.124	Alfentanil (Renumbered)
2070.125	Allylprodine
2070.130	Alphacetylmethadol
2070.135	Alphameprodine
2070.140	Alphamethadol
2070.145	Alpha-methylfentanyl
2070.146	Alpha-methylthiofentanyl
2070.147	1-methyl-4-phenyl-4-propionoxypiperdine (MPPP)
2070.148	PEPAP 1-(2-phenylethyl)-4-phenyl-4-acetyloxypiperdine
2070.150	Benzethidine
2070.155	Betacetylmethadol

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

2070.157	Beta-hydroxyfentanyl
2070.160	Betameprodine
2070.165	Betamethadol
2070.170	Betaprodine
2070.175	Clonitazene
2070.180	Dextromoramide
2070.185	Diampromide
2070.190	Diethylthiambutene
2070.195	Difenoxin
2070.200	Dimenoxadol
2070.205	Dimepheptanol
2070.210	Dimethylthiambutene
2070.220	Dioxaphetylbutyrate
2070.230	Dipipanone
2070.235	Ethylmethylthiambutene
2070.240	Etonitazene
2070.245	Etoxidine
2070.247	3-Methylfentanyl (Renumbered)
2070.250	Furethidine
2070.255	Hydroxypethidine
2070.260	Ketobemidone
2070.265	Levomoramide
2070.270	Levophenacymorphan
2070.271	U-47700
2070.272	3-Methylfentanyl
2070.273	3-Methylthiofentanyl
2070.275	Morpheridine
2070.280	Noracymethadol
2070.285	Norlevorphanol
2070.290	Normethadone
2070.295	Norpipanone
2070.297	Para-fluorofentanyl
2070.300	Phenadoxone
2070.310	Phenamprodine
2070.320	Phenomorphin
2070.330	Phenoperidine
2070.340	Piritramide
2070.350	Proheptazine
2070.360	Properidine

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

2070.370	Propiram
2070.380	Racemoramide
2070.385	Sufentanil (Renumbered)
2070.388	Thiofentanyl
2070.389	THJ-2201 [1-(5-fluoropentyl)-1 <i>H</i> -indazol-3-yl](naphthalen-1-yl)methanone
2070.390	Tilidine
2070.395	Trimeperidine
2070.397	Beta-hydroxy-3-methylfentanyl
2070.400	Opium Derivates
2070.405	Acetorphine
2070.410	Acetyldihydrocodeine
2070.412	Alpha-pyrrolidinobutiophenone ("a-PBP")
2070.414	Alpha-pyrrolidinopentiophenone ("a-PVP")
2070.415	Benzylmorphine
2070.420	Codeine methylbromide
2070.425	Codeine-N-Oxide
2070.430	Cyprenorphine
2070.435	Desomorphine
2070.440	Diacetyldihydromorphine (Dihydroheroin)
2070.445	Dihydromorphine
2070.450	Drotebanol
2070.455	Etorphine (except hydrochloride salt)
2070.460	Heroin
2070.465	Hydromorphanol
2070.470	Methyl-desorphine
2070.475	Methyldihydromorphine
2070.480	Morphine methylbromide
2070.485	Morphine methylsulfonate
2070.490	Morphine-N-Oxide
2070.495	Myrophine
2070.500	Nicocodeine
2070.505	Nicomorphine
2070.510	Normorphine
2070.515	Pholcodine
2070.520	Thebacon
2070.530	1-(1,3-benzodioxol-5-yl)-2(methylamino)butan-1-one ("butylone")
2070.540	1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one ("pentylone")
2070.545	1-(naphthalene-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one ("naphyrone")
2070.600	Hallucinogenic Substances

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

2070.602	2-(methylamino)-1-phenylpentan-1-one ("pentedrone")
2070.604	3-fluoro-N-methylcathinone ("3-FMC")
2070.605	3, 4 Methylenedioxyamphetamine
2070.606	Alpha-ethyltryptamine
2070.607	3,4 Methylenedioxymethamphetamine (MDMA)
2070.608	3,4-methylenedioxy-N-ethylamphetamine
2070.610	3-methoxy-4, 5-methylenedioxyamphetamine (MMDA)
2070.615	3, 4, 5-trimethoxyamphetamine (TMA)
2070.616	4-fluoro-N-methylcathinone ("4-FMC")
2070.617	4-methyl-N-ethylcathinone ("4MEC")
2070.618	4-methylalpha-pyrrolidinopropiophenone ("4-MePPP")
2070.620	5-hydroxydimethyltryptamine (Bufotenine)
2070.625	Diethyltryptamine (DET)
2070.630	Dimethyltryptamine (DMT)
2070.635	4-methyl, 2, 5-dimethoxyamphetamine (DOM, STP)
2070.640	Ibogaine
2070.645	Lysergic acid diethylamide
2070.650	3, 4, 5-trimethoxyphenethylamine (Mescaline)
2070.655	Peyote
2070.660	N-ethyl-3-piperidyl benzilate (JB 318)
2070.665	N-methyl-3-piperidyl benzilate
2070.667	N-hydroxy-3,4-methylenedioxyamphetamine
2070.670	Parahexyl
2070.675	Psilocybin
2070.680	Psilocyn
2070.685	Alpha-methyltryptamine (AMT)
2070.690	2,5-dimethoxyamphetamine
2070.695	4-bromo-2,5-dimethoxyamphetamine
2070.700	4-methoxyamphetamine (4-methoxy-alpha-methylphenethylamine; paramethoxyamphetamine, PMA)
2070.705	Thiophene analog of phencyclidine (TPCP)
2070.710	Ethylamine analog of phencyclidine
2070.715	Pyrrolidine analog of phencyclidine
2070.720	5-methoxy-3,4-methylenedioxy-amphetamine
2070.725	2,5-dimethoxy-4-ethylamphetamine
2070.730	1-[1-(2-thienyl) cyclohexyl] pyrrolidine
2070.735	3,4-methylenedioxy-amphetamine
2070.740	Thiophene analog of phencyclidine
2070.745	Bufotenine

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

2070.750	Depressants
2070.755	Mecloqualone
2070.760	Methaqualone
2070.800	Stimulants
2070.805	Fenethylamine
2070.810	N-ethylamphetamine
2070.815	Aminorex
2070.820	Methcathinone
2070.825	Chathinone
2070.830	N,N-dimethylamphetamine
2070.835	(+ or -) cis-4-methylaminorex

SUBPART C: SCHEDULE OF CONTROLLED SUBSTANCES--SCHEDULE II

Section	
2070.900	Schedule II – Criteria
2070.910	Schedule II – Enumeration
2070.915	Narcotics
2070.920	Opium and Opiates
2070.925	Raw Opium
2070.930	Opium Extracts
2070.935	Opium Fluid Extracts
2070.940	Powdered Opium
2070.945	Granulated Opium
2070.950	Tincture of Opium
2070.955	Codeine
2070.960	Ethylmorphine
2070.965	Etorphine Hydrochloride
2070.970	Hydrocodone
2070.975	Hydromorphone
2070.980	Metopon
2070.985	Morphine
2070.990	Oxycodone
2070.995	Oxymorphone
2070.998	Thebaine
2070.999	Thebaine-derived butorphanol
2070.1100	Equivalencies
2070.1110	Opium poppy and poppy straw
2070.1120	Cocaine

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

2070.1130	Concentrate of Poppy Straw
2070.1150	Opiates
2070.1155	Alphaprodine
2070.1160	Anileridine
2070.1165	Bezitramide
2070.1170	Bulk Dextropropoxyphene
2070.1175	Dihydrocodeine
2070.1180	Diphenoxylate
2070.1185	Fentanyl
2070.1186	Alfentanil
2070.1187	Carfentanil
2070.1190	Isomethadone
2070.1193	Levo-alphaacetylmethadol
2070.1195	Levomethorphan
2070.1200	Levorphanol
2070.1205	Metazocine
2070.1210	Methadone
2070.1215	Methadone – Intermediate
2070.1220	Moramide – Intermediate
2070.1225	Meperidine
2070.1230	Pethidine-Intermediate-A
2070.1235	Pethidine-Intermediate-B
2070.1240	Pethidine-Intermediate-C
2070.1245	Phenazocine
2070.1250	Piminodine
2070.1255	Racemethorphan
2070.1260	Racemorphan
2070.1265	Sufentanil
2070.1300	Stimulants
2070.1310	Amphetamine
2070.1320	Methamphetamine
2070.1330	Methylphenidate
2070.1370	Phenmetrazine
2070.1400	Depressants
2070.1405	Methaqualone (Renumbered)
2070.1410	Amobarbital
2070.1420	Secobarbital
2070.1425	Pentobarbital
2070.1430	Phencyclidine

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

2070.1435	Pentazocine
2070.1438	Gluthethimide
2070.1500	Immediate Precursors
2070.1505	Amphetamine and Methamphetamine
2070.1510	Phencyclidine
2070.1520	Nabilone
2070.1550	Dronabinol (synthetic)

SUBPART D: SCHEDULE OF CONTROLLED SUBSTANCES--SCHEDULE III

Section	
2070.1600	Schedule III – Criteria
2070.1605	Schedule III – Enumeration
2070.1610	Stimulants
2070.1615	Excepted Compounds
2070.1620	Benzphetamine
2070.1625	Chlorphentermine
2070.1630	Clortermine
2070.1635	Mazindol (Renumbered)
2070.1640	Phendimetrazine
2070.1700	Other Stimulants
2070.1750	Methylphenidate (Renumbered)
2070.1800	Depressants
2070.1805	Barbiturates
2070.1810	Barbiturates – Suppository Dosage Form
2070.1825	Derivatives of Barbituric Acid
2070.1830	Chlorhexadol
2070.1835	Glutethimide (Renumbered)
2070.1840	Methyprylon
2070.1845	Sulfondiethylmethane
2070.1850	Sulfonethylmethane
2070.1855	Sulfonmethane
2070.1860	Lysergic Acid
2070.1865	Lysergic Acid Amide
2070.1868	Tiletamine or Zolazepam or Both
2070.1870	Pentazocine and Aspirin Compound
2070.1875	Pentazocine and Acetaminophine
2070.1880	Pentazocine and Naloxone
2070.1890	Nalorphine

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

2070.1900	Narcotic Drugs
2070.1905	Codeine
2070.1910	Codeine
2070.1915	Dihydrocodeinone
2070.1920	Dihydrocodeinone
2070.1925	Dihydrocodeine
2070.1930	Ethylmorphine
2070.1935	Opium
2070.1940	Morphine
2070.1960	Anabolic Steroids
2070.1962	Androgen L.A.
2070.1964	Andro-Estro 90-4
2070.1966	depANDROGYN
2070.1968	DEPO-T.E.
2070.1970	depTESTROGEN
2070.1972	Duomone
2070.1974	DURATESTRIN
2070.1976	DUO-SPAN II
2070.1978	Estratest
2070.1980	Estratest H.S.
2070.1982	PAN ESTRA TEST
2070.1984	Premarin with Methyltestosterone
2070.1986	TEST-ESTRO Cypionates
2070.1988	Testosterone Cyp 50 Estradiol Cyp 2
2070.1990	Testosterone Cypionate-Estradiol Cypionate Injection
2070.1992	Testosterone Enanthate-Estradiol Valerate Injection
2070.2000	Excepted Compounds

SUBPART E: SCHEDULE OF CONTROLLED SUBSTANCES – SCHEDULE IV

Section	
2070.2100	Schedule IV – Criteria
2070.2105	Schedule IV – Enumeration
2070.2110	Narcotic Drugs
2070.2115	Difenoxin and Atropine Sulfate
2070.2120	Dextropropoxyphene
2070.2200	Depressants
2070.2210	Alprazolam
2070.2215	Barbital

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

2070.2217	Bromazepam
2070.2218	Camazepam
2070.2220	Chloral Betaine
2070.2225	Chloral Hydrate
2070.2230	Chlordiazepoxide
2070.2232	Clobazam
2070.2235	Clonazepam
2070.2240	Clorazepate
2070.2241	Clotiazepam
2070.2242	Cloxazolam
2070.2244	Delorazepam
2070.2245	Diazepam
2070.2246	Eluxadoline
2070.2248	Estazolam
2070.2250	Ethchlorvynol
2070.2255	Ethinamate
2070.2256	Ethyl Loflazepate
2070.2258	Fludiazepam
2070.2259	Flunitrazepam
2070.2260	Flurazepam
2070.2265	Halazepam
2070.2266	Haloxazolam
2070.2268	Ketazolam
2070.2269	Loprazolam
2070.2270	Lorazepam
2070.2272	Lormetazepam
2070.2275	Mebutamate
2070.2277	Medazepam
2070.2280	Meprobamate
2070.2285	Methohexital
2070.2290	Mephobarbital
2070.2291	Midazolam
2070.2292	Nimetazepam
2070.2293	Nitrazepam
2070.2294	Nordiazepam
2070.2295	Oxazepam
2070.2297	Oxazolam
2070.2300	Paraldehyde
2070.2305	Petrichloral

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

2070.2310	Phenobarbital
2070.2312	Pinazepam
2070.2315	Prazepam
2070.2317	Quazepam
2070.2320	Temazepam
2070.2322	Tetrazepam
2070.2325	Triazolam
2070.2350	Zolpidam
2070.2400	Fenfuramine
2070.2500	Stimulants
2070.2503	Cathine
2070.2505	Diethylpropion
2070.2515	Fencamfamin
2070.2520	Fenproporex
2070.2540	Mazindol
2070.2545	Mefenorex
2070.2650	Stimulants
2070.2655	Ephedrine
2070.2565	Phentermine
2070.2570	Pemoline
2070.2575	Pipradrol
2070.2580	SPA
2070.2600	Excepted Compounds

SUBPART F: SCHEDULE OF CONTROLLED SUBSTANCES –
SCHEDULE V

Section	
2070.2700	Schedule V – Criteria
2070.2705	Schedule V – Enumeration
2070.2710	Narcotic Drugs
2070.2712	Buprenorphine
2070.2715	Codeine
2070.2720	Dihydrocodeine
2070.2725	Ethylmorphine
2070.2730	Diphenoxylate
2070.2735	Opium
2070.2740	Difenoxin
2070.2750	Pyrovalerone

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

2070.2800 Other Substances

AUTHORITY: Implementing and authorized by Section 100 of the Illinois Controlled Substances Act [720 ILCS 570/100].

SOURCE: Filed and effective November 19, 1975; rules repealed, new rules adopted at 2 Ill. Reg. 16, p. 151, effective April 24, 1978; amended at 2 Ill. Reg. 33, p. 63, effective August 15, 1978; amended at 2 Ill. Reg. 44, p. 127, effective October 30, 1978; amended at 2 Ill. Reg. 45, p. 19, effective November 10, 1978; amended at 2 Ill. Reg. 52, p. 283, effective January 5, 1979; amended at 3 Ill. Reg. 8, p. 112, effective February 23, 1979; amended at 3 Ill. Reg. 12, p. 246, effective March 23, 1979; amended at 4 Ill. Reg. 33, p. 193, effective August 4, 1980; amended at 5 Ill. Reg. 2987, effective March 5, 1981; amended at 5 Ill. Reg. 5156, effective April 29, 1981; amended at 5 Ill. Reg. 13454, effective November 25, 1981; amended at 6 Ill. Reg. 5176, effective April 16, 1982; amended at 6 Ill. Reg. 7200, effective June 7, 1982; amended at 7 Ill. Reg. 16142, effective December 2, 1983; amended at 7 Ill. Reg. 16639, effective December 9, 1983; transferred to the Department of Alcoholism and Substance Abuse by the Alcoholism and Substance Abuse Act (supp. to Ill. Rev. Stat. 1983, ch. 111 1/2, pars. 634 et seq.) effective July 1, 1984; amended at 8 Ill. Reg. 13138, effective July 27, 1984; amended at 8 Ill. Reg. 16760, effective September 14, 1984; codified at 8 Ill. Reg. 19319; amended at 8 Ill. Reg. 21212, effective October 19, 1984; amended at 9 Ill. Reg. 1837, effective January 29, 1985; amended at 9 Ill. Reg. 10649, effective July 2, 1985; amended at 10 Ill. Reg. 914, effective January 7, 1986; amended at 10 Ill. Reg. 11222, effective June 16, 1986; emergency amendment at 10 Ill. Reg. 15662, effective September 10, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18159, effective October 8, 1986; amended at 10 Ill. Reg. 19709, effective November 6, 1986; emergency amendment at 11 Ill. Reg. 4048, effective February 24, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 5192, effective March 17, 1987; amended at 11 Ill. Reg. 11944, effective July 2, 1987; amended at 20 Ill. Reg. 3081, effective February 2, 1996; recodified from Department of Alcoholism and Substance Abuse to Department of Human Services at 21 Ill. Reg. 9319; peremptory amendment at 38 Ill. Reg. 8439, effective April 7, 2014; peremptory amendment at 39 Ill. Reg. 3171, effective February 13, 2015; peremptory amendment at 39 Ill. Reg. 16482, effective December 17, 2015; emergency amendment at 40 Ill. Reg. 13718, effective September 13, 2016, for a maximum of 150 days; amended at 41 Ill. Reg. 1801, effective January 25, 2017.

SUBPART B: SCHEDULE OF CONTROLLED SUBSTANCES--SCHEDULE I

Section 2070.271 U-47700

U-47700 3,4-dichloro-N-[(1R,2R)-2-(dimethylamino)cyclohexyl]-N-methylbenzamide

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

(Source: Added at 41 Ill. Reg. 1801, effective January 25, 2017)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Control of Sexually Transmissible Infections Code
- 2) Code Citation: 77 Ill. Adm. Code 693
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
693.10	Amendment
693.100	Amendment
693.150	Amendment
- 4) Statutory Authority: Illinois Sexually Transmissible Disease Control Act [410 ILCS 325] and Sections 2 and 6 of the Department of Public Health Act [20 ILCS 2305/2 and 6]
- 5) Effective Date of Rules: January 24, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposed published in the *Illinois Register*: 40 Ill. Reg. 14020; October 14, 2016
- 10) Has JCAR issued a State of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No changes were made in response to public comments or comments from JCAR.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking will implement PA 99-173 with respect to the definition of health care professional and add language to facilitate data sharing and surveillance based partner services.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

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

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

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

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER k: COMMUNICABLE DISEASE CONTROL AND IMMUNIZATIONS

PART 693
CONTROL OF SEXUALLY TRANSMISSIBLE INFECTIONS CODE

Section

693.10	Definitions
693.15	Incorporated and Referenced Materials
693.20	Reportable STIs and Laboratory Results
693.30	Reporting
693.35	Fines and Penalties
693.40	Counseling and Partner Services
693.45	Notification of Health Care Contacts
693.50	Physical Examination and Medical Treatment for Syphilis, Gonorrhea, Chlamydia, HIV or Chancroid
693.60	Quarantine and Isolation for Syphilis, Gonorrhea, Chlamydia, HIV and Chancroid
693.70	Counseling and Education for AIDS and HIV (Repealed)
693.80	Isolation for AIDS and HIV (Repealed)
693.90	Quarantine (Repealed)
693.100	Confidentiality
693.110	Examination and Treatment of Prisoners
693.120	Certificate of Freedom from STIs
693.130	Treatment of Minors
693.140	Control Measures (Repealed)
693.150	Expedited Partner Therapy (EPT)

AUTHORITY: Implementing and authorized by the Illinois Sexually Transmissible Disease Control Act [410 ILCS 325] and Sections 2 and 6 of the Department of Public Health Act [20 ILCS 2305/2 and 6].

SOURCE: Adopted at 12 Ill. Reg. 10097, effective May 27, 1988; amended at 15 Ill. Reg. 11686, effective August 15, 1991; emergency amendment at 15 Ill. Reg. 16462, effective October 28, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 5921, effective March 30, 1992; emergency amendment at 17 Ill. Reg. 1213, effective January 7, 1993, for a maximum of 150 days; emergency expired June 7, 1993; amended at 17 Ill. Reg. 15909, effective September 20, 1993; amended at 19 Ill. Reg. 1126, effective January 20, 1995; amended at 22 Ill. Reg. 22026, effective December 9, 1998; amended at 25 Ill. Reg. 3916, effective April 1, 2001;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

amended at 25 Ill. Reg. 14497, effective November 1, 2001; amended at 37 Ill. Reg. 8762, effective June 12, 2013; amended at 38 Ill. Reg. 20788, effective October 15, 2014; amended at 41 Ill. Reg. 1815, effective January 24, 2017.

Section 693.10 Definitions

"Act" means Illinois Sexually Transmissible Disease Control Act [410 ILCS 325].

"Blood Bank" means any facility or location at which blood or plasma is procured, furnished, donated, processed, stored or distributed.

"Certified Local Health Department" means a local health department that is certified pursuant to 77 Ill. Adm. Code 600.210 of the Certified Local Health Department Code.

"Contact" means:

An individual who has been in direct sexual contact with an individual infected with a sexually transmitted infection (STI);

An individual who has been in direct sexual or needle contact with a person with AIDS or HIV infection;

An individual who has undergone artificial insemination, a blood transfusion or an organ or tissue transplantation donated by a person with human immunodeficiency virus (HIV) infection.

"Critical Period" means the time interval for which an individual infected with an STI is asked to recall sexual or needle-sharing contacts. Ideally, the critical period covers the time from the earliest date an individual could have been infected with an STI up to the date of diagnosis or treatment.

The critical period for syphilis is based on the disease stage at the time of diagnosis:

Primary – four months and one week;

Secondary – eight months (34 weeks);

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Early latent – 12 months, unless a credible primary or secondary history can be established.

The critical period for chlamydia, gonorrhea and chancroid is 60 days before the date of specimen collection and should be extended through the date of treatment if the patient was not treated at the time the specimen was collected.

The critical period for HIV is 12 months before the date of diagnosis.

"Department" means the *Illinois Department of Public Health*. (Section 3 of the Act)

"Designated Agent" means an organization designated by the Department, or a local health department in cities with a population of 1,000,000 or more, to conduct public health activities under a written ~~service~~ agreement with the Department.

"Epidemiologic Information" means information, obtained through the counseling and partner services process, regarding possible exposure to an STI.

"Expedited Partner Therapy" means to prescribe, dispense, furnish or otherwise provide prescription antibiotic drugs to the partner or partners of persons clinically diagnosed as infected with a sexually transmissible infection, without physical examination of the partner or partners.

"Exposure-Prone Invasive Procedure" means an invasive procedure involving digital palpation of a needle tip in a body cavity, or the simultaneous presence of a health care professional's fingers and a needle or other sharp instrument or object in a poorly visualized or highly confined anatomical site.

"Health Care Contact" means any the following:

An individual who has undergone exposure-prone invasive procedures performed by an HIV infected health care professional when the Department has determined that there is or may have been potential risk of HIV transmission from the health care professional to that individual;

A health care professional who has performed exposure-prone invasive

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

procedures for a person infected with HIV when the Department has determined that there is or may have been potential risk of HIV transmission from the infected person to the health care professional. (Section 5.5(c) of the Act)

"Health Care Facility" means any institution, building or agency or portion of any institution, building or agency, whether public or private (for-profit or nonprofit), that is used, operated or designed to provide health services, medical treatment or nursing, rehabilitative or preventive care to any person or persons.

"Health Care Professional" means any of the following:

A physician licensed to practice medicine in all its branches~~a licensed physician;~~

a licensed physician assistant to whom the physician assistant's supervising physician has delegated the provision of health services;

a licensed~~an~~ advanced practice nurse who has a written collaborative agreement with a collaborating physician which authorizes the provision of health services; [410 ILCS 325/3(4)]

a licensed dentist~~a licensed dentist;~~

a licensed podiatrist~~a licensed podiatrist; or [410 ILCS 305/3(f-5)]~~

a licensed nurse or other person licensed or certified to provide health care services of any kind; or-

an individual certified to provide HIV testing and counseling by a state or local public health department.

"HIV Infection" means infected with HIV, as evidenced by a positive or reactive supplemental laboratory test result.

"HIV Test" means an HIV test method approved by the federal Food and Drug Administration (FDA) or validated under a laboratory's Clinical Laboratory Improvement Amendments of 1988 (CLIA) certification.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

"Invasive Procedure" means surgical entry into tissues, cavities or organs or repair of major traumatic injuries associated with any of the following:

An operating or delivery room, emergency department, or outpatient setting, including both physicians' and dentists' offices;

Cardiac catheterizations and angiographic procedures;

Vaginal or cesarean delivery or other invasive obstetrical procedure during which bleeding may occur; or

Manipulation or excision of any oral or perioral tissue, including tooth structure, during which bleeding or the potential for bleeding exists.

"Isolation" means the physical separation and confinement of an individual who is infected or reasonably believed to be infected with an STI from non-isolated individuals to prevent the transmission of the STI to non-isolated individuals.

"Laboratory" means a CLIA-approved or -licensed facility, other than a blood bank, at which tests are performed to determine the presence of infection with an STI.

"Local Health Department" means *the full-time official health department or board of health having jurisdiction over a particular area.* (Section 3 of the Act)

"Noncompliant" means that a person who is infected with an STI and is aware of his/her infection is engaging in behaviors or activities that place others at risk of exposure to the STI.

"Partner Services" means services offered to persons diagnosed with HIV, syphilis, gonorrhea or chlamydia and to their partners. These services include, but are not limited to, interviewing infected individuals to elicit and subsequently notify sex and needle sharing partners of possible exposure or potential risk of exposure to infection, facilitating testing and treatment of exposed partners, and providing referrals to support services as needed.~~information and assistance offered to persons infected with STIs in referring their sexual or needle-sharing contacts for a medical examination, testing, counseling and treatment, if indicated.~~

"Quarantine" means the act of making a place or a location *off limits to the public*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

to prevent the probable spread of syphilis, gonorrhea, chlamydia, HIV or chancroid. (Section 7(a) of the Act)

"Self-Refer" means for a person infected with an STI to notify his/her contacts of their possible exposure to an STI and to refer contacts to appropriate health care professionals for counseling, testing and treatment, if indicated.

"Sexually Transmissible Infection" or "STI" means, as defined by the Centers for Disease Control and Prevention, an infection that can be acquired or transmitted through sexual activity.

"Susceptible" means capable of becoming infected with the etiologic agent of an STI.

"Suspected Case" means a person who is reasonably believed to be infected with an STI, based on medical or epidemiologic information.

"Treatment" means services for prevention, diagnosis and medical management of STIs, including examination, laboratory testing, medication, counseling and immunization.

(Source: Amended at 41 Ill. Reg. 1815, effective January 24, 2017)

Section 693.100 Confidentiality

- a) *All information and records held by the Department and local health departments or designated agents relating to known or suspected cases of STIs shall be strictly confidential and exempt from inspection and copying under the Freedom of Information Act. The Department and local health departments or designated agents shall not disclose information and records held by them relating to known or suspected cases of STIs publicly or in any action of any kind in any court or before any tribunal, board or agency. (Section 8(a) of the Act)*
- b) Databases maintained by the Department, certified local health departments or designated agents containing the information described in subsection (a) shall not be released for the purposes of matching with other State agency databases.
- c) *Such information shall not be released or made public by the Department, local health departments or designated agents, or by a court or parties to a lawsuit upon*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

revelation by subpoena, or *by a court conducting proceedings authorized by Section 6(c) of the Act, except that release of such information may be made under the following circumstances:*

- 1) *When made with the consent of all persons to which the information applies (Section 8(a)(1) of the Act);*
 - 2) *When made for statistical purposes and medical or epidemiologic information is summarized so that no person can be identified and no names are revealed (Section 8(a)(2) of the Act);*
 - 3) *When made to medical personnel, [the Department, local health departments or designated agents](#) for care and treatment purposes, including for the purposes of ensuring that medical providers can attempt to re-engage persons with HIV in care [and to provide partner services](#), appropriate State agencies expressly charged in the Act and this Part with enforcement of the provisions of the Act, or courts of appropriate jurisdiction to enforce the provisions of the Act and this Part (Section 8(a)(3) of the Act);*
 - 4) *When authorized by 77 Ill. Adm. Code 697.210 (HIV/AIDS Confidentiality and Testing Code);*
 - 5) *When authorized by the AIDS Confidentiality Act.*
- [de](#)) *A court hearing a request for the issuance of a warrant as authorized in Section 6(c) of the Act shall conduct such proceedings in camera. A record shall be made of authorized proceedings but shall be sealed, impounded and preserved in the records of the court, to be made available to the reviewing court in the event of an appeal. (Section 8(c) of the Act)*
- [ed](#)) *No employee of the Department, a local health department or designated agent shall be examined in a civil, criminal, special or other proceeding concerning the existence or contents of pertinent records of a person examined, tested, or treated for an STI, or a contact of the person, by the Department, a local health department or designated agent pursuant to the provisions of the Act, or concerning the existence or contents of such reports received from a health care professional or health care facility, pursuant to the provisions of the Act, without the consent of the person examined, tested or treated, or a contact to an STI,*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

except in proceedings under Sections 6 and 7 of the Act. (Section 8(d) of the Act)

- f**e) *All information and records held by the Department, a local health department or designated agent pertaining to health care contact risk assessment and notification activities shall be strictly confidential and exempt from copying and inspection under the Freedom of Information Act. Such information and records shall not be released or made public by the Department, a local health department or designated agent, and shall not be admissible as evidence, nor discoverable in any action of any kind in any court or before any tribunal, board, agency or person and shall be treated in the same manner as the information and those records subject to the provisions of Part 21 of the Code of Civil Procedure except under the following circumstances:*
- 1) *When disclosure is made with the written consent of all persons to whom this information pertains;*
 - 2) *When authorized under Section 8 of the Act to be released under court order or subpoena pursuant to Section 12-5.01 of the Criminal Code of 1961; or*
 - 3) *When disclosure is made by the Department for the purpose of seeking a warrant authorized by Sections 6 and 7 of the Act. Such disclosure shall conform to the requirements of Section 8(a) of the Act. (Section 5.5 of the Act)*
- g**f) *Any person who knowingly or maliciously disseminates any information or report concerning the existence of any disease under Section 5.5 of the Act is guilty of a Class A Misdemeanor. (Section 5.5(d) of the Act)*

(Source: Amended at 41 Ill. Reg. 1815, effective January 24, 2017)

Section 693.150 Expedited Partner Therapy (EPT)

- a**) ~~*For the purposes of this Section, in addition to the definition in Section 693.10, health care professional means a physician licensed to practice medicine in all its branches, a physician assistant who has been delegated the provision of sexually transmissible infection therapy services or expedited partner therapy services by his or her supervising physician, or an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the*~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

~~provision of sexually transmitted infections therapy services or expedited partner therapy services, or an advanced practice nurse who practices in a hospital or ambulatory surgical treatment center and possesses appropriate clinical privileges in accordance with the Nurse Practice Act. (Section 3 of the Act)~~

- ~~a~~b) Persons with a clinical diagnosis of chlamydia or gonorrhea, preferably confirmed with a laboratory test, are eligible for EPT.
- b)e) Sex partners of patients treated for chlamydia or gonorrhea, or both, who were exposed within the previous 60 days and who are unable or unlikely to seek medical care are eligible for EPT. If there were no sex partners within the previous 60 days, the most recent sex partner is eligible.
- ~~c~~d) *Health care professionals who provide EPT shall comply with Sections 4 and 5 of the Act. (Section 6(e)(2) of the Act)*
- d)e) EPT is not contraindicated but is a last resort for pregnant partners. Health care professionals shall attempt to contact the pregnant partner and ensure that she is referred for medical care.
- e)f) *Health care professionals who provide EPT shall provide counseling for the patient and written materials provided by the Department to be given by the patient to the partner or partners that include, at a minimum, the following:*
- 1) *A warning that a woman who is pregnant or might be pregnant must not take certain antibiotics and must immediately contact a health care professional for an examination, and a recommendation for such an examination;*
 - 2) *Information about the antibiotic and dosage provided or prescribed; clear and explicit allergy and side effect warnings, including a warning that a partner who has a history of allergy to the antibiotic or the pharmaceutical class of antibiotic must not take the antibiotic and must be immediately examined by a health care professional, and a recommendation for such an examination;*
 - 3) *Information about the treatment and prevention of sexually transmissible infections;*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 4) *The requirement of abstinence until a period of time after treatment to prevent infecting others;*
 - 5) *Notification of the:*
 - A) *importance of the partner or partners of the patient receiving examination and testing for HIV and other sexually transmissible infections; and*
 - B) *available resources;*
 - 6) *Notification of the risk to self, others, and the public health if the sexually transmissible infection is not completely and successfully treated;*
 - 7) *The responsibility of the partner or partners to inform his or her sex partner or partners of the risk of sexually transmissible infection and the importance of prompt examination and treatment. (Section 6(e)(3) of the Act)*
- f) *A healthcare professional prescribing, dispensing, furnishing, or otherwise providing in good faith without fee and compensation prescription antibiotics to partners under this Section and providing counseling and written materials as required by subsection (e) shall not be subject to civil or professional liability, except for willful and wanton misconduct. A health care professional shall not be subject to civil or professional liability for choosing not to provide expedited partner therapy. (Section (6)(e)(5) of the Act)*
- g) Educational materials will instruct all EPT recipients to seek care for STI and to seek HIV testing, regardless of whether they take the medication.
- h) Medication may be dispensed directly to the patient for delivery to the partner or partners. If the partner or partners are unable or unlikely to seek medical care, the prescription for the medication may be provided to the patient to be delivered to the partner or partners. A combination of partner strategies may be used; for example, a patient with several partners may refer one partner to a health care professional, but take EPT for other partners.

(Source: Amended at 41 Ill. Reg. 1815, effective January 24, 2017)

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Requirements for Businesses with Private Business Switch Service to Comply with the Emergency Telephone System Act
- 2) Code Citation: 83 Ill. Adm. Code 726
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
726.100	Repealed
726.105	Repealed
726.200	Repealed
726.205	Repealed
726.300	Repealed
726.305	Repealed
726.400	Repealed
726.500	Repealed
726.505	Repealed
726.510	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 15.6 of the Emergency Telephone System Act [50 ILCS 750/15.6]
- 5) Effective Date of Repealer: January 30, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? Yes. The National Emergency Number Association Recommended Formats for Data Exchange Version 1 or 2.1, "NENA Recommended Formats & Protocols For Data Exchange" (May 1999, published by the National Emergency Number Association, 4789 Papermill Road, Coshocton OH 43812).
- 8) A copy of this adopted repealer, 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*: 40 Ill. Reg. 15047; November 4, 2016
- 10) Has JCAR issued a Statement of Objection to this Repealer? No
- 11) Differences between Proposal and Final Version: None

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED REPEALER

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were issued by JCAR.
- 13) Will this repealer replace an emergency repealer currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Repealer: PA 99-6 transferred the rights, powers, duties, and functions of the Illinois Commerce Commission as set forth in the Emergency Telephone System Act and the Wireless Emergency Telephone Safety Act to the Department of State Police effective January 1, 2016. The Department of State Police adopted rules at 83 Ill. Adm. Code 1326 effective May 27, 2016. As a result, this Part is no longer needed and is being repealed.
- 16) Information and questions regarding this Adopted Repealer shall be directed to:

Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South 7th Street, Suite 1000-S
Springfield IL 62703

217/782-7658

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Requirements for Non-Businesses with Private Business Switch Service to Comply with the Emergency Telephone System Act
- 2) Code Citation: 83 Ill. Adm. Code 727
- 3)

<u>Section Numbers</u> :	<u>Adopted Actions</u> :
727.100	Repealed
727.105	Repealed
727.200	Repealed
727.205	Repealed
727.300	Repealed
727.305	Repealed
727.400	Repealed
727.500	Repealed
727.505	Repealed
727.510	Repealed
- 4) Statutory Authority: Implementing and authorized by the Emergency Telephone System Act [50 ILCS 750]
- 5) Effective Date of Repealer: January 30, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? Yes. The National Emergency Number Association Recommended Formats for Data Exchange Version 1 or 2.1, "NENA Recommended Formats & Protocols For Data Exchange" (May 1999, published by the National Emergency Number Association, 4789 Papermill Road, Coshocton, OH 43812).
- 8) A copy of this adopted repealer, 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: 40 Ill. Reg. 15063; November 4, 2016
- 10) Has JCAR issued a Statement of Objection to this Repealer? No
- 11) Differences between Proposal and Final Version: None

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED REPEALER

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were issued by JCAR.
- 13) Will this repealer replace an emergency repealer currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Repealer: PA 99-6 transferred the rights, powers, duties, and functions of the Illinois Commerce Commission as set forth in the Emergency Telephone System Act and the Wireless Emergency Telephone Safety Act to the Department of State Police effective January 1, 2016. The Department of State Police adopted rules at 83 Ill. Adm. Code 1326 effective May 27, 2016. As a result, this Part is no longer needed and is being repealed.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South 7th Street, Suite 1000-S
Springfield IL 62703

217/782-7658

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Standards of Service Applicable to Wireless 9-1-1 Emergency Systems
- 2) Code Citation: 83 Ill. Adm. Code 728
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
728.100	Repealed
728.105	Repealed
728.200	Repealed
728.205	Repealed
728.210	Repealed
728.300	Repealed
728.305	Repealed
728.310	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 15 of the Wireless Emergency Telephone Safety Act [50 ILCS 751/15]
- 5) Effective Date of Repealer: January 30, 2017
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of this adopted repealer, 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*: 40 Ill. Reg. 15079; November 4, 2016
- 10) Has JCAR issued a Statement of Objection to this Repealer? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were issued by JCAR.
- 13) Will this repealer replace an emergency repealer currently in effect? No

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED REPEALER

- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Repealer: PA 99-6 transferred the rights, powers, duties, and functions of the Illinois Commerce Commission as set forth in the Emergency Telephone System Act and the Wireless Emergency Telephone Safety Act to the Department of State Police effective January 1, 2016. The Department of State Police adopted rules at 83 Ill. Adm. Code 1328 effective May 27, 2016. As a result, this Part is no longer needed and is being repealed.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South 7th Street, Suite 1000-S
Springfield IL 62703

217/782-7658

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Administration of Funds Created by the Wireless Emergency Telephone Safety Act
- 2) Code Citation: 83 Ill. Adm. Code 729
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
729.100	Repealed
729.110	Repealed
729.120	Repealed
729.200	Repealed
729.210	Repealed
729.300	Repealed
729.310	Repealed
729.320	Repealed
729.330	Repealed
729.400	Repealed
729.410	Repealed
729.420	Repealed
729.500	Repealed
729.510	Repealed
729.520	Repealed
729.530	Repealed
729.600	Repealed
729.610	Repealed
729.700	Repealed
729.710	Repealed
729.720	Repealed
729.730	Repealed
729.740	Repealed
729.APPENDIX A	Repealed
729.APPENDIX B	Repealed
729.APPENDIX C	Repealed
- 4) Statutory Authority: Implementing and authorized by the Wireless Emergency Telephone Safety Act [50 ILCS 751]
- 5) Effective Date of Repealer: January 30, 2017
- 6) Does this rulemaking contain an automatic repeal date? No

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED REPEALER

- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of this adopted repealer, 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*: 40 Ill. Reg. 15099; November 4, 2016
- 10) Has JCAR issued a Statement of Objection to this Repealer? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were issued by JCAR.
- 13) Will this repealer replace an emergency repealer currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Repealer: PA 99-6 transferred the rights, powers, duties, and functions of the Illinois Commerce Commission as set forth in the Emergency Telephone System Act and the Wireless Emergency Telephone Safety Act to the Department of State Police effective January 1, 2016. The Department of State Police adopted rules at 83 Ill. Adm. Code 1329 effective May 27, 2016. As a result, this Part is no longer needed and is being repealed.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Matthew R. Rentschler
Chief Legal Counsel
Illinois State Police
801 South 7th Street, Suite 1000-S
Springfield IL 62703

217/782-7658

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of January 24, 2017 through January 30, 2017. The rulemakings are scheduled for review at the Committee's February 15, 2017 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>
3/10/17	<u>Pollution Control Board</u> , Permits and General Provisions (35 Ill. Adm. Code 201)	9/30/16 40 Ill. Reg. 13545	2/15/17
3/10/17	<u>Pollution Control Board</u> , Definitions and General Provisions (35 Ill. Adm. Code 211)	9/30/16 40 Ill. Reg. 13580	2/15/17
3/11/17	<u>Department of Healthcare and Family Services</u> , Medical Assistance Program (89 Ill. Adm. Code 120)	11/4/16 40 Ill. Reg. 14982	2/15/17
3/11/17	<u>Department of Healthcare and Family Services</u> , Medical Payment (89 Ill. Adm. Code 140)	11/14/16 40 Ill. Reg. 15271	2/15/17

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 41, Issue 6 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

PROPOSED RULES

83 - 290	.....	1275
68 - 1330	.....	1283
35 - 101	.....	1293
35 - 102	.....	1364
35 - 103	.....	1394
35 - 104	.....	1411
35 - 105	.....	1446
35 - 106	.....	1466
35 - 107	.....	1524
35 - 108	.....	1534
35 - 125	.....	1544
35 - 130	.....	1552
77 - 250	.....	1572
23 - 1	.....	1645
23 - 20	.....	1680
23 - 26	.....	1684
23 - 50	.....	1690

ADOPTED RULES

80 - 310	1/25/2017	1695
77 - 2070	1/25/2017	1801
77 - 693	1/24/2017	1815
83 - 726	1/30/2017	1827
83 - 727	1/30/2017	1829
83 - 728	1/30/2017	1831
83 - 729	1/30/2017	1833

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