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August 17, 2018 Volume 42, Issue 33

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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 2018

Issue#	Rules Due Date	Date of Issue
1	December 26, 2017	January 5, 2018
2	January 2, 2018	January 12, 2018
3	January 8, 2018	January 19, 2018
4	January 16, 2018	January 26, 2018
5	January 22, 2018	February 2, 2018
6	January 29, 2018	February 9, 2018
7	February 5, 2018	February 16, 2018
8	February 13, 2018	February 23, 2018
9	February 20, 2018	March 2, 2018
10	February 26, 2018	March 9, 2018
11	March 5, 2018	March 16, 2018
12	March 12, 2018	March 23, 2018
13	March 19, 2018	March 30, 2018
14	March 26, 2018	April 6, 2018
15	April 2, 2018	April 13, 2018
16	April 9, 2018	April 20, 2018
17	April 16, 2018	April 27, 2018
18	April 23, 2018	May 4, 2018
19	April 30, 2018	May 11, 2018
20	May 7, 2018	May 18, 2018
21	May 14, 2018	May 25, 2018
22	May 21, 2018	June 1, 2018
23	May 29, 2018	June 8, 2018
24	June 4, 2018	June 15, 2018
25	June 11, 2018	June 22, 2018

26	June 18, 2018	June 29, 2018
27	June 25, 2018	July 6, 2018
28	July 2, 2018	July 13, 2018
29	July 9, 2018	July 20, 2018
30	July 16, 2018	July 27, 2018
31	July 23, 2018	August 3, 2018
32	July 30, 2018	August 10, 2018
33	August 6, 2018	August 17, 2018
34	August 13, 2018	August 24, 2018
35	August 20, 2018	August 31, 2018
36	August 27, 2018	September 7, 2018
37	September 4, 2018	September 14, 2018
38	September 10, 2018	September 21, 2018
39	September 17, 2018	September 28, 2018
40	September 24, 2018	October 5, 2018
41	October 1, 2018	October 12, 2018
42	October 9, 2018	October 19, 2018
43	October 15, 2018	October 26, 2018
44	October 22, 2018	November 2, 2018
45	October 29, 2018	November 9, 2018
46	November 5, 2018	November 16, 2018
47	November 13, 2018	November 26, 2018
48	November 19, 2018	November 30, 2018
49	November 26, 2018	December 7, 2018
50	December 3, 2018	December 14, 2018
51	December 10, 2018	December 21, 2018
52	December 17, 2018	December 28, 2018

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Minimum Safety Standards for Transportation of Gas and for Gas Pipeline Facilities
- 2) Code Citation: 83 Ill. Adm. Code 590
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
590.10	Amendment
590.20	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 3 of the Illinois Gas Pipeline Safety Act [220 ILCS 20/3].
- 5) A Complete Description of the Subjects and Issues Involved: Part 590 incorporates by reference certain federal regulations as minimum safety standards for the transportation of gas and for gas pipeline facilities. This complies with Section 3 of the Illinois Gas Pipeline Safety Act [220 ILCS 20/3], which requires that the Illinois Commerce Commission's rules be as inclusive and as stringent as the federal safety standards, and be compatible with the federal standards. The Commission's Gas Pipeline Safety Program operates under authority delegated to the Commission by the Pipeline and Hazardous Materials Safety Administration ("PHMSA"), a division of the United States Department of Transportation. Under the applicable federal statute, a State that regulates natural gas safety standards and practices with a law comparable to the federal act in scope and intent may annually submit a certification to the Secretary that the State authority complies with subsections (b) and (c) of 49 USCA § 60105 to carry out the safety enforcement functions in that State.

Recent amendments to federal regulations found in 49 CFR 191 and 192 have expanded the minimum safety standards to include within their scope underground natural gas storage facilities. The definition of "transportation of gas" in Section 3(a) of the Illinois Gas Pipeline Safety Act also includes storage. The proposed amendments to Section 590.10 are intended to comply with the certification agreement between the Commission and PHMSA, under which the Commission will maintain its authority under the Illinois Gas Pipeline Safety Act to regulate pipeline facilities and the transportation of gas in conjunction with the Secretary and PHMSA but will not regulate underground natural gas storage facilities. Authority over underground storage is currently vested in PHMSA by federal law and remains with the federal agency. In Section 590.20, the proposed rulemaking incorporates by reference 49 CFR 191.17, correcting an old and inadvertent omission in that section. This rulemaking is a companion to a pending rulemaking for

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

Part 595, Reports of Accidents or Incidents by Persons Engaged in the Transportation of Gas, or Who Own or Operate Gas Pipeline Facilities.

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: 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. 18-1314 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

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 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 Amendments begins on the next page:

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER d: GAS UTILITIESPART 590
MINIMUM SAFETY STANDARDS FOR TRANSPORTATION
OF GAS AND FOR GAS PIPELINE FACILITIES

Section

590.10	Standards
590.20	Submission of Federal Reports to the Commission
590.30	Submission of Plans, Procedures and Programs
590.40	External User Accounts

AUTHORITY: Implementing and authorized by Section 3 of the Illinois Gas Pipeline Safety Act [220 ILCS 20/3].

SOURCE: Filed effective November 28, 1977; amended at 3 Ill. Reg. 5, p. 761, effective February 3, 1979; amended at 3 Ill. Reg. 11, p. 25, effective March 17, 1979; amended at 4 Ill. Reg. 1, p. 23, effective January 1, 1980; amended at 5 Ill. Reg. 6778, effective June 16, 1981; rules repealed, new rules adopted and codified at 7 Ill. Reg. 12858, effective September 16, 1983; amended at 8 Ill. Reg. 13195, effective July 16, 1984; amended at 10 Ill. Reg. 19405, effective November 15, 1986; amended at 11 Ill. Reg. 11733, effective July 1, 1987; amended at 12 Ill. Reg. 11707, effective July 15, 1988; recodified from 92 Ill. Adm. Code 1800 at 12 Ill. Reg. 12997; amended at 13 Ill. Reg. 16968, effective November 1, 1989; amended at 14 Ill. Reg. 10018, effective June 15, 1990; amended at 17 Ill. Reg. 12291, effective July 15, 1993; amended at 18 Ill. Reg. 11518, effective July 25, 1994; amended at 19 Ill. Reg. 13549, effective October 1, 1995; amended at 21 Ill. Reg. 8906, effective July 1, 1997; amended at 23 Ill. Reg. 11872, effective October 1, 1999; amended at 25 Ill. Reg. 11355, effective September 1, 2001; amended at 27 Ill. Reg. 12385, effective August 1, 2003; amended at 29 Ill. Reg. 11808, effective August 1, 2005; amended at 31 Ill. Reg. 11562, effective August 1, 2007; amended at 33 Ill. Reg. 12224, effective August 15, 2009; amended at 35 Ill. Reg. 14414, effective August 15, 2011; amended at 37 Ill. Reg. 15336, effective September 10, 2013; amended at 39 Ill. Reg. 10381, effective July 14, 2015; amended at 41 Ill. Reg. 10451, effective July 26, 2017; amended at 42 Ill. Reg. _____, effective _____.

Section 590.10 Standards

- a) [Incorporations by Reference](#)

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENTS

- 1) The Illinois Commerce Commission (Commission) adopts the standards contained in 49 CFR 191.1, 191.3, 191.5, 191.7, 191.9, 191.11, 191.12, 191.13, 191.15, 191.17, 191.22, 191.23, 191.25, 191.29, 192 (excluding Section 192.12), 193 and 199 as of July 1, 2018~~April 14, 2017~~, as its minimum safety standards for the transportation of gas and for gas pipeline facilities.
- 2) Reports otherwise required under 49 CFR 191, as incorporated by subsection (a)(1), that pertain only to the downhole portion of an "underground natural gas storage facility", as that term is defined in 49 CFR 192.3 as of July 1, 2018, need not be filed with the Commission.

b) No later amendment or editions are incorporated by this Part.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 590.20 Submission of Federal Reports to the Commission

Each person who engages in the transportation of gas or who owns or operates pipeline facilities shall file with the Commission any report filed with the federal Pipeline and Hazardous Materials Safety Administration pursuant to 49 CFR 191.11, 191.12, 191.13, 191.17, 191.25 and 191.29, except that reports otherwise required to be filed with the Commission under this Section that pertain only to the downhole portion of an "underground natural gas storage facility", as that term is defined in 49 CFR 192.3 as of July 1, 2018, need not be filed with the Commission.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Reports of Accidents or Incidents by Persons Engaged in the Transportation of Gas, or Who Own or Operate Gas Pipeline Facilities
- 2) Code Citation: 83 Ill. Adm. Code 595
- 3) Section Number: 595.120 Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Section 6 of the Illinois Gas Pipeline Safety Act [220 ILCS 20/6].
- 5) A Complete Description of the Subjects and Issues Involved: Part 595 pertains to the reporting obligations under the Illinois Gas Pipeline Safety Act of entities that transport natural gas or that own or operate gas pipeline facilities. The Act requires the Commission to adopt rules establishing minimum safety standards for the transportation of gas and for pipeline facilities that are as inclusive and as stringent as, and are compatible with, the minimum safety standards established under the applicable federal regulations.

The Commission's Gas Pipeline Safety Program operates under authority delegated to the Commission by the Pipeline and Hazardous Materials Safety Administration ("PHMSA"), a division of the United States Department of Transportation. The proposed amendments to Part 595 would remove several obsolete references to PHMSA's report forms. The amendments also would allow for the electronic filing of certain reports with the Commission and would update several statutory citations. This rulemaking is a companion to a pending rulemaking for Part 590, Minimum Safety Standards for Transportation of Gas and for Gas Pipeline Facilities.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

- 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. 18-1314 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 Amendment begins on the next page:

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER d: GAS UTILITIES

PART 595

REPORTS OF ACCIDENTS OR INCIDENTS BY PERSONS ENGAGED IN THE
TRANSPORTATION OF GAS, OR WHO OWN OR OPERATE GAS PIPELINE FACILITIES

SUBPART A: GENERAL PROVISIONS

Section
595.10 Exemption from 83 Ill. Adm. Code 220

SUBPART B: REPORTS OF ACCIDENTS OR INCIDENTS

Section
595.110 Definitions
595.120 Reporting of Accidents or Incidents
595.130 Immediate Reports

AUTHORITY: Implementing and authorized by Section 6 of the Illinois Gas Pipeline Safety Act [220 ILCS 20/6].

SOURCE: Filed July 16, 1970; codified at 8 Ill. Reg. 7616; amended at 10 Ill. Reg. 8970, effective June 1, 1986; recodified from 92 Ill. Adm. Code 1810 at 12 Ill. Reg. 12998; amended at 13 Ill. Reg. 2036, effective February 1, 1989; amended at 22 Ill. Reg. 20083, effective November 7, 1998; amended at 32 Ill. Reg. 8128, effective May 15, 2008; amended at 37 Ill. Reg. 195, effective January 1, 2013; amended at 42 Ill. Reg. _____, effective _____.

SUBPART B: REPORTS OF ACCIDENTS OR INCIDENTS

Section 595.120 Reporting of Accidents or Incidents

- a) A report of each accident or incident shall be filed with the Commission not later than ~~thirty (30)~~ days after ~~the~~ such accident or incident occurred. The report shall be made on ~~Form Ill. C. C. (P.U. 7) Accident or Incident Report~~, or the appropriate U.S. Department of Transportation Incident Report Form, ~~RSPA F7100.1 (3-84)~~ for Gas Distribution Systems, or ~~RSPA F7100.2 (3-84)~~ for Gas Transmission and Gathering Systems. If the accident investigation is incomplete

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after the expiration of the ~~thirty~~(30) day period, an additional report will be filed upon its completion, or every ~~ninety~~(90) days until the investigation is completed. Reports required under this Part shall be filed with the Commission in electronic form by a person who has an external user account provided under 83 Ill. Adm. Code 590.40.

- b) Information required by this form must be provided to comply with Section 6 of the Illinois Gas Pipeline Safety Act [220 ILCS 20]. Failure to do so may result in penalties pursuant to Section 7 or 7.5 of the Illinois Gas Pipeline Safety Act (~~Ill. Rev. Stat. 1987, ch. 111½, par. 557~~).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Real Estate Appraiser Licensing
- 2) Code Citation: 68 Ill. Adm. Code 1455
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1455.10	Amendment
1455.150	Amendment
1455.190	Amendment
1455.200	Amendment
1455.205	Amendment
1455.260	Amendment
1455.280	Amendment
1455.320	Amendment
1455.330	Amendment
1455.335	Amendment
- 4) Statutory Authority: Implementing and authorized by the Real Estate Appraiser Licensing Act of 2002 [225 ILCS 458].
- 5) A Complete Description of the Subject and Issues Involved: These proposed amendments will implement new criteria related to educational requirements, that will permit non-college graduates to obtain an appraiser license. This proposal aligns Illinois' qualifying education requirements with the minimum criteria established by the Appraisal SubCommittee (ASC). In addition, these amendments make various changes to existing notice requirements in response to the Governor's Executive Order on the paperless initiative by updating "email address of record" notice requirements and eliminating obligations to send notices via certified mail, in addition to other cleanup items.
- 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? Yes, please see Section 1455.10; 1455.150 and 1455.200.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Interested persons may submit written comments 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: Real Estate Appraisers
- B) Reporting, bookkeeping or other procedures required for compliance: Please review the proposed amendments that follow this Notice.
- C) Types of professional skills necessary for compliance: Appraiser education and experience is necessary for licensure and compliance with this Part.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2016

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 1455

REAL ESTATE APPRAISER LICENSING

SUBPART A: DEFINITIONS

Section
1455.10 Definitions

SUBPART B: LICENSING REQUIREMENTS

Section
1455.100 Application for a State Certified General Real Estate Appraiser License and a State Certified Residential Real Estate Appraiser License; Application for an Associate Real Estate Trainee Appraiser License; Application by Non-Resident for Licensure by Endorsement

1455.110 Application for Renewal of State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Trainee Appraiser License; Late Renewal of State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Trainee Appraiser License; Reinstatement of State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Trainee Appraiser License; Application for Military Deferral; Expiration Date

1455.120 Conversion of a State Licensed Real Estate Appraiser License to an Associate Real Estate Appraiser License; Late Conversion; No Issuance of State Licensed Real Estate Appraiser License (Repealed)

1455.130 Application for Temporary Practice Permit; Term of Permit; Scope of Practice; Regulatory Responsibility; Notice

1455.140 Issuance of Certificate to Real Estate Appraisers; Temporary Practice Permits

SUBPART C: EDUCATION REQUIREMENTS

Section
1455.150 Qualifying Education Requirements; State Certified General Real Estate Appraiser; State Certified Residential Real Estate Appraiser; Associate Real

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- Estate Trainee Appraiser; Non-Resident Qualifying Education; In Lieu of Requirements; Foreign Degrees
- 1455.160 Continuing Education Requirements for State Certified General Real Estate Appraiser, State Certified Residential Real Estate Appraiser, and Associate Real Estate Trainee Appraiser; Non-Resident Continuing Education Approval

SUBPART D: EXPERIENCE REQUIREMENTS

Section

- 1455.170 Experience Requirements for a State Certified General Real Estate Appraiser License
- 1455.180 Experience Requirements for a State Certified Residential Real Estate Appraiser License
- 1455.190 Verification of Experience Credit
- 1455.195 Acceptable Experience Credit and Request for Reconsideration
- 1455.200 Acceptable Appraisal Experience Credit

SUBPART E: BUSINESS PRACTICES; STANDARDS AND SCOPE OF PRACTICE

Section

- 1455.205 Record Keeping Requirements
- 1455.210 Notification of Name Change
- 1455.220 Assumed Name
- 1455.230 Address Change
- 1455.240 Uniform Standards of Professional Appraisal Practice (USPAP)
- 1455.245 Scope of Property Condition Inspections by Real Estate Appraisers

SUBPART F: ENFORCEMENT PROVISIONS

Section

- 1455.250 Appraiser Responsibilities as Relating to Appraisal Management Companies
- 1455.260 Suspension or Denial for Failure to Pay Taxes, Child Support or any Illinois-Guaranteed Student Loan
- 1455.270 Additional Education; Reporting Requirements
- 1455.280 Administrative Warning Letter
- 1455.290 Cooperation Required with the Division
- 1455.300 Felony Convictions; Discipline of Other Professional License; Notification
- 1455.310 Unprofessional Conduct
- 1455.315 Supervisor and Trainee Requirements (Repealed)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1455.316 Supervisor and Trainee Requirements

SUBPART G: ADMINISTRATIVE PROVISIONS

Section

1455.320 Fees
1455.330 Granting of Variances
1455.335 Refusal to Issue an Appraiser License Based on Criminal History Record
1455.340 Duties of the Secretary
1455.345 IDFPR Coordinator of Real Estate Appraisal

SUBPART H: EDUCATION PROVIDER AND COURSE PROVISIONS

Section

1455.350 Education Provider Application; Requirements
1455.355 USPAP Course Titles
1455.360 Qualifying Education Course Requirements of Education Providers
1455.365 Practicum Course Requirements
1455.370 Qualifying Course Curriculum; State Certified General Real Estate Appraiser;
State Certified Residential Real Estate Appraiser; Associate Real Estate Trainee
Appraiser
1455.375 Prerequisite Education Course – Supervisor-Trainee Course
1455.380 Instructors for the Supervisor-Trainee Conditional Education Course
1455.390 Continuing Education Course Requirements of Education Providers
1455.400 Curriculum for Continuing Education Courses; Continuing Education Credit for
Participation Other Than as a Student
1455.410 Distance Education
1455.420 Expiration Date and Renewal for Education Providers and Qualifying Education
and Continuing Education Courses
1455.430 Continuing Education Reporting
1455.440 Transcript or Certificate of Completion
1455.445 Grounds for Education Provider Discipline

SUBPART I: TRANSITION PROVISIONS

Section

1455.450 Appraiser Applicants – Transition Provisions (Repealed)
1455.460 Education Providers, Pre-License and Continuing Education Courses – Transition
Provisions (Repealed)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

SUBPART J: HEARINGS

Section

- 1455.470 Applicability (Repealed)
1455.480 Administrative Law Judges (Repealed)
1455.490 Disqualification of an Administrative Law Judge (Repealed)
- 1455.APPENDIX A Caption for a Case Filed by the Division (Repealed)
1455.APPENDIX B Caption for a Case Filed by the Petitioner (Repealed)

AUTHORITY: Implementing and authorized by the Real Estate Appraiser Licensing Act of 2002 [225 ILCS 458].

SOURCE: Emergency rules adopted at 16 Ill. Reg. 16196, effective September 30, 1992, for a maximum of 150 days; rules adopted at 17 Ill. Reg. 1589, effective January 26, 1993; emergency amendment at 17 Ill. Reg. 6668, effective April 19, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13494, effective July 30, 1993; amended at 18 Ill. Reg. 2379, effective January 28, 1994; emergency amendment at 18 Ill. Reg. 3006, effective February 10, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 8428, effective May 24, 1994; amended at 19 Ill. Reg. 9176, effective June 26, 1995; emergency amendment at 19 Ill. Reg. 12503, effective August 16, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 16604, effective December 1, 1995; amended at 20 Ill. Reg. 6488, effective April 30, 1996; recodified from Chapter VII, Department of Professional Regulation, to Chapter VIII, Office of Banks and Real Estate, pursuant to PA 89-23 and PA 89-508, at 20 Ill. Reg. 11984; amended at 21 Ill. Reg. 1685, effective January 27, 1997; amended at 21 Ill. Reg. 5538, effective April 18, 1997; emergency amendment at 22 Ill. Reg. 4132, effective February 4, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 8534, effective April 29, 1998, for a maximum of 150 days; old Part repealed by emergency rulemaking at 22 Ill. Reg. 12979, effective July 1, 1998, for a maximum of 150 days; new Part adopted by emergency rulemaking at 22 Ill. Reg. 13011, effective July 1, 1998, for a maximum of 150 days; old Part repealed and new Part adopted at 22 Ill. Reg. 20815, effective November 20, 1998; old Part repealed at 26 Ill. Reg. 10883 and new Part adopted by emergency rulemaking at 26 Ill. Reg. 10844, effective July 1, 2002, for a maximum of 150 days; old Part repealed at 26 Ill. Reg. 17689 and new Part adopted at 26 Ill. Reg. 17692, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 14653, effective August 29, 2003, for a maximum of 150 days; amended at 28 Ill. Reg. 824, effective December 29, 2003; amended at 29 Ill. Reg. 16445, effective October 13, 2005; amended at 31 Ill. Reg. 4741, effective March 9, 2007; amended at 33 Ill. Reg. 7121, effective May 14, 2009; amended at 35 Ill. Reg. 1967, effective January 20, 2011; amended at 35 Ill. Reg. 19505, effective November 17, 2011;

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amended at 37 Ill. Reg. 2668, effective April 1, 2013; amended at 37 Ill. Reg. 19189, effective December 31, 2013; amended at 38 Ill. Reg. 5887, effective February 24, 2014; amended at 39 Ill. Reg. 7939, effective June 1, 2015; amended at 41 Ill. Reg. 12583, effective October 6, 2017; amended at 42 Ill. Reg. 6386, effective March 23, 2018; amended at 42 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS

Section 1455.10 Definitions

Unless otherwise clarified by this Part, definitions set forth in the Act also apply for the purposes of this Part.

"Act" means the Real Estate Appraiser Licensing Act of 2002 [225 ILCS 458].

"Applicant" means a person applying for licensure under this Act as a State Certified General Real Estate Appraiser, State Certified Residential Real Estate Appraiser, or Associate Real Estate Trainee Appraiser. Any applicant or any person who holds himself or herself out as an applicant is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act [5 ILCS 100].

"Appraisal management company" means any corporation, limited liability company, partnership, sole proprietorship, subsidiary, unit, or other business entity that directly or indirectly performs the following appraisal management services:

administers networks of independent contractors or employee appraisers to perform real estate appraisal assignments for clients;

receives requests for real estate appraisal services from clients and, for a fee paid by the client, enters into an agreement with one or more independent appraisers to perform the real estate appraisal services contained in the request; or

otherwise serves as a third-party broker of appraisal management services between clients and appraisers. [225 ILCS 459/10]

"AQB" means the Appraiser Qualification Board of the Appraisal Foundation.

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~~"AQB 2015 Criteria" means the Real Property Appraiser Qualification Criteria (effective January 1, 2015, no later amendments or editions), published July 2016 by the Appraiser Qualifications Board of The Appraisal Foundation, 1155 15th Street, NW, Suite 1111, Washington DC 20005.~~

"Board" means the Real Estate Appraisal Administration and Disciplinary Board.

"CE Completion Deadline" means June 30 of each odd-numbered year.

"Classroom hour" or "hour" as it pertains to the education requirements means classroom attendance for a minimum of 50 minutes of lecture or its equivalent through a distance education program approved by the Division.

"Client" means the party or parties who engage an appraiser, by employment or contract, in a specific assignment. If an appraisal management company is the party engaging the appraiser, the appraisal management company is considered the client.

"Continuing education" means education that is creditable toward the education requirements that must be satisfied to renew licensure or certification, as set forth in Section 1455.160.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Department of Financial and Professional Regulation-Division of Real Estate.

"Division" means the Department of Financial and Professional Regulation-Division of Real Estate.

"Experience/work log" means the form described in Section 1455.190 that verifies an appraiser's experience and work history.

"Extraordinary assumption" means a specifically labeled assumption, directly related to a specific assignment that, if found to be false, could alter the appraiser's opinions or conclusions

"Hypothetical condition" means a condition that is specifically stated to be

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contrary to what exists, but is supposed to exist for the purpose of analysis.

"Jurisdictional exception" means an assignment condition established by applicable law or regulation, which precludes an appraiser from complying with a part of USPAP.

"License" means a certificate of authority, permit or registration issued by the Division.

"Licensee" means a person who has been issued a license under the Act or this Part. Anyone who holds himself or herself out as a licensee or who is accused of unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings, and the Illinois Administrative Procedure Act.

"Master agreement" means a written service agreement between a traditional client and a real estate appraiser, appraisal firm, appraisal management company or panel of approved appraisers.

"Non-traditional client" means the Division or an approved practicum course provider.

"Practicum course instructor" means a Certified Residential Appraiser or a Certified General Appraiser in good standing with the Division who is authorized to conduct an approved practicum course.

"Prerequisite education" means any education course that does not meet AQB requirements under qualifying education but is necessary prior to being issued an Illinois appraiser credential as an Associate Real Estate Trainee Appraiser.

"Qualifying education" means education that is creditable toward the requirements set forth in Section 1455.150.

"Quantitative experience" means actual time spent on the appraisal process.

["Real Property Appraiser Qualification Criteria" \(effective May 1, 2018, no later amendments or editions\), published by the Appraiser Qualifications Board of The Appraisal Foundation, 1155 15th Street, NW, Suite 1111, Washington DC 20005.](#)

"Renewal Deadline" means September 30 of each odd-numbered year.

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"Required core curriculum" means a set of appraisal subject matter major headings known as modules that requires a specified number of educational hours at each credential level. (See 225 ILCS 458/5-10(a)(5).)

"Residential" means composed of 1 to 4 residential units.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"Traditional client" means a client who hires an appraiser to complete an assignment by employment or contract for business purposes.

"True copy" means a photocopy or an electronic copy of the entire report transmitted to the client.

"USPAP" means the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board pursuant Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 USC 3331 et seq.) published biennially by the Appraisal Standards Board of The Appraisal Foundation, 1155 15th Street N.W., Suite 1111, Washington DC 20005 (effective January 1, 2018 through December 31, 2019, no later amendments or editions).

"Waiver valuation" means a specific valuation product utilized by the Illinois Department of Transportation, under Section 5-5(e-5) of the Act, to establish a basis for determining just compensation.

"Waiver valuator" means an employee of the Illinois Department of Transportation, a registered county or municipal engineer, or a municipal employee who is permitted to complete or co-sign a waiver valuation, not to exceed \$10,000, prepared in accordance with the federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 USC 4601-4655) or prepared pursuant to the federal Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs regulations (49 CFR 24)

"Work-file" means documentation necessary to support an appraiser's analyses, opinions and conclusions, including, but not limited to, the name of the client and

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the identity, by name or type, of any other intended users; true copies of any written reports, documented on any type of media; summaries of any oral reports or testimony, or a transcript of testimony, including the appraiser's signed and dated certification; and all other data, information and documentation necessary to support the appraiser's opinions and conclusions and to show compliance with USPAP, or references to the locations of other documentation. A work-file in support of a Restricted Use or Restricted Appraisal Report must be sufficient for the appraiser to produce an Appraisal Report.

"Web Form" means a web page that allows a user to enter data that is sent to a server for processing.

"Written Engagement" means a defined relationship between a real estate appraiser or appraisers and the client. It states the terms, conditions and scope of the appraisal service request, including but not limited to compensation.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART C: EDUCATION REQUIREMENTS

Section 1455.150 Qualifying Education Requirements; State Certified General Real Estate Appraiser; State Certified Residential Real Estate Appraiser; Associate Real Estate Trainee Appraiser; Non-Resident Qualifying Education; In Lieu of Requirements; Foreign Degrees

- a) Residential
- An applicant for licensure as a State Certified Residential Real Estate Appraiser shall meet the following criteria:
- 1) ~~1,500~~²⁵⁰⁰ hours of experience obtained during no fewer than ~~12~~²⁴ months is required, of which, no less than 50% must be in residential 1 to 4 families, USPAP compliant, appraisal work. While the hours may be cumulative, the required number of months must accrue before an individual can be certified;
 - 2) 200 hours of modular appraisal education as stated in the Guide Notes (GN-1) of the [Real Property Appraiser Qualification AQB 2015](#) Criteria;
 - 3) Utilize one of the six formal education options, as follows: ~~Bachelor's~~

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~~degree or higher or equivalent (see subsection (g)) from an accredited college, community college or university; and~~

<u>Option 1</u>	<u>Bachelor's Degree or higher or equivalent from an accredited college, community college or university; or</u>
<u>Option 2</u>	<u>Associates Degree in a field of study related to:</u> <ul style="list-style-type: none"> • <u>Business Administration; or</u> • <u>Accounting; or</u> • <u>Finance; or</u> • <u>Economics; or</u> • <u>Real Estate; or</u>
<u>Option 3</u>	<u>Successful completion of 30 semester hours of college-level courses in each of the following topic areas:</u> <ul style="list-style-type: none"> • <u>English Composition – 3 hours</u> • <u>Microeconomics – 3 hours</u> • <u>Macroeconomics – 3 hours</u> • <u>Finance – 3 hours</u> • <u>Algebra, Geometry, or Higher Math – 3 hours</u> • <u>Statistics – 3 hours</u> • <u>Computer Science – 3 hours</u> • <u>Business Law or Real Estate Law – 3 hours</u> • <u>Two elective courses in any of the previous topics in Option 3 or in:</u> <ul style="list-style-type: none"> • <u>Accounting, Geography, Agricultural Economics, Business Management, or Real Estate – 3 hours each; or</u>
<u>Option 4</u>	<u>Successful completion of at least 30 hours of College Level Examination Program (CLEP) examinations that cover each of the specific topic areas in Option 3 (refer to the following CLEP Equivalency Table below); or</u>
<u>Option 5</u>	<u>Any combination of Option 3 and Option 4 that includes all of the topics identified; or</u>

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<u>Option 6</u>	<u>No college-level education provided that the applicant held an active license as a Licensed Residential credential (in Illinois a 154 or 554 prefix) for a minimum of five years and have no record of any adverse, final, and non-appealable enforcement action affecting the Licensed Residential Appraiser's legal eligibility to engage in appraisal practice within the five years immediately preceding the date of application for a Certified Residential credential.</u>
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CLEP Equivalency Table		
<u>CLEP Exams</u>	<u>CLEP Semester Hours Granted</u>	<u>Applicable College Courses</u>
<u>College Algebra</u>	<u>3</u>	<u>Algebra, Geometry, Statistics, or Higher Mathematics</u>
<u>College Composition</u>	<u>6</u>	<u>English Composition</u>
<u>College Composition Modular</u>	<u>3</u>	<u>English Composition</u>
<u>College Mathematics</u>	<u>6</u>	<u>Algebra, Geometry, Statistics, or Higher Mathematics</u>
<u>Principles of Macroeconomics</u>	<u>3</u>	<u>Macroeconomics or Finance</u>
<u>Principles of Microeconomics</u>	<u>3</u>	<u>Microeconomics or Finance</u>
<u>Introductory Business Law</u>	<u>3</u>	<u>Business Law or Real Estate Law</u>
<u>Computer Science</u>	<u>3</u>	<u>Information Systems</u>

- 4) If an individual applicant for licensure submits integrated course credit for approval, the course must have been approved by the Course Approval Program of the AQB and a topic matrix revealing the exact number of hours for each section of course content must be provided for review. Only integrated course credit bundled together to equal a module will be accepted. Partial credit toward a module will not be accepted. It is the

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applicant's responsibility to demonstrate compliance as part of the application.

- b) Any person who makes application for an Associate Real Estate Trainee Appraiser License shall be required, as a pre-requisite to examination, to successfully complete 75 classroom hours of qualifying education in subjects related to real estate appraisal, as outlined by Subpart H, and shall include 15 hours of instruction relative to USPAP that is approved by the AQB and taught by an AQB certified instructor. All qualifying education requirements shall only be accepted from education providers and courses approved by the Division. All 75 hours of qualifying education for the Associate Real Estate Trainee Appraiser credential must be completed within 5 years prior to the date of initial application.
- c) The Division may accept evidence of successful completion of qualifying education credit from another jurisdiction, if that jurisdiction's requirements are substantially the same as the State of Illinois' and meet the minimum licensing requirements of the [Real Property Appraiser Qualification AQB-2015](#) Criteria and may be in modular format for licensure after [May 1, 2018](#)~~January 1, 2015~~. A real estate appraiser who wishes to obtain credit for qualifying education courses not licensed by the Division shall submit to the Division:
- 1) An application provided by the Division requesting approval for qualifying education credit, signed by the applicant, on which all questions are answered;
 - 2) A certificate of successful completion provided by the education provider, a certification by the jurisdiction of the appraiser's place of residence of successful completion of the requested qualifying education credit, or any other evidence to be considered by the Division; and
 - 3) The fee required by Section 1455.320.
- d) General
An applicant for licensure as a State Certified General Real Estate Appraiser who has not gained appraisal experience shall meet the following criteria:
- 1) ~~3,000~~~~3000~~ hours of experience obtained during no fewer than ~~18~~~~30~~ months is required, of which 1,500 hours must be in non-residential appraisal work. While the hours may be cumulative, the required number

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of months must accrue before an individual can be certified;

- 2) 300 hours of modular appraisal education as stated in the Required Core Curriculum of the [Real Property Appraiser Qualification AQB-2015](#) Criteria;
 - 3) Bachelors degree or higher or equivalent (see subsection (g)), from an accredited college or university; and
 - 4) If an individual applicant for licensure submits integrated course credit for approval, the course must have been approved by the Course Approval Program of the AQB and a topic matrix revealing the exact number of hours for each section of course content must be provided for review. Only integrated course credit bundled together to equal a module will be accepted. Partial credit toward a module will not be accepted. It is the applicant's responsibility to demonstrate compliance as part of the application.
- e) The Division may accept evidence of successful completion of qualifying education credit from another jurisdiction, if that jurisdiction's requirements are substantially the same as the State of Illinois' and meet the minimum licensing requirements of the [Real Property Appraiser Qualification AQB-2015](#) Criteria and may be in modular format for licensure after ~~May 1, 2018~~[January 1, 2015](#). A real estate appraiser who wishes to obtain credit for qualifying education courses not licensed by the Division shall submit to the Division:
- 1) An application provided by the Division requesting approval for qualifying education credit, signed by the applicant, on which all questions are answered;
 - 2) A certificate of successful completion provided by the education provider, a certification by the jurisdiction of the appraiser's place of residence of successful completion of the requested qualifying education credit, or any other evidence to be considered by the Division; and
 - 3) The fee required by Section 1455.320.
- f) Credit toward qualifying education requirements may also be obtained via the completion of a graduate (masters or doctoral) degree in Real Estate from an

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accredited college or university approved by The Association to Advance Collegiate Schools of Business, or a regional or national accreditation agency recognized by the U.S. Secretary of Education, provided that the college or university has had its curriculum reviewed and approved by the AQB.

- g) Applicants seeking credit for foreign degrees shall have an evaluation of their education credentials to convert the credentials to American equivalent semester credits and courses. Only vendors and organizations recognized by the Illinois State Board of Education will be permitted to conduct the evaluations.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART D: EXPERIENCE REQUIREMENTS

Section 1455.190 Verification of Experience Credit

All applicants shall verify experience credit on forms provided by the Division. Those forms shall include information on the type of property, date of report, address of appraised property, description of work performed and number of work hours. The Division may audit such verification and, if requested, the applicant must provide experience documentation in the form of reports or file memoranda and should support the experience claimed. The Division, at its discretion, will determine the validity of all appraisal experience credit in conformity with criteria recommended by the AQB. All experience must be USPAP compliant. An applicant's experience must be in appraisal work conforming to Standards 1, 2, 3, 4, 5 and/or 6 in which the appraiser demonstrates proficiency in appraisal principles, methodology, procedures (development), and reporting conclusions. ~~The Division, at its discretion, will determine the validity of all appraisal experience credit in conformity with criteria recommended by the AQB.~~

- a) For applicants intending to upgrade to a State Certified Residential Real Estate Appraiser License:
- 1) No more than 30% of the residential experience shall be claimed for appraisal review or appraisal consulting assignments.
 - 2) No more than 30% of the residential experience shall be claimed for the appraisal of vacant land.
 - 3) No more than 30% of the total experience shall be non-residential assignments.

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- 4) No less than 50% of the total experience submitted shall contain signed certifications by the applicant.
 - 5) All experience logs must contain original signatures.
- b) For applicants intending to upgrade to a State Certified General Real Estate Appraiser License:
- 1) No more than 30% of the experience shall be claimed for appraisal review or appraisal consulting assignments.
 - 2) No more than 30% of the residential experience shall be claimed for the appraisal of vacant land.
 - 3) No less than 50% of the total experience submitted shall contain signed certifications by the applicant.
 - 4) All experience logs must contain original signatures (not stamps or digital signatures).
- c) Practicum courses that are approved by the AQB Course Approval Program or by the Division shall satisfy the non-traditional client experience requirement.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1455.200 Acceptable Appraisal Experience Credit

- a) Acceptable appraisal experience shall include, but is not limited to, fee and staff appraisal, ad valorem tax appraisal, condemnation appraisal, review appraisal, appraisal analysis, highest and best use analysis, and feasibility analysis/study. All appraisal experience shall conform to USPAP and shall meet the requirements of the AQB. All experience credit must have been obtained after January 30, 1989.
- b) Appraisal education may not be substituted for appraisal experience, except for practicum courses approved by the AQB Course Approval Program and/or the Division.

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- c) A traditional client is not necessary for an appraisal to qualify for appraisal experience. Experience gained for work without a traditional client cannot exceed 50% of the total experience requirement. An hour of appraisal experience is defined as verifiable time spent in performing tasks in accordance with acceptable appraisal experience as identified by [the Real Property Appraiser Qualification AQB-2015](#) Criteria.
- d) Time spent in travel to and from the subject property and to other data sources shall not count toward appraisal experience.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART E: BUSINESS PRACTICES; STANDARDS AND SCOPE OF PRACTICE

Section 1455.205 Record Keeping Requirements

Licenses must retain any communication, including but not limited to written, oral or web form, of an appraisal, appraisal review or appraisal service that is transmitted to the client upon completion of an assignment for a period of at least five years, or at least two years after final disposition of any [administrative or](#) judicial proceeding in which the appraiser provided testimony related to the assignment, whichever period expires last.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART F: ENFORCEMENT PROVISIONS

Section 1455.260 Suspension or Denial for Failure to Pay Taxes, Child Support or any Illinois-Guaranteed Student Loan

- a) If the Division receives certification that a licensee is in violation of Section 15-40, 15-45 or 15-50 of the Act, the Division shall notify the licensee [at the licensee's address of record or by emailing a copy of the order to the licensee's email address of record](#), ~~by certified or registered mail, return receipt requested, or other signature restricted delivery~~, that the licensee may be refused renewal of the license at its expiration date, unless the licensee provides to the Division certification that the licensee has eliminated the arrearage or has arranged for payment of the obligations in a manner satisfactory to the appropriate administering agency.

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- b) If the Division receives certification that an applicant is in violation of Section 15-40, 15-45 or 15-50 of the Act, the Division shall notify the applicant, ~~by certified or registered mail, return receipt requested, or other signature restricted delivery,~~ of its intent to deny the applicant a license under the Act, unless the applicant provides to the Division proof that the applicant has eliminated the arrearage or has arranged for payment of the obligations in a manner satisfactory to the appropriate administering agency.
- c) For the purposes of this Section, "certification" shall mean:
- 1) a verified statement by the appropriate administering agency of the delinquency, failure to file or failure to pay; or
 - 2) a finding by an administrative body, after notice to the licensee or applicant of evidentiary proceedings, or a court of competent jurisdiction that the licensee or applicant is delinquent in child support or is liable to pay a certain amount for Illinois taxes or is delinquent or has defaulted on an Illinois-guaranteed student loan obligation.
- d) A licensee or applicant may participate in a hearing, but the hearing shall only be the purpose of proving that the petitioner is not the person for which such failure to pay or arrearage information was received; that the petitioner has executed a formal, written payment plan with the appropriate administering agency, signed by both parties; or that the petitioner has satisfied the outstanding debt. Collateral attack of the certification is not permitted.
- e) A license will be eligible for reinstatement, renewal or issuance upon a showing that the certified failure to file, failure to pay delinquency or default, as set forth in subsection (c), has been satisfied, and by completing the appropriate application and paying any fees provided in this Part.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1455.280 Administrative Warning Letter

The Division may issue an administrative ~~warning~~warning letter with or without a compliance agreement that may include a fee pursuant to Section 1455.320(g)(9). A compliance agreement may include conditions in order to maintain the standards of professional conduct, the competency of a licensee, and protection of the public. Administrative warning letters with or

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without a compliance agreement are not considered to be discipline and are not subject to the Freedom of Information Act [5 ILCS 140].

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART G: ADMINISTRATIVE PROVISIONS

Section 1455.320 Fees

- a) Initial Application Fee for Appraiser License
 - 1) The application fee for an initial license as a State Certified General Real Estate Appraiser and a State Certified Residential Real Estate Appraiser shall be \$315, which shall include the National Registry fee.
 - 2) The application fee for an initial license as an Associate Real Estate Trainee Appraiser shall be \$225.
- b) Renewal Application Fee for Appraiser License
 - 1) The application fee to renew a license as a State Certified General Real Estate Appraiser or a State Certified Residential Real Estate Appraiser shall be calculated at \$265 per year, which shall include the National Registry fees.
 - 2) The application to renew an Associate Real Estate Trainee Appraiser License shall be calculated at \$150 per year.
 - 3) The application fee to renew a license that has expired, as a State Certified General Real Estate Appraiser, a State Certified Residential Real Estate Appraiser or an Associate Real Estate Trainee Appraiser shall be the sum of all lapsed renewal fees plus a \$50 late fee.
- c) Application Fee for Temporary Practice Permit

The application fee for a temporary practice permit pursuant to the Act and this Part shall be \$100. The additional fee required for an extension granted pursuant to the Act and this Part for a temporary practice permit shall be \$50.
- d) Initial Application Fee for a License as an Education Provider, a Qualifying

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Education Course, a Continuing Education Course, and a Practicum Course

- 1) The application fee for a license as an education provider shall be \$550, plus course application fees.
 - 2) The application fee for a license for a qualifying education course shall be \$150.
 - 3) The application fee for a license for a continuing education course shall be \$50.
 - 4) The application fee for the 15-Hour National USPAP Course or its equivalent shall be \$50.
 - 5) The fee to convert an Illinois licensed qualifying education course, except for the 15-Hour National USPAP Course, to a continuing education course shall be \$25.
 - 6) The application fee for the 7-Hour National USPAP Update Course or its equivalent shall be \$25.
- e) Application Fee to Renew a License as an Education Provider, a Qualifying Education Course, and a Continuing Education Course
- 1) The application fee to renew a license as an education provider shall be \$250 per year.
 - 2) The application fee to renew a license that has expired as an education provider shall be the sum of all lapsed renewal fees plus a \$50 late fee.
 - 3) The application fee to renew a license as a qualifying education course, except for the 15-Hour National USPAP Course, with no material changes, shall be \$50 per year.
 - 4) The application fee to renew a license that has expired as a qualifying education course, with no material changes, shall be the sum of all lapsed renewal fees plus a \$50 late fee.
 - 5) The application fee to renew a license as a continuing education course,

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except for the 7-Hour National USPAP Update Course, with no material changes, shall be \$25 per year.

- 6) The application fee to renew a license that has expired as a continuing education course, with no material changes, shall be the sum of all lapsed renewal fees plus a \$50 late fee.
- f) For the purposes of determining if a license has expired under this Section, the Division of ~~Real Estate~~Professional Regulation shall consider the license expired if the postmark on the renewal application is a date later than the expiration date or, if delivered other than by mail, the license shall be considered expired if the renewal application is received by the Division of ~~Professional Regulation~~ on a date later than the expiration date.
- g) General
 - 1) All fees paid pursuant to the Act and this Part are non-refundable.
 - 2) The fee for a certification of a licensee's record for any purpose shall be \$25.
 - 3) The fee for a roster of persons licensed under the Act shall be the cost of producing the roster.
 - 4) Applicants for an examination as a State Certified General Real Estate Appraiser, a State Certified Residential Real Estate Appraiser, or an Associate Real Estate Trainee Appraiser shall be required to pay a fee covering the cost of providing the examination. If a designated testing service is utilized for the examination, the fee shall be paid directly to the designated testing service. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged, shall result in the forfeiture of the examination fee.
 - 5) The fee for a copy of the transcript of any proceeding under the Act shall be the cost to produce the copy.
 - 6) The fee for certifying any record, e.g., a copy of a disciplinary order or application, shall be \$1 per page.

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- 7) The Department may charge an administrative fee not to exceed \$2,000, as a part of a compliance agreement issued with an administrative warning letter pursuant to Section 1455.280.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1455.330 Granting of Variances

The Secretary may grant variances from this Part ~~in individual cases~~ when he or she finds:

- a) The provision from which the variance is granted is not statutorily mandated;
- b) The granting of the variance would not be contrary to the public welfare; and
- c) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 1455.335 Refusal to Issue an Appraiser License Based on Criminal History Record

- a) For purposes of this Part, criminal history record information is defined as information collected by criminal justice agencies (see the Criminal Identification Act [20 ILCS 2630]) on individuals consisting of identifiable descriptions and notation of arrests, detention, indictments, information or other formal criminal charges, and any disposition arising from those actions, sentencing, correctional supervision and release. The individual records must contain both information sufficient to identify the subject of the record and notations regarding any formal criminal justice transaction involving the identified individual.
- b) In determining whether an applicant for an appraiser's license is unfit for licensure because of criminal history record information, the Division shall consider the following standards:
 - 1) Whether the crime was one of armed violence (see Article 33A of the Criminal Code of 2012 [720 ILCS 5]) or moral turpitude. Moral turpitude consists of:

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- A) Crime involving dishonesty, false statement or some other element of deceit, untruthfulness or falsification, ~~(including but not limited to perjury, inducement of perjury, false statement, criminal fraud, embezzlement, false pretense, forgery, counterfeiting and theft).~~
 - B) Drug offenses, including but not limited to violations of the Illinois Controlled Substances Act [720 ILCS 570] and [federal drug enforcement laws](#)~~Federal Drug Enforcement Laws~~ (21 USC 801 et seq.).
 - C) Sex offenses, including but not limited to all crimes listed in Article 11 of the Criminal Code of 2012 [720 ILCS 5].
- 2) Whether the crime is related to any of the real estate professions.
 - 3) Whether more than 10 years have elapsed since the date of completion of the imposed sentence.
 - 4) Whether the conviction was from a city ordinance violation or a conviction for which a jail sentence was not imposed.
 - 5) Whether the applicant has been sufficiently rehabilitated to warrant the public trust. The Division shall consider, but not be bound by, the following in considering whether an applicant has been presumed to be rehabilitated:
 - A) Completion of probation;
 - B) Completion of parole supervision; or
 - C) If no parole was granted, a period of 10 years has elapsed after final discharge or release from any term of imprisonment without any subsequent conviction.
- c) If any one of the following factors exists, this outweighs the presumption of rehabilitation established in subsection (b)(5):
 - 1) Lack of compliance with terms of punishment (i.e., failure to pay fines or make restitution, violation of the terms of probation or parole);

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- 2) Unwillingness to undergo, or lack of cooperation in, medical or psychiatric treatment/counseling;
 - 3) Falsification of an application for licensure with the Division;
 - 4) Failure to furnish to the Division additional information or failure to appear for an interview or meeting with the Division in relation to the applicant's application for licensure.
- d) The following criminal history records shall not be considered in connection with an application for licensure:
- 1) Juvenile adjudications;
 - 2) Records of arrest not followed by a conviction;
 - 3) Convictions overturned by a higher court;
 - 4) Convictions that have been the subject of a pardon or expungement.
- e) Notification of Denial and Request for Hearing
- 1) If the determination is made that the applicant is unfit for licensure, the Division shall send the notice of denial ~~by certified mail, return receipt requested,~~ to the applicant at the applicant's address of record or email of record. All such notices will include a statement of the reason for the Division's action.
 - 2) An applicant may request a hearing to contest the Division's action pursuant to 68 Ill. Adm. Code 1110. The request shall be in writing and must be received by the Division not later than 20 days after the date the Division mailed or personally delivered the notice of its action to the applicant.
 - 3) After receipt of a request for a hearing and prior to any such hearing, the Division may schedule an informal conference with the applicant in an attempt to resolve issues in controversy. The Division shall notify the applicant of the informal conference at least 20 days prior to the hearing.

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Failure by the applicant to attend the informal conference shall act as a withdrawal of the applicant's request for a hearing. The provisions of this subsection (e)(3) shall not apply if an informal conference was held prior to the Division serving notice upon the applicant as described in subsection (e)(1).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Hazardous Waste Management System: General
- 2) Code Citation: 35 Ill. Adm. Code 720
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
720.104	New Section
720.105	New Section
720.109	Renumbered, Amendment
720.111	Amendment
720.130	Amendment
720.131	Amendment
720.142	Amendment
720.143	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 13, 22.4, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Part 720 are a single segment of the docket R19-3 rulemaking that also affects 35 Ill. Adm. Code 721 through 725. The R19-3 rulemaking updates the Illinois hazardous waste rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during the first half of 2018: January 1, 2018 through June 30, 2018. A comprehensive description is contained in the Board's opinion and order of July 26, 2018, proposing amendments in docket R19-3, which opinion and order is available from the address below.

R19-3 further includes limited corrections and non-substantive stylistic revisions that the Board finds necessary. Some of these were included in the pending consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking, which appeared in the following issues of the *Illinois Register* as indicated in the answer to question 10 below.

The following briefly summarizes the federal actions in the update periods:

Hazardous Waste Manifest Revisions and e-Manifest System User Fees—January 3, 2018 (83 Fed. Reg. 420): USEPA revised hazardous waste manifest requirements and established a user fee system for the e-Manifest System in 40 C.F.R. 260 and 262 through 265. The Board incorporates most of these USEPA revisions into corresponding 35 Ill. Adm. Code 720 and 722 through 725. The Board does not incorporate segments of the USEPA revisions.

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DSWR Revisions – May 30, 2018 (83 Fed. Reg. 24664): USEPA revised the Definition of Solid Waste Rule (DSWR) in response to the vacatur in *American Petroleum Institute v. EPA*, 862 F.3d 50 (D.C. Cir. 2017), reh'g granted, 883 F.3d 918 (D.C. Cir. Mar. 6, 2018). Amendments to 40 C.F.R. 260 and 261 removed 2015 revisions to the DSWR, restoring segments of 2008 revisions. The Board makes corresponding changes in 35 Ill. Adm. Code 720 and 721.

Specifically, the amendments to Part 720 incorporate elements of the federal e-Manifest System user fees provisions, changes in the general hazardous waste manifest requirements, and the DSWR revisions. The Board makes several needed corrections in the text of the rules.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to docket R19-3. The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in docket R19-3.

Sections 13 and 22.4 of the Environmental Protection Act [415 ILCS 5/13 and 22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

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

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citation:</u>
720.101	Amendment	42 Ill. Reg. 9892; June 15, 2018
720.102	Amendment	42 Ill. Reg. 9892; June 15, 2018

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720.103	Amendment	42 Ill. Reg. 9892; June 15, 2018
720.104	Amendment	42 Ill. Reg. 9892; June 15, 2018
720.110	Amendment	42 Ill. Reg. 9892; June 15, 2018
720.111	Amendment	42 Ill. Reg. 9892; June 15, 2018
720.120	Amendment	42 Ill. Reg. 9892; June 15, 2018
720.121	Amendment	42 Ill. Reg. 9892; June 15, 2018
720.122	Amendment	42 Ill. Reg. 9892; June 15, 2018
720.134	Amendment	42 Ill. Reg. 9892; June 15, 2018
720.142	Amendment	42 Ill. Reg. 9892; June 15, 2018
720.143	Amendment	42 Ill. Reg. 9892; June 15, 2018

- 11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R19-3 and be addressed to:

Don A. Brown, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago IL 60601

Please direct inquiries to the following person and reference docket R19-3:

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

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

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

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13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

14) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 720
HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

SUBPART A: GENERAL PROVISIONS

Section

720.101	Purpose, Scope, and Applicability
720.102	Availability of Information; Confidentiality of Information
720.103	Use of Number and Gender
<u>720.104</u>	<u>Manifest Copy Submission Requirements for Certain Interstate Waste Shipments</u>
<u>720.105</u>	<u>Applicability of Electronic Manifest System and User Fee Requirements to Facilities Receiving State-Only Regulated Waste Shipments</u>
720. 109 104	Electronic Reporting

SUBPART B: DEFINITIONS AND REFERENCES

Section

720.110	Definitions
720.111	References

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section

720.120	Rulemaking
720.121	Alternative Equivalent Testing Methods
720.122	Waste Delisting
720.123	Petitions for Regulation as Universal Waste
720.130	Procedures for Solid Waste Determinations and Non-Waste Determinations
720.131	Solid Waste and Verified Facility <u>facility</u> Determinations
720.132	Boiler Determinations
720.133	Procedures for Determinations
720.134	Non-Waste Determinations
720.140	Additional Regulation of Certain Hazardous Waste Recycling Activities on a Case-by-Case Basis

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- 720.141 Procedures for Case-by-Case Regulation of Hazardous Waste Recycling Activities
- 720.142 Notification Requirement for Hazardous Secondary Materials
- 720.143 Legitimate Recycling of Hazardous Secondary Materials
- 720.APPENDIX A Overview of Federal RCRA Subtitle C (Hazardous Waste) Regulations (Repealed)

AUTHORITY: Implementing Sections 7.2, 13, and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 13, 22.4, and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-19 at 7 Ill. Reg. 14015, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11819, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 968, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 13998, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20630, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6017, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13435, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19280, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2450, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 12999, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 362, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18278, effective November 13, 1989; amended in R89-2 at 14 Ill. Reg. 3075, effective February 20, 1990; amended in R89-9 at 14 Ill. Reg. 6225, effective April 16, 1990; amended in R90-10 at 14 Ill. Reg. 16450, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7934, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9323, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14446, effective September 30, 1991; amended in R91-13 at 16 Ill. Reg. 9489, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17636, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5625, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20545, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6720, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12160, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17480, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9508, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10929, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 256, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7590, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17496, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1704, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9094, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1063, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9443, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1266, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9168, effective July 9,

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2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6550, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3712, effective February 14, 2003; amended in R03-18 at 27 Ill. Reg. 12713, effective July 17, 2003; amended in R05-8 at 29 Ill. Reg. 5974, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6290, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2930, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 730, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11726, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 922, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18535, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17672, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8740, effective June 4, 2012; amended in R13-5 at 37 Ill. Reg. 3180, effective March 4, 2013; amended in R13-15 at 37 Ill. Reg. 17726, effective October 24, 2013; amended in R14-1/R14-2/R14-3 at 38 Ill. Reg. 7189, effective March 13, 2014; amended in R14-13 at 38 Ill. Reg. 12378, effective May 27, 2014; amended in R15-1 at 39 Ill. Reg. 1542, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11286, effective August 9, 2016; amended in R19-2 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 720.104 Manifest Copy Submission Requirements for Certain Interstate Waste Shipments

Where the state in which waste is generated or the state in which waste will be transported to a designated facility requires that the waste be regulated as a hazardous waste or otherwise be tracked through a hazardous waste manifest, the designated facility that receives the waste must, regardless of the state in which the designated facility is located must do all of the following:

- a) Complete the facility portion of the applicable manifest;
- b) Sign and date the facility certification;
- c) Submit to the e-Manifest System a final copy of the manifest for data processing purposes; and
- d) Pay the appropriate per manifest fee to USEPA for each manifest submitted to the e-Manifest System, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in subpart FF of the applicable of 40 CFR 264 or 265, each incorporated by reference in Section 720.111.

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(Source: Former Section 720.104 renumbered to Section 720.109; new Section 720.104 added at 42 Ill. Reg. _____, effective _____)

Section 720.105 Applicability of Electronic Manifest System and User Fee Requirements to Facilities Receiving State-Only Regulated Waste Shipments

- a) For purposes of this Section, "state-only regulated waste" means one of the following:
- 1) A waste that USEPA has not designated hazardous waste but which a state more broadly regulates to require use of a manifest (USEPA Form 8700-22) under its state regulatory program; or
 - 2) A waste that USEPA has designated hazardous waste that is federally exempt from manifest requirements, but not exempt from manifest requirements under state law.
- b) In any case in which a state requires a manifest to be used under state law to track the shipment and transportation of a state-only regulated waste to a receiving facility, the facility receiving such a waste shipment for management must do both of the following:
- 1) Comply with 35 Ill. Adm. Code 724.171 (Use of Manifest System) and 724.172 (Manifest Discrepancies); and
 - 2) Pay the appropriate per manifest fee to USEPA for each manifest submitted to the e-Manifest System, subject to the fee determination methodology, payment methods, dispute procedures, sanctions, and other fee requirements specified in subpart FF of 40 CFR 264, incorporated by reference in Section 720.111.

(Source: Added at 42 Ill. Reg. _____, effective _____)

Section 720.~~109~~104 Electronic Reporting

- a) Scope and Applicability.
- 1) The USEPA, the Board, or the Agency may allow for the submission of any document as an electronic document in lieu of a paper document.

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This Section does not require submission of electronic documents in lieu of paper documents. This Section sets forth the requirements for the optional electronic submission of any document that must be submitted to the appropriate of the following:

- A) To USEPA directly under Title 40 of the Code of Federal Regulations; or
 - B) To the Board or the Agency pursuant to any provision of 35 Ill. Adm. Code 702 through 705, 720 through 728, 730, 733, 738, or 739.
- 2) Electronic document submission under this Section can occur only as follows:
- A) For submissions of documents to USEPA, submissions may occur only after USEPA has published a notice in the Federal Register announcing that USEPA is prepared to receive, in an electronic format, documents required or permitted by the identified part or subpart of Title 40 of the Code of Federal Regulations; or
 - B) For submissions of documents to the State, submissions may occur only under the following circumstances:
 - i) To the Board, into the Board's Clerk's Office On-Line (COOL) system at www.ipcb.state.il.us. As to any existing electronic document receiving system (i.e., one in use or substantially developed on or before October 13, 2005) for which an electronic reporting application has not been submitted on behalf of the Board or the Agency to USEPA pursuant to 40 CFR 3.1000, the Board or the Agency may use that system until October 13, 2007, or until such later date as USEPA has approved in writing as the extended deadline for submitting the application;
 - ii) To the Agency, into any electronic document receiving system for which USEPA has granted approval pursuant to 40 CFR 3.1000, so long as the system complies with 40 CFR 3.2000, incorporated by reference in Section

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~~611.102(c), and USEPA has not withdrawn its approval of the system in writing. As to any existing electronic document receiving system (i.e., one in use or substantially developed on or before October 13, 2005) for which an electronic reporting application has been submitted on behalf of the Board or the Agency to USEPA pursuant to 40 CFR 3.1000 on or before October 13, 2007, or on or before such later date as USEPA has approved in writing as the extended deadline for submitting the application, the Board or the Agency may use that system until USEPA disapproves its use in writing; or~~

~~iii) The Board or the Agency may use any electronic document receiving system for which USEPA has granted approval pursuant to 40 CFR 3.1000, so long as the system complies with 40 CFR 3.2000, incorporated by reference in Section 611.102(c), and USEPA has not withdrawn its approval of the system in writing.~~

- 3) This Section does not apply to any of the following documents, whether or not the document is a document submitted to satisfy the requirements cited in subsection (a)(1) ~~of this Section~~:
- A) Any document submitted via facsimile;
 - B) Any document submitted via magnetic or optical media, such as diskette, compact disc, digital video disc, or tape; or
 - C) Any data transfer between USEPA, any state, or any local government and either the Board or the Agency as part of administrative arrangements between the parties to the transfer to share data.
- 4) Upon USEPA conferring written approval for the submission of any types of documents as electronic documents in lieu of paper documents, as described in subsection (a)(2)(B)(iii) ~~of this Section~~, the Agency or the Board, as appropriate, must publish a Notice of Public Information in the Illinois Register that describes the documents approved for submission as electronic documents, the electronic document receiving system approved

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to receive them, the acceptable formats and procedures for their submission, and, as applicable, the date on which the Board or the Agency will begin to receive those submissions. In the event of written cessation of USEPA approval for receiving any type of document as an electronic document in lieu of a paper document, the Board or the Agency must similarly cause publication of a Notice of Public Information in the Illinois Register.

BOARD NOTE: Subsection (a) ~~of this Section~~ is derived from 40 CFR 3.1, 3.2, 3.10, 3.20, and 3.1000 ([20172012](#)).

- b) Definitions. For the purposes of this Section, terms will have the meaning attributed them in 40 CFR 3.3, incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- c) Procedures for submission of electronic documents in lieu of paper documents to USEPA. Except as provided in subsection (a)(3) of this Section, any person who is required under Title 40 of the Code of Federal Regulations to create and submit or otherwise provide a document to USEPA may satisfy this requirement with an electronic document, in lieu of a paper document, provided the following conditions are met:
 - 1) The person satisfies the requirements of 40 CFR 3.10, incorporated by reference in Section 720.111(b); and
 - 2) USEPA has first published a notice in the Federal Register as described in subsection (a)(2)(A) ~~of this Section~~.

BOARD NOTE: Subsection (c) ~~of this Section~~ is derived from 40 CFR 3.2(a) and subpart B of 40 CFR 3 ([20172012](#)).

- d) Procedures for submission of electronic documents in lieu of paper documents to the Board or the Agency.
 - 1) The Board or the Agency may, but is not required to, establish procedural rules for the electronic submission of documents. The Board or the Agency must establish any such procedural rules under the Administrative Procedure Act [5 ILCS 100/Art. 5].

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- 2) The Board or the Agency may accept electronic documents under this Section only as provided in subsection (a)(2)(B) ~~of this Section~~.

BOARD NOTE: Subsection (d) ~~of this Section~~ is derived from 40 CFR 3.2(b) and subpart D of 40 CFR 3 ([20172012](#)).

- e) Effects of submission of an electronic document in lieu of paper documents.
 - 1) If a person who submits a document as an electronic document fails to comply with the requirements of this Section, that person is subject to the penalties prescribed for failure to comply with the requirement that the electronic document was intended to satisfy.
 - 2) Where a document submitted as an electronic document to satisfy a reporting requirement bears an electronic signature, the electronic signature legally binds, obligates, and makes the signer responsible to the same extent as the signer's handwritten signature would on a paper document submitted to satisfy the same reporting requirement.
 - 3) Proof that a particular signature device was used to create an electronic signature will suffice to establish that the individual uniquely entitled to use the device did so with the intent to sign the electronic document and give it effect.
 - 4) Nothing in this Section limits the use of electronic documents or information derived from electronic documents as evidence in enforcement or other proceedings.

BOARD NOTE: Subsection (e) ~~of this Section~~ is derived from 40 CFR 3.4 and 3.2000(c) ([20172012](#)).

- f) Public document subject to State laws. Any electronic document filed with the Board is a public document. The document, its submission, its retention by the Board, and its availability for public inspection and copying are subject to various State laws, including, but not limited to, the following:
 - 1) The Administrative Procedure Act ~~[5 ILCS 100]~~;
 - 2) The Freedom of Information Act [5 ILCS 140];

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- 3) The State Records Act [5 ILCS 160];
 - 4) The Electronic Commerce Security Act [5 ILCS 175];
 - 5) The Environmental Protection Act ~~[415 ILCS 5]~~;
 - 6) Regulations relating to public access to Board records (2 Ill. Adm. Code 2175); and
 - 7) Board procedural rules relating to protection of trade secrets and confidential information (35 Ill. Adm. Code 130).
- g) Nothing in this Section or in any provisions adopted pursuant to subsection (d)(1) ~~of this Section~~ will create any right or privilege to submit any document as an electronic document.

BOARD NOTE: Subsection (g) ~~of this Section~~ is derived from 40 CFR 3.2(c) (~~20172012~~).

BOARD NOTE: Derived from 40 CFR 3, 145.11(a)(33), 271.10(b), 271.11(b), and 271.12(h) (~~20172012~~).

(Source: Renumbered from 720.104 and amended at 42 Ill. Reg. _____, effective _____)

SUBPART B: DEFINITIONS AND REFERENCES

Section 720.111 References

The following documents are incorporated by reference for the purposes of this Part and 35 Ill. Adm. Code 702 through 705, 721 through 728, 730, 733, 738, and 739:

- a) Non-Regulatory Government Publications and Publications of Recognized Organizations and Associations:

ACGME. Available from the Accreditation Council for Graduate Medical Education, 515 North State Street, Suite 2000, Chicago, IL 60654, 312-755-5000:

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"Accreditation Council for Graduate Medical Education: Glossary of Terms," March 19, 2009, referenced in 35 Ill. Adm. Code 722.300.

BOARD NOTE: Also available on the Internet for download and viewing as a PDF file at the following Internet address:
http://www.acgme.org/acWebsite/about/ab_ACGMEglossary.pdf.

ACI. Available from the American Concrete Institute, Box 19150, Redford Station, Detroit, Michigan 48219:

ACI 318-83: "Building Code Requirements for Reinforced Concrete," adopted November 1983, referenced in 35 Ill. Adm. Code 724.673 and 725.543.

ANSI. Available from the American National Standards Institute, 1430 Broadway, New York, New York 10018, 212-354-3300:

See ASME/ANSI B31.3 and B31.4 and supplements below in this subsection (a) under ASME.

API. Available from the American Petroleum Institute, 1220 L Street, N.W., Washington, D.C. 20005, 202-682-8000:

"Cathodic Protection of Underground Petroleum Storage Tanks and Piping Systems," API Recommended Practice 1632, Second Edition, December 1987, referenced in 35 Ill. Adm. Code 724.292, 724.295, 725.292, and 725.295.

"Evaporative Loss from External Floating-Roof Tanks," API publication 2517, Third Edition, February 1989, USEPA-approved for 35 Ill. Adm. Code 721.983 and 725.984.

"Guide for Inspection of Refinery Equipment," Chapter XIII, "Atmospheric and Low Pressure Storage Tanks," 4th Edition, 1981, reaffirmed December 1987, referenced in 35 Ill. Adm. Code 721.291, 724.291, 724.293, 725.291, and 725.292.

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"Installation of Underground Petroleum Storage Systems," API Recommended Practice 1615, Fourth Edition, November 1987, referenced in 35 Ill. Adm. Code 724.292.

ASME. Available from the American Society of Mechanical Engineers, 345 East 47th Street, New York, NY 10017, 212-705-7722:

"Chemical Plant and Petroleum Refinery Piping," ASME/ANSI B31.3-1987, as supplemented by B31.3a-1988 and B31.3b-1988, referenced in 35 Ill. Adm. Code 724.292 and 725.292. Also available from ANSI.

"Liquid Transportation Systems for Hydrocarbons, Liquid Petroleum Gas, Anhydrous Ammonia, and Alcohols," ASME/ANSI B31.4-1986, as supplemented by B31.4a-1987, referenced in 35 Ill. Adm. Code 724.292 and 725.292. Also available from ANSI.

ASTM. Available from American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428-2959, 610-832-9585:

ASTM C 94-90, "Standard Specification for Ready-Mixed Concrete," approved March 30, 1990, referenced in 35 Ill. Adm. Code 724.673 and 725.543.

ASTM D 88-87, "Standard Test Method for Saybolt Viscosity," approved April 24, 1981, reapproved January 1987, referenced in 35 Ill. Adm. Code 726.200.

ASTM D 93-85, "Standard Test Methods for Flash Point by Pensky-Martens Closed Tester," approved October 25, 1985, USEPA-approved for 35 Ill. Adm. Code 721.121.

ASTM D 140-70, "Standard Practice for Sampling Bituminous Materials," approved 1970, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 346-75, "Standard Practice for Collection and Preparation of Coke Samples for Laboratory Analysis," approved 1975, referenced in Appendix A to 35 Ill. Adm. Code 721.

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ASTM D 420-69, "Guide to Site Characterization for Engineering, Design, and Construction Purposes," approved 1969, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 1452-65, "Standard Practice for Soil Investigation and Sampling by Auger Borings," approved 1965, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 1946-90, "Standard Practice for Analysis of Reformed Gas by Gas Chromatography," approved March 30, 1990, USEPA-approved for 35 Ill. Adm. Code 724.933 and 725.933.

ASTM D 2161-87, "Standard Practice for Conversion of Kinematic Viscosity to Saybolt Universal or to Saybolt Furol Viscosity," March 27, 1987, referenced in 35 Ill. Adm. Code 726.200.

ASTM D 2234-76, "Standard Practice for Collection of a Gross Sample of Coal," approved 1976, referenced in Appendix A to 35 Ill. Adm. Code 721.

ASTM D 2267-88, "Standard Test Method for Aromatics in Light Naphthas and Aviation Gasolines by Gas Chromatography," approved November 17, 1988, USEPA-approved for 35 Ill. Adm. Code 721.963 and 724.963.

ASTM D 2382-88, "Standard Test Method for Heat of Combustion of Hydrocarbon Fuels by Bomb Calorimeter (High Precision Method)," approved October 31, 1988, USEPA-approved for 35 Ill. Adm. Code 724.933 and 725.933.

ASTM D 2879-92, "Standard Test Method for Vapor Pressure-Temperature Relationship and Initial Decomposition Temperature of Liquids by Isotenoscope," approved 1992, USEPA-approved for 35 Ill. Adm. Code 725.984, referenced in 35 Ill. Adm. Code 721.963, 724.963, and 725.963.

ASTM D 3828-87, "Standard Test Methods for Flash Point of Liquids by Setaflash Closed Tester," approved December 14, 1988, USEPA-approved for 35 Ill. Adm. Code 721.121(a).

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ASTM E 168-88, "Standard Practices for General Techniques of Infrared Quantitative Analysis," approved May 27, 1988, USEPA-approved for 35 Ill. Adm. Code 721.963 and 724.963.

ASTM E 169-87, "Standard Practices for General Techniques of Ultraviolet-Visible Quantitative Analysis," approved February 1, 1987, USEPA-approved for 35 Ill. Adm. Code 721.963 and 724.963.

ASTM E 260-85, "Standard Practice for Packed Column Gas Chromatography," approved June 28, 1985, USEPA-approved for 35 Ill. Adm. Code 724.963.

ASTM G 21-70 (1984a), "Standard Practice for Determining Resistance of Synthetic Polymer Materials to Fungi," referenced in 35 Ill. Adm. Code 724.414 and 725.414.

ASTM G 22-76 (1984b), "Standard Practice for Determining Resistance of Plastics to Bacteria," referenced in 35 Ill. Adm. Code 724.414 and 725.414.

GPO. Available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, 202-512-1800:

Standard Industrial Classification Manual (1972), and 1977 Supplement, republished in 1983, referenced in 35 Ill. Adm. Code 702.110 and Section 720.110.

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846 (Third Edition, November 1986), as amended by Updates I (July 1992), II (November 1994), IIA (August, 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004) (document number 955-001-00000-1). See below in this subsection (a) under NTIS.

NACE. Available from the National Association of Corrosion Engineers, 1400 South Creek Dr., Houston, TX 77084, 713-492-0535:

"Control of External Corrosion on Metallic Buried, Partially Buried, or

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Submerged Liquid Storage Systems," NACE Recommended Practice RP0285-85, approved March 1985, referenced in 35 Ill. Adm. Code 724.292, 724.295, 725.292, and 725.295.

NFPA. Available from the National Fire Protection Association, 1 Batterymarch Park, Boston, MA 02269, 617-770-3000 or 800-344-3555:

"Flammable and Combustible Liquids Code," NFPA 30, ~~issued July 14, (1984)~~, referenced in 35 Ill. Adm. Code 721.298, 724.298, 725.298, ~~725.301~~, 726.211, and 727.290.

"Flammable and Combustible Liquids Code," NFPA 30, ~~issued August 7, (1987)~~, referenced in 35 Ill. Adm. Code 721.298, 724.298, 725.298, ~~725.301~~, 726.211, and 727.290.

"Flammable and Combustible Liquids Code," NFPA 30, ~~issued July 18, (2003)~~, as supplemented by TIA 03-1, ~~issued July 15, (2004)~~, and corrected by Errata 30-03-01, ~~issued August 13, (2004)~~, referenced in 35 Ill. Adm. Code 721.298, 724.298, 725.298, ~~725.301~~, 726.211, and 727.290.

NTIS. Available from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161, 703-605-6000 or 800-553-6847 (Internet address: www.ntis.gov):

"APTI Course 415: Control of Gaseous Emissions," December 1981, USEPA publication number EPA-450/2-81-005, NTIS document number PB80-208895, USEPA-approved for 35 Ill. Adm. Code 703.210, 703.211, 703.352, 724.935, and 725.935.

BOARD NOTE: "APTI" denotes USEPA's "Air Pollution Training Institute" (Internet address: www.epa.gov/air/oaqps/eog/).

"Generic Quality Assurance Project Plan for Land Disposal Restrictions Program," USEPA publication number EPA-530/SW-87-011, March 15, 1987, NTIS document number PB88-170766, referenced in 35 Ill. Adm. Code 728.106.

"Method 1664, n-Hexane Extractable Material (HEM; Oil and Grease) and

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Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Nonpolar Material) by Extraction and Gravimetry;"₇"₂ Revision A, February 1999, USEPA publication number EPA-821/R-98-002, NTIS document number PB99-121949, or Revision B, February 2010, USEPA publication number EPA-821/R-10-001, NTIS document number PB2011-100735, USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

BOARD NOTE: Also available on the Internet for free download as a PDF document from the USEPA website at: water.epa.gov/scitech/methods/cwa/methods_index.cfm. Revision A is also from the USEPA, National Service Center for Environmental Publications (NSCEP) website at www.epa.gov/nscep/index.html.

"Methods for Chemical Analysis of Water and Wastes;"₇"₂ Third Edition, March 1983, USEPA document number EPA-600/4-79-020, NTIS document number PB84-128677, referenced in 35 Ill. Adm. Code 725.192.

BOARD NOTE: Also available on the Internet as a viewable/printable HTML document from the USEPA website at: www.epa.gov/clariton/clhtml/pubtitleORD.html as document 600479002.

"North American Industry Classification System;"₇"₂ July 2007, U.S. Department of Commerce, Bureau of the Census, document number PB2007-100002 (hardcover printed volume) or PB2007-500023, referenced in Section 720.110 (definition of "NAICS Code") for the purposes of Section 720.142, and in 35 Ill. Adm. Code 721.104.

BOARD NOTE: Also available on the Internet from the Bureau of Census: www.census.gov/naics/2007/naicod07.htm.

"Procedures Manual for Ground Water Monitoring at Solid Waste Disposal Facilities;"₇"₂ August 1977, EPA-530/SW-611, NTIS document number PB84-174820, referenced in 35 Ill. Adm. Code 725.192.

"Screening Procedures for Estimating the Air Quality Impact of Stationary Sources;"₇"₂ October 1992, USEPA publication number EPA-454/R-92-019, NTIS document number 93-219095, referenced in 35 Ill. Adm. Code 726.204 and 726.206.

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BOARD NOTE: Also available on the Internet for free download as a WordPerfect document from the USEPA website at the following Internet address: www.epa.gov/scram001/guidance/guide/scrng.wpd.

"Test Methods for Evaluating Solid Waste, Physical/Chemical Methods," USEPA publication number EPA-530/SW-846 (Third Edition, November 1986; Revision 6, January 2005), as amended by Updates I (July 1992), II (November 1994), IIA (August 1993), IIB (January 1995), III (December 1996), IIIA (April 1998), and IIIB (November 2004) (document number 955-001-00000-1), generally referenced in Appendices A and I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 726.200, 726.206, 726.212, and 728.106 (in addition to the references cited below for specific methods):

Method 0010 (November 1986) (Modified Method 5 Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0011 (December 1996) (Sampling for Selected Aldehyde and Ketone Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and for Appendix I to 35 Ill. Adm. Code 726.

Method 0020 (November 1986) (Source Assessment Sampling System), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0023A (December 1996) (Sampling Method for Polychlorinated Dibenzo-p-Dioxins and Polychlorinated Dibenzofuran Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.204.

Method 0030 (November 1986) (Volatile Organic Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0031 (December 1996) (Sampling Method for Volatile Organic Compounds (SMVOC)), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

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Method 0040 (December 1996) (Sampling of Principal Organic Hazardous Constituents from Combustion Sources Using Tedlar[®] Bags), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 0050 (December 1996) (Isokinetic HCl/Cl₂ Emission Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.207.

Method 0051 (December 1996) (Midget Impinger HCl/Cl₂ Emission Sampling Train), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.207.

Method 0060 (December 1996) (Determination of Metals in Stack Emissions), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, Appendix I to 35 Ill. Adm. Code 726, and 35 Ill. Adm. Code 726.206.

Method 0061 (December 1996) (Determination of Hexavalent Chromium Emissions from Stationary Sources), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721, 35 Ill. Adm. Code 726.206, and Appendix I to 35 Ill. Adm. Code 726.

Method 1010A (November 2004) (Test Methods for Flash Point by Pensky-Martens Closed Cup Tester), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1020B (November 2004) (Standard Test Methods for Flash Point by Setaflash (Small Scale) Closed-cup Apparatus), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1110A (November 2004) (Corrosivity Toward Steel), USEPA-approved for 35 Ill. Adm. Code 721.122 and Appendix I to 35 Ill. Adm. Code 721.

Method 1310B (November 2004) (Extraction Procedure (EP) Toxicity Test Method and Structural Integrity Test), USEPA-

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approved for Appendix I to 35 Ill. Adm. Code 721 and referenced in Appendix I to 35 Ill. Adm. Code 728.

Method 1311 (November 1992) (Toxicity Characteristic Leaching Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721; for 35 Ill. Adm. Code 721.124, 728.107, and 728.140; and for Table T to 35 Ill. Adm. Code 728.

Method 1312 (November 1994) (Synthetic Precipitation Leaching Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1320 (November 1986) (Multiple Extraction Procedure), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 1330A (November 1992) (Extraction Procedure for Oily Wastes), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9010C (November 2004) (Total and Amenable Cyanide: Distillation), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 728.140, 728.144, and 728.148, referenced in Table H to 35 Ill. Adm. Code 728.

Method 9012B (November 2004) (Total and Amenable Cyanide (Automated Colorimetric, with Off-Line Distillation)), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35 Ill. Adm. Code 728.140, 728.144, and 728.148, referenced in Table H to 35 Ill. Adm. Code 728.

Method 9040C (November 2004) (pH Electrometric Measurement), USEPA-approved for 35 Ill. Adm. Code 721.122 and Appendix I to 35 Ill. Adm. Code 721.

Method 9045D (November 2004) (Soil and Waste pH), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9060A (November 2004) (Total Organic Carbon), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721 and 35

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Ill. Adm. Code 721.934, 721.963, 724.934, 724.963, 725.934, and 725.963.

Method 9070A (November 2004) (n-Hexane Extractable Material (HEM) for Aqueous Samples), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9071B (April 1998) (n-Hexane Extractable Material (HEM) for Sludge, Sediment, and Solid Samples), USEPA-approved for Appendix I to 35 Ill. Adm. Code 721.

Method 9095B (November 2004) (Paint Filter Liquids Test), USEPA-approved for 35 Ill. Adm. Code 720.110; Appendix I to 35 Ill. Adm. Code 721; and 35 Ill. Adm. Code 724.290, 724.414, 725.290, 725.414, 725.981, 727.290, and 728.132.

BOARD NOTE: Also available on the Internet for free download in segments in PDF format from the USEPA website at: www.epa.gov/SW-846.

OECD. ~~Organization~~~~Organisation~~ for Economic ~~Cooperation~~~~Co-operation~~ and Development, Environment Directorate, 2 rue Andre Pascal, F-75775 Paris Cedex 16, France, +33 (0) 1 45 24 81 67 (www.oecd.org), also OECD Washington Center, 2001 L Street, NW, Suite 650, Washington, DC 20036-4922, 202-785-6323 or 800-456-6323 (www.oecdwash.org):

OECD Guidance Manual. "Guidance Manual for the Implementation of Council Decision C(2001)107/FINAL, as Amended, on the Control of Transboundary Movements of Wastes Destined for Recovery Operations," 2009 (also called "Guidance Manual for the Control of Transboundary Movements of Recoverable Materials" in OECD documents), but only the following segments, which set forth the substantive requirements of OECD decision C(2001)107/FINAL (June 14, 2001), as amended by C(2001)107/ADD1 (February 28, 2002), C(2004)20 (March 9, 2004), C(2005)141 (December 2, 2005), and C(2008)156 (December 4, 2008):

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~~"Annex A: OECD Decision C(2001)107/FINAL, as Amended by C(2004)20; C(2005)141 and C(2008)156" (also called "Revision of Council Decision C(92)39/FINAL on the Control of Transboundary Movements of Wastes Destined for Recovery Operations," within the text of Annex A, and "Decision of the Council Concerning the Control of Transboundary Movements of Wastes Destined for Recovery Operations" in the original OECD decision source document, C(2001)107/FINAL (June 14, 2001), as amended by C(2001)107/ADD1 (February 28, 2002); C(2004)20 (March 9, 2004), C(2005)141 (December 2, 2005), and C(2008)156 (December 4, 2008)).~~

"Annex B: OECD Consolidated List of Wastes Subject to the Green Control Procedure" (individually referred to as "Annex B to OECD Guidance Manual" in 35 Ill. Adm. Code 722), combining Appendix 3 to OECD decision C(2001)107/FINAL, as amended as described above, together with the text of Annex IX ("List B") to the "Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal" ("Basel Convention").

"Annex C: OECD Consolidated List of Wastes Subject to the Amber Control Procedure" (individually referred to as "Annex C to OECD Guidance Manual" in 35 Ill. Adm. Code 722), combining Appendix 4 to OECD decision C(2001)107/FINAL, as amended, together with the text of Annexes II ("Categories of Wastes Requiring Special Consideration") and VIII ("List A") to the Basel Convention.

BOARD NOTE: The OECD Guidance Manual is available online from OECD at www.oecd.org/dataoecd/57/1/42262259.pdf. The OECD and the Basel Convention consider the OECD Guidance Manual unofficial text of these documents. Despite this unofficial status, the Board has chosen to follow USEPA's lead and incorporate the OECD Guidance Manual by reference, instead of separately incorporating the OECD decision C(2001)107/FINAL

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(with its subsequent amendments: OECD decisions C(2001)107/ADD1, C(2004)20, C(2005)141, and C(2008)156) and the Basel Convention by reference. Use of the OECD Guidance Manual eases reference to the documents, increases access to the documents, and facilitates future updates to this incorporation by reference. All references to "OECD C(2001)107/FINAL" in the text of 35 Ill. Adm. Code 722 refer to both the OECD decision and the Basel Convention that the OECD decision references. The OECD Guidance Manual includes as Annex A the full text of OECD document C(2001)107/FINAL, with amendments, and Annexes B and C set forth lists of wastes subject to Green control procedures and wastes subject to Amber control procedures, respectively, which consolidate the wastes from C(2001)107/FINAL together with those from the Basel Convention.

OECD Guideline for Testing of Chemicals, "Ready Biodegradability,"² Method 301B (July 17, 1992), "CO₂ Evolution (Modified Sturm Test)"² referenced in 35 Ill. Adm. Code 724.414.

STI. Available from the Steel Tank Institute, 728 Anthony Trail, Northbrook, IL 60062, 708-498-1980:

"Standard for Dual Wall Underground Steel Storage Tanks" (1986), referenced in 35 Ill. Adm. Code 724.293.

USDOD. Available from the United States Department of Defense:

"DOD Ammunition and Explosives Safety Standards" (DOD 6055.09-~~STD~~), as in effect on February 29, 2008 and revised December 15, 2017, December 18, 2017, December 29, 2017, and January 24, 2018, referenced in 35 Ill. Adm. Code 726.305.

"The Motor Vehicle Inspection Report" (DD Form 626), as in effect in October 2011~~March 2007~~, referenced in 35 Ill. Adm. Code 726.303.

"Requisition Tracking Form" (DD Form 1348), as in effect in July 1991, referenced in 35 Ill. Adm. Code 726.303.

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"The Signature and Tally Record" (DD Form 1907), as in effect in October 2011~~November 2006~~, referenced in 35 Ill. Adm. Code 726.303.

~~"DOD Multimodal Dangerous Goods Declaration~~Dangerous Goods Shipping Paper/Declaration and Emergency Response Information for Hazardous Materials Transported by Government Vehicles" (DD Form ~~2890~~836), as in effect in September 2015~~December 2007~~, referenced in 35 Ill. Adm. Code 726.303.

BOARD NOTE: DOD 6055.09, ~~DD Form 626, -STD is available on-line for download in pdf format from <http://www.ddesb.pentagon.mil>.~~ DD Form 1348, DD Form 1907, ~~DD Form 836,~~ and DD Form 2890~~DOD 6055.09 -STD~~ are available on-line for download in pdf format from www.esd.whs.mil/DD/ <http://www.dtic.mil/whs/directives/infomgt/forms/formsprogram.htm>.

USEPA, e-Manifest System. Available from United States Environmental Protection Agency, e-Manifest System (<https://www.epa.gov/e-manifest>):

"Hazardous Waste Manifest Instructions". Instructions for revision 12-17 of USEPA Forms 8700-22 and 8700-22A, referenced in 35 Ill. Adm. Code 722.121.

BOARD NOTE: Also available on-line from the USEPA website at the following Internet address: www.epa.gov/hwgenerators/uniform-hazardous-waste-manifest-instructions-sample-form-and-continuation-sheet.

USEPA, Office of Ground Water and Drinking Water. Available from United States Environmental Protection Agency, Office of Drinking Water, State Programs Division, WH 550 E, Washington, D.C. 20460:

"Inventory of Injection Wells;" USEPA Form 7520-16 (Revised 8-01), referenced in 35 Ill. Adm. Code 704.148 and 704.283.

"Technical Assistance Document: Corrosion, Its Detection and Control in Injection Wells;" USEPA publication number EPA-570/9-87-002, August 1987, referenced in 35 Ill. Adm. Code 730.165.

USEPA, Receptor Analysis Branch. Available from Receptor Analysis Branch,

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USEPA (MD-14), Research Triangle Park, NC 27711:

"Screening Procedures for Estimating the Air Quality Impact of Stationary Sources, Revised," October 1992, USEPA publication number EPA-450/R-92-019, USEPA-approved for Appendix I to 35 Ill. Adm. Code 726.

BOARD NOTE: Also available for purchase from NTIS (see above) and on the Internet for free download as a WordPerfect document from the USEPA website at following Internet address:
www.epa.gov/scram001/guidance/guide/scrng.wpd.

USEPA Region 6. Available from United States Environmental Protection Agency, Region 6, Multimedia Permitting and Planning Division, 1445 Ross Avenue, Dallas, TX 75202 (phone: 214-665-7430):

"EPA RCRA Delisting Program – Guidance Manual for the Petitioner," March 23, 2000, referenced in Section 720.122.

USGSA. Available from the United States Government Services Administration:

Government Bill of Lading (GBL) (GSA Standard Form 1103, rev 9/2003, supplemented as necessary with GSA Standard Form 1109, rev 09/1998), referenced in Section 726.303.

BOARD NOTE: Available on-line for download in various formats from www.gsa.gov/forms/forms.htm.

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

10 CFR 20.2006 (~~20182015~~) (Transfer for Disposal and Manifests), referenced in 35 Ill. Adm. Code 726.425 and 726.450.

Table II, column 2 in appendix B to 10 CFR 20 (~~20182015~~) (Water Effluent Concentrations), referenced in 35 Ill. Adm. Code 702.110, 730.103, and 730.151.

Appendix G to 10 CFR 20 (~~20182015~~) (Requirements for Transfers of

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Low-Level Radioactive Waste Intended for Disposal at Licensed Land Disposal Facilities and Manifests), referenced in 35 Ill. Adm. Code 726.440.

10 CFR 71 (~~20182015~~) (Packaging and Transportation of Radioactive Material), referenced generally in 35 Ill. Adm. Code 726.430.

10 CFR 71.5 (~~20182015~~) (Transportation of Licensed Material), referenced in 35 Ill. Adm. Code 726.425.

33 CFR 153.203 (~~20172015~~) (Procedure for the Notice of Discharge), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

40 CFR 3.3 (~~20172015~~) (What Definitions Are Applicable to This Part?), referenced in Section 720.104.

40 CFR 3.10 (~~20172015~~) (What Are the Requirements for Electronic Reporting to EPA?), referenced in Section 720.104.

40 CFR 3.2000 (~~20172015~~) (What Are the Requirements Authorized State, Tribe, and Local Programs' Reporting Systems Must Meet?), referenced in Section 720.104.

40 CFR 51.100(ii) (~~20172015~~) (Definitions), referenced in 35 Ill. Adm. Code 726.200.

Appendix W to 40 CFR 51 (~~20172015~~) (Guideline on Air Quality Models), referenced in 35 Ill. Adm. Code 726.204.

BOARD NOTE: Also available from NTIS (see above for contact information) as "Guideline on Air Quality Models," Revised 1986, USEPA publication number EPA-450/12-78-027R, NTIS document numbers PB86-245248 (Guideline) and PB88-150958 (Supplement).

Appendix B to 40 CFR 52.741 (~~20172015~~) (VOM Measurement Techniques for Capture Efficiency), referenced in 35 Ill. Adm. Code 703.213, 703.352, 721.984, 721.986, 721.989, 724.982, 724.984, 724.986, 724.989, 725.983, 725.985, 725.987, and 725.990.

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40 CFR 60 (~~20172015~~) (Standards of Performance for New Stationary Sources), referenced generally in 35 Ill. Adm. Code 721.104, 721.950, 721.964, 721.980, 724.964, 724.980, 725.964, and 725.980.

Subpart VV of 40 CFR 60 (~~20172015~~) (Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry), referenced in 35 Ill. Adm. Code 721.989, 724.989, and 725.990.

Appendix A to 40 CFR 60 (~~20172015~~) (Test Methods), referenced generally in 35 Ill. Adm. Code 726.205 (in addition to the references cited below for specific methods):

Method 1 (Sample and Velocity Traverses for Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 2 (Determination of Stack Gas Velocity and Volumetric Flow Rate (Type S Pitot Tube)), referenced in 35 Ill. Adm. Code 721.934, 724.933, 724.934, 725.933, 725.934, and 726.205.

Method 2A (Direct Measurement of Gas Volume through Pipes and Small Ducts), referenced in 35 Ill. Adm. Code 721.933, 724.933, 725.933, and 726.205.

Method 2B (Determination of Exhaust Gas Volume Flow Rate from Gasoline Vapor Incinerators), referenced in 35 Ill. Adm. Code 726.205.

Method 2C (Determination of Gas Velocity and Volumetric Flow Rate in Small Stacks or Ducts (Standard Pitot Tube)), referenced in 35 Ill. Adm. Code 721.933, 724.933, 725.933, and 726.205.

Method 2D (Measurement of Gas Volume Flow Rates in Small Pipes and Ducts), referenced in 35 Ill. Adm. Code 721.933, 724.933, 725.933, and 726.205.

Method 2E (Determination of Landfill Gas Production Flow Rate), referenced in 35 Ill. Adm. Code 726.205.

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Method 2F (Determination of Stack Gas Velocity and Volumetric Flow Rate with Three-Dimensional Probes), referenced in 35 Ill. Adm. Code 726.205.

Method 2G (Determination of Stack Gas Velocity and Volumetric Flow Rate with Two-Dimensional Probes), referenced in 35 Ill. Adm. Code 726.205.

Method 2H (Determination of Stack Gas Velocity Taking into Account Velocity Decay Near the Stack Wall), referenced in 35 Ill. Adm. Code 726.205.

Method 3 (Gas Analysis for the Determination of Dry Molecular Weight), referenced in 35 Ill. Adm. Code 724.443 and 726.205.

Method 3A (Determination of Oxygen and Carbon Dioxide Concentrations in Emissions from Stationary Sources (Instrumental Analyzer Procedure)), referenced in 35 Ill. Adm. Code 726.205.

Method 3B (Gas Analysis for the Determination of Emission Rate Correction Factor or Excess Air), referenced in 35 Ill. Adm. Code 726.205.

Method 3C (Determination of Carbon Dioxide, Methane, Nitrogen, and Oxygen from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 4 (Determination of Moisture Content in Stack Gases), referenced in 35 Ill. Adm. Code 726.205.

Method 5 (Determination of Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5A (Determination of Particulate Matter Emissions from the Asphalt Processing and Asphalt Roofing Industry), referenced in 35 Ill. Adm. Code 726.205.

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Method 5B (Determination of Nonsulfuric Acid Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5D (Determination of Particulate Matter Emissions from Positive Pressure Fabric Filters), referenced in 35 Ill. Adm. Code 726.205.

Method 5E (Determination of Particulate Matter Emissions from the Wool Fiberglass Insulation Manufacturing Industry), referenced in 35 Ill. Adm. Code 726.205.

Method 5F (Determination of Nonsulfate Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 5G (Determination of Particulate Matter Emissions from Wood Heaters (Dilution Tunnel Sampling Location)), referenced in 35 Ill. Adm. Code 726.205.

Method 5H (Determination of Particulate Emissions from Wood Heaters from a Stack Location), referenced in 35 Ill. Adm. Code 726.205.

Method 5I (Determination of Low Level Particulate Matter Emissions from Stationary Sources), referenced in 35 Ill. Adm. Code 726.205.

Method 18 (Measurement of Gaseous Organic Compound Emissions by Gas Chromatography), referenced in 35 Ill. Adm. Code 721.933, 721.934, 724.933, 724.934, 725.933, and 725.934.

Method 21 (Determination of Volatile Organic Compound Leaks), referenced in 35 Ill. Adm. Code 703.213, 721.934, 721.935, 721.963, 721.983, 724.934, 724.935, 724.963, 725.934, 725.935, 725.963, and 725.984.

Method 22 (Visual Determination of Fugitive Emissions from Material Sources and Smoke Emissions from Flares), referenced in

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35 Ill. Adm. Code 721.933, 724.933, 724.1101, 725.933, 725.1101, and 727.900.

Method 25A (Determination of Total Gaseous Organic Concentration Using a Flame Ionization Analyzer), referenced in 35 Ill. Adm. Code 721.934, 724.934, and 725.985.

Method 25D (Determination of the Volatile Organic Concentration of Waste Samples), referenced in 35 Ill. Adm. Code 721.983, 724.982, 725.983, and 725.984.

Method 25E (Determination of Vapor Phase Organic Concentration in Waste Samples), referenced in 35 Ill. Adm. Code 721.983 and 725.984.

Method 27 (Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test), referenced in 35 Ill. Adm. Code 721.986, 724.986, and 725.987.

40 CFR 61 ([20172015](#)) (National Emission Standards for Hazardous Air Pollutants), referenced generally in 35 Ill. Adm. Code 721.104, 721.933, 721.950, 721.964, 721.980, 724.933, 724.964, 725.933, 725.964, and 725.980.

Subpart V of 40 CFR 61 ([20172015](#)) (National Emission Standard for Equipment Leaks (Fugitive Emission Sources)), referenced in 35 Ill. Adm. Code 721.989, 724.989, and 725.990.

Subpart FF of 40 CFR 61 ([20172015](#)) (National Emission Standard for Benzene Waste Operations), referenced in 35 Ill. Adm. Code 724.982 and 725.983.

40 CFR 63 ([20172015](#)) (National Emission Standards for Hazardous Air Pollutants for Source Categories), referenced generally in 35 Ill. Adm. Code 721.293, 721.933, 721.950, 721.964, 721.980, 724.933, 724.964, 724.980, 725.933, 725.964, 725.980, and 726.200.

Subpart RR of 40 CFR 63 ([20172015](#)) (National Emission Standards for Individual Drain Systems), referenced in 35 Ill. Adm. Code 721.984,

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724.984, 724.985, 725.985, and 725.986.

Subpart EEE of 40 CFR 63 (2000) (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors), referenced in 35 Ill. Adm. Code 703.280.

Subpart EEE of 40 CFR 63 (~~20172015~~) (National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors) (includes 40 CFR 63.1206 (When and How Must You Comply with the Standards and Operating Requirements?), 63.1215 (What are the Health-Based Compliance Alternatives for Total Chlorine?), 63.1216 (What are the Standards for Solid-Fuel Boilers that Burn Hazardous Waste?), 63.1217 (What are the Standards for Liquid-Fuel Boilers that Burn Hazardous Waste?), 63.1218 (What are the Standards for Hydrochloric Acid Production Furnaces that Burn Hazardous Waste?), 63.1219 (What are the Replacement Standards for Hazardous Waste Incinerators?), 63.1220 (What are the Replacement Standards for Hazardous Waste-Burning Cement Kilns?), and 63.1221 (What are the Replacement Standards for Hazardous Waste-Burning Lightweight Aggregate Kilns?)), referenced in Appendix A to 35 Ill. Adm. Code 703 and 35 Ill. Adm. Code 703.155, 703.205, 703.208, 703.221, 703.232, 703.320, 703.280, 724.440, 724.701, 724.950, 725.440, and 726.200.

Method 301 (Field Validation of Pollutant Measurement Methods from Various Waste Media) in appendix A to 40 CFR 63 (~~20172015~~) (Test Methods), referenced in 35 Ill. Adm. Code 721.983 and 725.984.

Appendix C to 40 CFR 63 (~~20172015~~) (Determination of the Fraction Biodegraded (F_{bio}) in a Biological Treatment Unit), referenced in 35 Ill. Adm. Code 725.984.

Appendix D to 40 CFR 63 (~~20172015~~) (Test Methods), referenced in 35 Ill. Adm. Code 721.983 and 725.984.

40 CFR 136.3 (Identification of Test Procedures) (~~20172015~~), referenced in 35 Ill. Adm. Code 702.110, 704.150, 704.187, and 730.103.

40 CFR 144.70 (~~20172015~~) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 704.240.

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40 CFR 232.2 ([20172015](#)) (Definitions), referenced in 35 Ill. Adm. Code 721.104.

40 CFR 257 ([20172015](#)) (Criteria for Classification of Solid Waste Disposal Facilities and Practices), referenced in 35 Ill. Adm. Code 739.181.

Subpart B of 40 CFR 257 (2015) (Disposal Standards for the Receipt of Conditionally Exempt Small Quantity Generator (CESQG) Wastes at Non-Municipal Non-Hazardous Waste Disposal Units) (40 CFR 257.5 through 257.30), referenced in 35 Ill. Adm. Code 721.105.

40 CFR 258 ([20172015](#)) (Criteria for Municipal Solid Waste Landfills), referenced in 35 Ill. Adm. Code 739.181.

40 CFR 260.21(b) ([20172015](#)) (Alternative Equivalent Testing Methods), referenced in Section 720.121.

40 CFR 261.151 ([20172015](#)) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 721.251.

Appendix III to 40 CFR 261 ([20172015](#)) (Chemical Analysis Test Methods), referenced in 35 Ill. Adm. Code 704.150 and 704.187.

40 CFR 262.53 (2015) (Notification of Intent to Export), referenced in 35 Ill. Adm. Code 722.153.

40 CFR 262.54 (2015) (Special Manifest Requirements), referenced in 35 Ill. Adm. Code 722.154.

40 CFR 262.55 (2015) (Exception Reports), referenced in 35 Ill. Adm. Code 722.155.

40 CFR 262.56 (2015) (Annual Reports), referenced in 35 Ill. Adm. Code 722.156.

40 CFR 262.57 (2015) (Recordkeeping), referenced in 35 Ill. Adm. Code 722.157.

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Appendix to 40 CFR 262 (~~2017~~~~2015~~) (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), referenced in Appendix A to 35 Ill. Adm. Code 722 and 35 Ill. Adm. Code 724.986 and 725.987.

40 CFR 264.151 (~~2017~~~~2015~~) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 724.251 and 727.240.

[40 CFR 264.1311 \(2017\) \(Manifest Transactions Subject to Fees\), referenced in 35 Ill. Adm. Code 724.171.](#)

[40 CFR 264.1312 \(2017\) \(User Fee Calculation Methodology\), referenced in 35 Ill. Adm. Code 724.171.](#)

[40 CFR 264.1313 \(2017\) \(User Fee Revisions\), referenced in 35 Ill. Adm. Code 724.171.](#)

[40 CFR 264.1314 \(2017\) \(How to Make User Fee Payments\), referenced in 35 Ill. Adm. Code 724.171.](#)

[40 CFR 264.1315 \(2017\) \(Sanctions for Delinquent Payments\), referenced in 35 Ill. Adm. Code 724.171.](#)

[40 CFR 264.1316 \(2017\) \(Informal Fee Dispute Resolution\), referenced in 35 Ill. Adm. Code 724.171.](#)

Appendix I to 40 CFR 264 (~~2017~~~~2015~~) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 724.

Appendix IV to 40 CFR 264 (~~2017~~~~2015~~) (Cochran's Approximation to the Behrens-Fisher Students' T-Test), referenced in Appendix D to 35 Ill. Adm. Code 724.

Appendix V to 40 CFR 264 (~~2017~~~~2015~~) (Examples of Potentially Incompatible Waste), referenced in Appendix E to 35 Ill. Adm. Code 724 and 35 Ill. Adm. Code 727.270.

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Appendix VI to 40 CFR 264 (~~2017~~~~2015~~) (Political Jurisdictions in Which Compliance with [Section](#) 264.18(a) Must Be Demonstrated), referenced in 35 Ill. Adm. Code 703.306, 724.118, and 727.110.

[Subpart FF of 40 CFR 264 \(2017\) \(Fees for the Electronic Hazardous Waste Manifest Program\)](#), referenced in 35 Ill. Adm. Code 720.104 and 720.105.

[40 CFR 264.1311 \(2017\) \(Manifest Transactions Subject to Fees\)](#), referenced in 35 Ill. Adm. Code 724.171.

[40 CFR 264.1312 \(2017\) \(User Fee Calculation Methodology\)](#), referenced in 35 Ill. Adm. Code 724.171.

[40 CFR 264.1313 \(2017\) \(User Fee Revisions\)](#), referenced in 35 Ill. Adm. Code 724.171.

[40 CFR 264.1314 \(2017\) \(How to Make User Fee Payments\)](#), referenced in 35 Ill. Adm. Code 724.171.

[40 CFR 264.1315 \(2017\) \(Sanctions for Delinquent Payments\)](#), referenced in 35 Ill. Adm. Code 724.171.

[40 CFR 264.1316 \(2017\) \(Informal Fee Dispute Resolution\)](#), referenced in 35 Ill. Adm. Code 724.171.

Appendix I to 40 CFR 265 (~~2017~~~~2015~~) (Recordkeeping Instructions), referenced in Appendix A to 35 Ill. Adm. Code 725.

Appendix III to 40 CFR 265 (~~2017~~~~2015~~) (EPA Interim Primary Drinking Water Standards), referenced in Appendix C to 35 Ill. Adm. Code 725.

Appendix IV to 40 CFR 265 (~~2017~~~~2015~~) (Tests for Significance), referenced in Appendix D to 35 Ill. Adm. Code 725.

Appendix V to 40 CFR 265 (~~2017~~~~2015~~) (Examples of Potentially Incompatible Waste), referenced in 35 Ill. Adm. Code 725.277, 725.301, 725.330, 725.357, 725.382, and 725.413 and Appendix E to 35 Ill. Adm. Code 725.

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[Subpart FF of 40 CFR 265 \(2017\) \(Fees for the Electronic Hazardous Waste Manifest Program\), referenced in Sections 720.104 and 720.105.](#)

Appendix IX to 40 CFR 266 (~~2017~~2015) (Methods Manual for Compliance with the BIF Regulations), referenced generally in Appendix I to 35 Ill. Adm. Code 726.

Section 4.0 (Procedures for Estimating the Toxicity Equivalence of Chlorinated Dibenzo-p-Dioxin and Dibenzofuran Congeners), referenced in 35 Ill. Adm. Code 726.200 and 726.204.

Section 5.0 (Hazardous Waste Combustion Air Quality Screening Procedure), referenced in 35 Ill. Adm. Code 726.204 and 726.206.

Section 7.0 (Statistical Methodology for Bevill Residue Determinations), referenced in 35 Ill. Adm. Code 726.212.

BOARD NOTE: Also available from NTIS (see above for contact information) as "Methods Manual for Compliance with BIF Regulations: Burning Hazardous Waste in Boilers and Industrial Furnaces," December 1990, USEPA publication number EPA-530/SW-91-010, NTIS document number PB91-120006.

40 CFR 267.151 (~~2017~~2015) (Wording of the Instruments), referenced in 35 Ill. Adm. Code 727.240.

40 CFR 270.5 (~~2017~~2015) (Noncompliance and Program Reporting by the Director), referenced in 35 Ill. Adm. Code 703.305.

40 CFR 302 (~~2017~~2015) (Designation, Reportable Quantities, and Notification), referenced in 35 Ill. Adm. Code 721.293.

40 CFR 711.15(a)(4)(i)(C) (~~2017~~2015) (Designation, Reportable Quantities, and Notification), referenced in 35 Ill. Adm. Code 721.104.

40 CFR 761 (~~2017~~2015) (Polychlorinated Biphenyls (PCBs) Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions), referenced generally in 35 Ill. Adm. Code 728.145.

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40 CFR 761.3 ([20172015](#)) (Definitions), referenced in 35 Ill. Adm. Code 728.102 and 739.110.

40 CFR 761.60 ([20172015](#)) (Disposal Requirements), referenced in 35 Ill. Adm. Code 728.142.

40 CFR 761.65 ([20172015](#)) (Storage for Disposal), referenced in 35 Ill. Adm. Code 728.150.

40 CFR 761.70 ([20172015](#)) (Incineration), referenced in 35 Ill. Adm. Code 728.142.

Subpart B of 49 CFR 107 ([20172014](#)) (Exemptions), referenced generally in 35 Ill. Adm. Code 724.986 and 725.987.

49 CFR 171 ([20172014](#)) (General Information, Regulations, and Definitions), referenced generally in 35 Ill. Adm. Code 721.104, 733.118, 733.138, 733.152, and 739.143.

49 CFR 171.3 ([20172014](#)) (Hazardous Waste), referenced in 35 Ill. Adm. Code 722.133.

49 CFR 171.8 ([20172014](#)) (Definitions and Abbreviations), referenced in 35 Ill. Adm. Code 733.118, 733.138, 733.152, 733.155, and 739.143.

49 CFR 171.15 ([20172014](#)) (Immediate Notice of Certain Hazardous Materials Incidents), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 171.16 ([20172014](#)) (Detailed Hazardous Materials Incident Reports), referenced in 35 Ill. Adm. Code 723.130 and 739.143.

49 CFR 172 ([20172014](#)) (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), referenced generally in 35 Ill. Adm. Code 721.104, 721.986, 722.131, 722.132, 724.986, 725.987, 733.114, 733.118, 733.134, 733.138, 733.152, 733.155, and 739.143.

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[Table to 49 CFR 172.101 \(2017\) \(Hazardous Materials Table\), referenced in 35 Ill. Adm. Code 721.104, 49 CFR 172.304, referenced in 35 Ill. Adm. Code 721.104.](#)

49 CFR 172.304 (~~2017~~2014) (Marking Requirements), referenced in 35 Ill. Adm. Code 722.132.

Subpart C of 49 CFR 172 (~~2017~~2014) (Shipping Papers), referenced in 35 Ill. Adm. Code 722.124.

Subpart F of 49 CFR 172 (~~2017~~2014) (Placarding), referenced in 35 Ill. Adm. Code [722.114, 722.115, and 722.133.](#)

49 CFR 173 (~~2017~~2014) (Shippers – General Requirements for Shipments and Packages), referenced generally in 35 Ill. Adm. Code 721.104, 721.986, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 173.2 (~~2017~~2014) (Hazardous Materials Classes and Index to Hazard Class Definitions), referenced in 35 Ill. Adm. Code 733.152.

49 CFR 173.12 (~~2017~~2014) (Exceptions for Shipments of Waste Materials), referenced in 35 Ill. Adm. Code 724.416, 724.986, 725.416, and 725.987.

49 CFR 173.28 (~~2017~~2014) (Reuse, Reconditioning, and Remanufacture of Packagings), referenced in 35 Ill. Adm. Code 725.273.

49 CFR 173.50 (~~2017~~2014) (Class 1 – Definitions), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.54 (~~2017~~2014) (Forbidden Explosives), referenced in 35 Ill. Adm. Code 721.123.

49 CFR 173.115 (~~2017~~2014) (Class 2, Divisions 2.1, 2.2, and 2.3 – Definitions), referenced in 35 Ill. Adm. Code 721.121.

49 CFR 173.127 (~~2017~~2014) (Class 2, Divisions 2.1, 2.2, and 2.3 – Definition and Assignment of Packaging Groups), referenced in 35 Ill. Adm. Code 721.121.

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49 CFR 174 ([20172014](#)) (Carriage by Rail), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 175 ([20172014](#)) (Carriage by Aircraft), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 176 ([20172014](#)) (Carriage by Vessel), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 177 ([20172014](#)) (Carriage by Public Highway), referenced generally in 35 Ill. Adm. Code 733.118, 733.138, 733.152, and 739.143.

49 CFR 177.817 ([20172014](#)) (Shipping Papers), referenced in 35 Ill. Adm. Code 722.124.

49 CFR 178 ([20172014](#)) (Specifications for Packagings), referenced generally in 35 Ill. Adm. Code 721.104, 721.986, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 179 ([20172014](#)) (Specifications for Tank Cars), referenced in 35 Ill. Adm. Code 721.104, 721.986, 722.130, 724.416, 724.986, 725.416, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 180 ([20172014](#)) (Continuing Qualification and Maintenance of Packagings), referenced generally in 35 Ill. Adm. Code 721.986, 724.986, 725.987, 733.118, 733.138, 733.152, and 739.143.

49 CFR 190 ([20172014](#)) (Pipeline Safety Programs and Rulemaking Procedures), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 191 ([20172014](#)) (Transportation of Natural and Other Gas by Pipeline: Annual Reports, Incident Reports, and Safety-Related Condition Reports), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 192 ([20172014](#)) (Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards), referenced generally in 35 Ill. Adm. Code 721.104.

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49 CFR 193 (~~2017~~[2014](#)) (Liquefied Natural Gas Facilities: Federal Safety Standards), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 194 (~~2017~~[2014](#)) (Response Plans for Onshore Oil Pipelines), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 195 (~~2017~~[2014](#)) (Transportation of Hazardous Liquids by Pipeline), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 196 (~~2017~~[2014](#)) (Protection of Underground Pipelines from Excavation Activity), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 198 (~~2017~~[2014](#)) (Regulations for Grants to Aid State Pipeline Safety Programs), referenced generally in 35 Ill. Adm. Code 721.104.

49 CFR 199 (~~2017~~[2014](#)) (Drug and Alcohol Testing), referenced generally in 35 Ill. Adm. Code 721.104.

c) Federal Statutes:

Section 11 of the Atomic Energy Act of 1954 (42 USC 2014 (~~2016~~[2013](#))), referenced in 35 Ill. Adm. Code 721.104 and 726.310.

Sections 301, 304, 307, and 402 of the Clean Water Act (33 USC 1311, 1314, 1337, and 1342 (~~2016~~[2013](#))), referenced in 35 Ill. Adm. Code 721.293.

Sections 201(v), 201(w), and 512(j) of the Federal Food, Drug, and Cosmetic Act (FFDCA; 21 USC 321(v), 321(w), and 360b(j) (~~2016~~[2013](#))), referenced in Section 720.110 and 35 Ill. Adm. Code 733.109.

Section 1004 of the Resource Conservation and Recovery Act (42 USC 6903 (~~2016~~[2013](#))), referenced in 35 Ill. Adm. Code [721.931](#), [721.951](#), [and 721.981](#), [724.931](#), [724.981](#), [725.931](#), [725.951](#), and [725.981](#).

Chapter 601 of subtitle VIII of 49 USC (49 USC 60101 through 60140 (~~2016~~[2013](#))), referenced in 35 Ill. Adm. Code 721.104.

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Section 1412 of the Department of Defense Authorization Act of 1986 (50 USC 1521(j)(1)) (~~2015~~2012), referenced in 35 Ill. Adm. Code 726.301.

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

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART C: RULEMAKING PETITIONS AND OTHER PROCEDURES

Section 720.130 Procedures for Solid Waste Determinations and Non-Waste Determinations

In accordance with the standards and criteria in Sections 720.131 and 720.134 and the procedures in Section 720.133, the Board will determine on a case-by-case basis that the following recycled materials are not solid wastes:

- a) Materials that are accumulated speculatively without sufficient amounts being recycled (as defined in [35 Ill. Adm. Code](#) ~~Section~~ 721.101(c)(8));
- b) Materials that are reclaimed and then reused within the original production process in which they were generated;
- c) Materials that have been reclaimed but must be reclaimed further before the materials are completely recovered;
- d) Hazardous secondary materials that are reclaimed in a continuous industrial process; and
- e) Hazardous secondary materials that are indistinguishable in all relevant aspects from a product or intermediate.
- f) ~~Hazardous secondary materials that are transferred for reclamation under 35 Ill. Adm. Code 721.104(a)(24) and are managed at a verified reclamation facility or verified intermediate facility where the management of the hazardous secondary materials is not regulated by any of 35 Ill. Adm. Code 724, 725, 726, or 727.~~

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 720.131 Solid Waste and Verified Facility Determinations

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- a) The Board will determine that those materials that are accumulated speculatively without sufficient amounts being recycled are not solid wastes if the applicant demonstrates that sufficient amounts of the material will be recycled or transferred for recycling in the following year. Such a determination is valid only for the following year, but can be renewed, on an annual basis, by filing a new application. This determination will be based on the following criteria:
- 1) The manner in which the material is expected to be recycled, when the material is expected to be recycled, and whether this expected disposition is likely to occur (for example, because of past practice, market factors, the nature of the material or contractual arrangements for recycling);
 - 2) The reason that the applicant has accumulated the material for one or more years without recycling 75 percent of the volume accumulated at the beginning of the year;
 - 3) The quantity of material already accumulated and the quantity expected to be generated and accumulated before the material is recycled;
 - 4) The extent to which the material is handled to minimize loss; and
 - 5) Other relevant factors.
- b) The Board will determine that those materials that are reclaimed and then reused as feedstock within the original production process in which the materials were generated are not solid wastes if the reclamation operation is an essential part of the production process. This determination will be based on the following criteria:
- 1) How economically viable the production process would be if it were to use virgin materials, rather than reclaimed materials;
 - 2) The extent to which the material is handled before reclamation to minimize loss;
 - 3) The time periods between generating the material and its reclamation, and between reclamation and return to the original primary production process;

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- 4) The location of the reclamation operation in relation to the production process;
 - 5) Whether the reclaimed material is used for the purpose for which it was originally produced when it is returned to the original process, and whether it is returned to the process in substantially its original form;
 - 6) Whether the person that generates the material also reclaims it; and
 - 7) Other relevant factors.
- c) The Board will determine, as provided in Section 720.133, that those hazardous secondary materials that have been partially reclaimed but must be reclaimed further before recovery is completed are not solid wastes if the partial reclamation has produced a commodity-like material. A determination that a partially-reclaimed material for which the determination is sought is commodity-like will be based on whether the hazardous secondary material is legitimately recycled, as specified in Section 720.143, and on whether all of the following decision criteria are satisfied:
- 1) Whether the degree of partial reclamation the material has undergone is substantial, as demonstrated by using a partial reclamation process other than the process that generated the hazardous secondary material;
 - 2) Whether the partially-reclaimed material has sufficient economic value that it will be purchased for further reclamation;
 - 3) Whether the partially-reclaimed material is a viable substitute for a product or intermediate produced from virgin or raw materials which is used in subsequent production steps;
 - 4) Whether there is a market for the partially-reclaimed material, as demonstrated by known customers who are further reclaiming the material (e.g., records of sales or contracts and evidence of subsequent use, such as bills of lading); and
 - 5) Whether the partially-reclaimed material is handled to minimize loss.

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- d) ~~Where the management of a hazardous secondary material is not regulated by any of 35 Ill. Adm. Code 724, 725, 726, or 727, the Board will grant a verified facility determination, as provided in Section 720.133, from classifying as a solid waste those hazardous secondary materials that are transferred for reclamation under 35 Ill. Adm. Code 721.104(a)(24) and which are managed at a verified reclamation facility or verified intermediate facility. The Board's determination will be based on the following criteria:~~
- 1) ~~The reclamation facility or intermediate facility has demonstrated that the reclamation process for the hazardous secondary materials is legitimate pursuant to Section 720.143;~~
 - 2) ~~The reclamation facility or intermediate facility satisfies the financial assurance condition in 35 Ill. Adm. Code 721.104(a)(24)(F)(vi);~~
 - 3) ~~The reclamation facility or intermediate facility has not been subject to a formal enforcement action in the previous three years and must not be classified as a significant non-complier under RCRA Subtitle C, or the facility has provided credible evidence that the facility will manage the hazardous secondary materials properly. Credible evidence may include a demonstration that the facility has taken remedial steps to address the violations and prevent future violations, or that the violations are not relevant to the proper management of the hazardous secondary materials;~~
 - 4) ~~The intermediate or reclamation facility has the equipment and trained personnel needed to safely manage the hazardous secondary material, and the facility meets emergency preparedness and response requirements under Subpart M of 35 Ill. Adm. Code 721;~~
 - 5) ~~If residuals are generated from the reclamation of the excluded hazardous secondary materials, the reclamation facility has the permits required (if any) to manage the residuals, the facility has a contract with an appropriately permitted facility to dispose of the residuals, or the facility has presented credible evidence that the residuals will be managed in a manner that is protective of human health and the environment; and~~
 - 6) ~~The intermediate or reclamation facility has adequately addressed the potential for risk to proximate populations from unpermitted releases of the hazardous secondary material to the environment (i.e., releases that are~~

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~~not covered by a permit, such as a permit to discharge to water or air); which may include, but are not limited to, potential releases through surface transport by precipitation runoff, releases to soil and groundwater, wind-blown dust, fugitive air emissions, and catastrophic unit failures); and the facility has included consideration of potential cumulative risks from other nearby potential stressors.~~

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 720.142 Notification Requirement for Hazardous Secondary Materials

- a) A facility that manages hazardous secondary materials which are excluded from regulation under 35 Ill. Adm. Code 721.104(a)(23), (a)(24), or (a)(27) must send a notification to USEPA Region 5. The notification must occur prior to operating under the regulatory provision and before March 1 of every even-numbered calendar year thereafter using a copy of USEPA Form 8700-12 obtained from the Agency, Bureau of Land (217-782-6762). The notification must include the following information:
- 1) The name, address, and USEPA identification number (if applicable) of the facility;
 - 2) The name and telephone number of a contact person for the facility;
 - 3) The NAICS code of the facility;
- BOARD NOTE: Determined using the "North American Industry Classification System"; incorporated by reference in Section 720.111.
- 4) The regulation under which the facility will manage the hazardous secondary materials;
 - 5) For reclaimers and intermediate facilities managing hazardous secondary materials in accordance with 35 Ill. Adm. Code 721.104(a)(24) or (a)(25), whether the reclaimer or intermediate facility has financial assurance (not applicable for persons managing hazardous secondary materials generated and reclaimed under the control of the generator);

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- ~~65~~) When the facility began or expects to begin managing the hazardous secondary materials in accordance with the regulation;
- ~~76~~) A list of hazardous secondary materials that the facility will manage according to the regulation (reported as the USEPA hazardous waste numbers that would apply if the hazardous secondary materials were managed as hazardous wastes);
- ~~87~~) For each hazardous secondary material, whether the hazardous secondary material, or any portion thereof, will be managed in a land-based unit;
- ~~98~~) The quantity of each hazardous secondary material to be managed annually; and
- ~~109~~) The certification (included in USEPA Form 8700-12) signed and dated by an authorized representative of the facility.
- b) If a facility that manages hazardous secondary material has submitted a notification, but then subsequently ceases managing hazardous secondary materials in accordance with a regulation listed in subsection (a), the facility owner or operator must notify the Agency within 30 days after the cessation using a copy of USEPA Form 8700-12 obtained from the Agency, Bureau of Land (217-782-6762). For purposes of this Section, a facility has stopped managing hazardous secondary materials if the facility no longer generates, manages, or reclaims hazardous secondary materials under the regulation listed in subsection (a), and the facility owner or operator does not expect to manage any amount of hazardous secondary materials for at least one year.

BOARD NOTE: USEPA Form 8700-12 is the required instructions and forms for notification of regulated waste activity.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 720.143 Legitimate Recycling of Hazardous Secondary Materials

- a) Recycling of hazardous secondary materials for the purpose of the exclusions or exemptions from the hazardous waste regulations must be legitimate. Hazardous secondary material that is not the subject of legitimate recycling is discarded material and is a solid waste. A determination that an activity is legitimate

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recycling must address all the requirements of this subsection (a) and must consider the requirements of subsection (b).

- 1) Legitimate recycling must involve a hazardous secondary material that provides a useful contribution to the recycling process or to a product or intermediate of the recycling process. The hazardous secondary material provides a useful contribution if it fulfills one of the following criteria:
 - A) The material contributes valuable ingredients to a product or intermediate;
 - B) The material replaces a catalyst or carrier in the recycling process;
 - C) The material is the source of a valuable constituent recovered in the recycling process;
 - D) The material is recovered or regenerated by the recycling process; or
 - E) The material is used as an effective substitute for a commercial product.
- 2) The recycling process must produce a valuable product or intermediate. The product or intermediate is valuable if either of the following is true:
 - A) The product or intermediate is sold to a third party; or
 - B) The product or intermediate is used by the recycler or the generator as an effective substitute for a commercial product or as an ingredient or intermediate in an industrial process.
- 3) The generator and the recycler must manage the hazardous secondary material as a valuable commodity when it is under their control. Where there is an analogous raw material, the hazardous secondary material must be managed, at a minimum, in a manner consistent with the management of the raw material or in an equally protective manner. Where there is no analogous raw material, the hazardous secondary material must be contained. Hazardous secondary materials that are released to the

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environment and which are not recovered immediately are discarded material.

- 4) ~~The product of the recycling process must be comparable to a legitimate product or intermediate as follows:~~
- A) ~~Where there is an analogous product or intermediate, the product of the recycling process is comparable to a legitimate product or intermediate if both of the following conditions are true:~~
- i) ~~The product of the recycling process does not exhibit a hazardous characteristic (as defined in Subpart C of 35 Ill. Adm. Code 721) that analogous products do not exhibit; and~~
 - ii) ~~The concentrations of any hazardous constituents found in Appendix H of 35 Ill. Adm. Code 721 that are in the product or intermediate are at levels that are comparable to or lower than those found in analogous products or at levels that meet widely recognized commodity standards and specifications, where the commodity standards and specifications include levels that specifically address those hazardous constituents.~~
- B) ~~Where there is no analogous product, the product of the recycling process is comparable to a legitimate product or intermediate if either of the following conditions is true:~~
- i) ~~The product of the recycling process is a commodity that meets widely recognized commodity standards and specifications (e.g., commodity specification grades for common metals); or~~
 - ii) ~~The hazardous secondary materials being recycled are returned to the original process or processes from which they were generated to be reused (e.g., closed loop recycling).~~

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- ⊖) ~~If the product of the recycling process has levels of hazardous constituents that are not comparable to or unable to be compared to a legitimate product or intermediate as provided in subsection (a)(4)(A) or (a)(4)(B), the recycling still may be shown to be legitimate if the person performing the recycling fulfills the following requirements:~~
- ~~i) The person performing the recycling must conduct the necessary assessment and prepare documentation which demonstrates that the recycling is, in fact, still legitimate;~~
 - ~~ii) The assessment and documentation demonstrate that the recycling is legitimate based on lack of exposure from toxics in the product, lack of the bioavailability of the toxics in the product, or other relevant considerations which show that the recycled product does not contain levels of hazardous constituents that pose a significant human health or environmental risk;~~
 - ~~iii) The documentation must include a certification statement that the recycling is legitimate, and the assessment and documentation must be maintained on-site for three years after the recycling operation has ceased; and~~
 - ~~iv) The person performing the recycling must notify USEPA and the Agency of the recycling activity using USEPA Form 8700-12.~~
- b) The following factor must be considered in making a determination as to the overall legitimacy of a specific recycling activity. This subsection (b) corresponds with 40 CFR 260.43(b), which USEPA has removed and marked "reserved." This statement maintains structural consistency with the corresponding federal rules.
- 1) The product of the recycling process fulfills all of the following criteria:
 - A) The product must not contain significant concentrations of any hazardous constituents found in Appendix H of 35 Ill. Adm. Code 721 that are not found in analogous products;

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- B) The product must not contain concentrations of hazardous constituents found in Appendix H of 35 Ill. Adm. Code 721 at levels that are significantly elevated from those found in analogous products; and
- C) The product must not exhibit a hazardous characteristic (as defined in Subpart C of 35 Ill. Adm. Code 721) that analogous products do not exhibit.
- 2) In making a determination that a hazardous secondary material is legitimately recycled, persons must evaluate all factors and consider legitimacy as a whole. If, after careful evaluation of these considerations, the factor in this subsection (b) is not met, then this fact may indicate that the material is not legitimately recycled. However, the factor in this subsection (b) does not have to be met for the recycling to be considered legitimate. In evaluating the extent to which this factor is met and in determining whether a process that does not meet this factor is still legitimate, persons can consider exposure from toxics in the product, the bioavailability of the toxics in the product and other relevant considerations.
- e) ~~This subsection (e) corresponds with 40 CFR 260.43(e), which USEPA has removed and marked "reserved." This statement maintains structural consistency with the corresponding federal rules.~~

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Identification and Listing of Hazardous Waste
- 2) Code Citation: 35 Ill. Adm. Code 721
- 3) Section Number: Proposed Action:
721.104 Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The amendment to Part 721 is a single segment of the docket R19-3 rulemaking that also affects 35 Ill. Adm. Code 720 and 722 through 725. The R19-3 rulemaking updates the Illinois hazardous waste rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during the first half of 2018: January 1, 2018 through June 30, 2018. To save space, a more detailed description of the subjects and issues involved in the docket R19-3 rulemaking appears in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of July 26, 2018, proposing amendments in docket R19-3, which opinion and order is available from the address below.

R19-3 further includes limited corrections and non-substantive stylistic revisions that the Board finds necessary. Some of these were included in the pending consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking, which appeared in the following issues of the *Illinois Register* as indicated in the answer to question 10 below.

Specifically, the amendment to Part 721 incorporates the DSWR revisions. The Board makes several needed corrections in the text of the rules.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to docket R19-3. The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in docket R19-3.

Section 22.4 of the Environmental Protection Act [415 ILCS 5/22.4] provides that Section 5-35 of the Administrative Procedure Act [5 ILCS 100/5-35] does not apply to this rulemaking. Because this rulemaking is not subject to Section 5-35 of the APA, it is

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not subject to First Notice or to Second Notice review by the Joint Committee on Administrative Rules (JCAR).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does 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? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
721.101	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.102	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.103	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.104	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.105	Repealed	42 Ill. Reg. 9980; June 15, 2018
721.106	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.108	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.110	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.111	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.120	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.121	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.122	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.124	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.130	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.131	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.132	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.133	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.139	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.141	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.242	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.243	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.247	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.279	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.291	Amendment	42 Ill. Reg. 9980; June 15, 2018

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721.293	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.298	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.300	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.520	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.931	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.933	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.934	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.935	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.950	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.960	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.963	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.983	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.984	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.986	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.987	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.989	Amendment	42 Ill. Reg. 9980; June 15, 2018
721.APPENDIX A	Amendment	42 Ill. Reg. 9980; June 15, 2018
721. APPENDIX H	Amendment	42 Ill. Reg. 9980; June 15, 2018
721. APPENDIX I, TABLE B	Amendment	42 Ill. Reg. 9980; June 15, 2018
721. APPENDIX I, TABLE D	Amendment	42 Ill. Reg. 9980; June 15, 2018
721. APPENDIX Y	Repealed	42 Ill. Reg. 9980; June 15, 2018
721. APPENDIX Z	Amendment	42 Ill. Reg. 9980; June 15, 2018

- 11) Statement of Statewide Policy Objective: This proposed amendment does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R19-3 and be addressed to:

Don A. Brown, Clerk
 Illinois Pollution Control Board
 State of Illinois Center, Suite 11-500
 100 W. Randolph St.
 Chicago IL 60601

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Please direct inquiries to the following person and reference docket R19-3:

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

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. This proposed amendment does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
 - B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendment require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. This proposed amendment does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
 - C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendment may require the services of an attorney, certified public accountant, chemist and registered professional engineer. This proposed amendment does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 721
IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

SUBPART A: GENERAL PROVISIONS

Section	
721.101	Purpose and Scope
721.102	Definition of Solid Waste
721.103	Definition of Hazardous Waste
721.104	Exclusions
721.105	Special Requirements for Hazardous Waste Generated by Small Quantity Generators
721.106	Requirements for Recyclable Materials
721.107	Residues of Hazardous Waste in Empty Containers
721.108	PCB Wastes Regulated under TSCA
721.109	Requirements for Universal Waste

SUBPART B: CRITERIA FOR IDENTIFYING THE
CHARACTERISTICS OF HAZARDOUS WASTE
AND FOR LISTING HAZARDOUS WASTES

Section	
721.110	Criteria for Identifying the Characteristics of Hazardous Waste
721.111	Criteria for Listing Hazardous Waste

SUBPART C: CHARACTERISTICS OF HAZARDOUS WASTE

Section	
721.120	General
721.121	Characteristic of Ignitability
721.122	Characteristic of Corrosivity
721.123	Characteristic of Reactivity
721.124	Toxicity Characteristic

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SUBPART D: LISTS OF HAZARDOUS WASTE

Section	
721.130	General
721.131	Hazardous Wastes from Nonspecific Sources
721.132	Hazardous Waste from Specific Sources
721.133	Discarded Commercial Chemical Products, Off-Specification Species, Container Residues, and Spill Residues Thereof
721.135	Wood Preserving Wastes

SUBPART E: EXCLUSIONS AND EXEMPTIONS

Section	
721.138	Exclusion of Comparable Fuel and Syngas Fuel (Repealed)
721.139	Conditional Exclusion for Used, Broken CRTs and Processed CRT Glass Undergoing Recycling
721.140	Conditional Exclusion for Used, Intact CRTs Exported for Recycling
721.141	Notification and Recordkeeping for Used, Intact CRTs Exported for Reuse

SUBPART H: FINANCIAL REQUIREMENTS FOR MANAGEMENT
OF EXCLUDED HAZARDOUS SECONDARY MATERIALS

Section	
721.240	Applicability
721.241	Definitions of Terms as Used in This Subpart
721.242	Cost Estimate
721.243	Financial Assurance Condition
721.247	Liability Requirements
721.248	Incapacity of Owners or Operators, Guarantors, or Financial Institutions
721.249	Use of State-Required Mechanisms
721.250	State Assumption of Responsibility
721.251	Wording of the Instruments

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section	
721.270	Applicability
721.271	Condition of Containers
721.272	Compatibility of Hazardous Secondary Materials with Containers

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721.273	Management of Containers
721.275	Secondary Containment
721.276	Special Requirements for Ignitable or Reactive Hazardous Secondary Material
721.277	Special Requirements for Incompatible Materials
721.279	Air Emission Standards

SUBPART J: TANK SYSTEMS

Section	
721.290	Applicability
721.291	Assessment of Existing Tank System's Integrity
721.293	Containment and Detection of Releases
721.294	General Operating Requirements
721.296	Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank Systems
721.297	Termination of Remanufacturing Exclusion
721.298	Special Requirements for Ignitable or Reactive Materials
721.299	Special Requirements for Incompatible Materials
721.300	Air Emission Standards

SUBPART M: EMERGENCY PREPAREDNESS AND RESPONSE FOR MANAGEMENT OF EXCLUDED HAZARDOUS SECONDARY MATERIALS

Section	
721.500	Applicability
721.510	Preparedness and Prevention
721.511	Emergency Procedures for Facilities Generating or Accumulating 6,000 kg or Less of Hazardous Secondary Material
721.520	Contingency Planning and Emergency Procedures for Facilities Generating or Accumulating More Than 6,000 kg of Hazardous Secondary Material

SUBPART AA: AIR EMISSION STANDARDS FOR PROCESS VENTS

Section	
721.930	Applicability
721.931	Definitions
721.932	Standards: Process Vents
721.933	Standards: Closed-Vent Systems and Control Devices
721.934	Test Methods and Procedures
721.935	Recordkeeping Requirements

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SUBPART BB: AIR EMISSION STANDARDS FOR EQUIPMENT LEAKS

Section	
721.950	Applicability
721.951	Definitions
721.952	Standards: Pumps in Light Liquid Service
721.953	Standards: Compressors
721.954	Standards: Pressure Relief Devices in Gas/Vapor Service
721.955	Standards: Sampling Connection Systems
721.956	Standards: Open-Ended Valves or Lines
721.957	Standards: Valves in gas/Vapor Service or in Light Liquid Service
721.958	Standards: Pumps and Valves in Heavy Liquid Service, Pressure Relief Devices in Light Liquid or Heavy Liquid Service, and Flanges and Other Connectors
721.959	Standards: Delay of Repair
721.960	Standards: Closed-Vent Systems and Control Devices
721.961	Alternative Standards for Valves in Gas/Vapor Service or in Light Liquid Service: Percentage of Valves Allowed to Leak
721.962	Alternative Standards for Valves in Gas/Vapor Service or in Light Liquid Service: Skip Period Leak Detection and Repair
721.963	Test Methods and Procedures
721.964	Recordkeeping Requirements

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS AND CONTAINERS

Section	
721.980	Applicability
721.981	Definitions
721.982	Standards: General
721.983	Material Determination Procedures
721.984	Standards: Tanks
721.986	Standards: Containers
721.987	Standards: Closed-Vent Systems and Control Devices
721.988	Inspection and Monitoring Requirements
721.989	Recordkeeping Requirements
721.APPENDIX A	Representative Sampling Methods
721.APPENDIX B	Method 1311 Toxicity Characteristic Leaching Procedure (TCLP) (Repealed)

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721.APPENDIX C	Chemical Analysis Test Methods (Repealed)
721.TABLE A	Analytical Characteristics of Organic Chemicals (Repealed)
721.TABLE B	Analytical Characteristics of Inorganic Species (Repealed)
721.TABLE C	Sample Preparation/Sample Introduction Techniques (Repealed)
721.APPENDIX G	Basis for Listing Hazardous Wastes
721.APPENDIX H	Hazardous Constituents
721.APPENDIX I	Wastes Excluded by Administrative Action
721.TABLE A	Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22 from Non-Specific Sources
721.TABLE B	Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22 from Specific Sources
721.TABLE C	Wastes Excluded by USEPA pursuant to 40 CFR 260.20 and 260.22 from Commercial Chemical Products, Off-Specification Species, Container Residues, and Soil Residues Thereof
721.TABLE D	Wastes Excluded by the Board by Adjusted Standard
721.APPENDIX J	Method of Analysis for Chlorinated Dibenzo-p-Dioxins and Dibenzofurans (Repealed)
721.APPENDIX Y	Table to Section 721.138: Maximum Contaminant Concentration and Minimum Detection Limit Values for Comparable Fuel Specification
721.APPENDIX Z	Table to Section 721.102: Recycled Materials that Are Solid Waste

AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4 and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg. 2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 13999, effective October 12, 1983; amended in R84-34, 61 at 8 Ill. Reg. 24562, effective December 11, 1984; amended in R84-9 at 9 Ill. Reg. 11834, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 998, effective January 2, 1986; amended in R85-2 at 10 Ill. Reg. 8112, effective May 2, 1986; amended in R86-1 at 10 Ill. Reg. 14002, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20647, effective December 2, 1986; amended in R86-28 at 11 Ill. Reg. 6035, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13466, effective August 4, 1987; amended in R87-32 at 11 Ill. Reg. 16698, effective September 30, 1987; amended in R87-5 at 11 Ill. Reg. 19303, effective November 12, 1987; amended in R87-26 at 12 Ill. Reg. 2456, effective January 15, 1988; amended in R87-30 at 12 Ill. Reg. 12070, effective July 12, 1988; amended in R87-39 at 12 Ill. Reg. 13006, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 382, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18300, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14401, effective August 22, 1990; amended in R90-10 at 14 Ill.

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Reg. 16472, effective September 25, 1990; amended in R90-17 at 15 Ill. Reg. 7950, effective May 9, 1991; amended in R90-11 at 15 Ill. Reg. 9332, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14473, effective September 30, 1991; amended in R91-12 at 16 Ill. Reg. 2155, effective January 27, 1992; amended in R91-26 at 16 Ill. Reg. 2600, effective February 3, 1992; amended in R91-13 at 16 Ill. Reg. 9519, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17666, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5650, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20568, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6741, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12175, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17490, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9522, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 10963, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 275, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7615, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17531, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1718, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9135, effective July 26, 1999; amended in R00-13 at 24 Ill. Reg. 9481, effective June 20, 2000; amended in R01-3 at 25 Ill. Reg. 1281, effective January 11, 2001; amended in R01-21/R01-23 at 25 Ill. Reg. 9108, effective July 9, 2001; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6584, effective April 22, 2002; amended in R03-18 at 27 Ill. Reg. 12760, effective July 17, 2003; amended in R04-16 at 28 Ill. Reg. 10693, effective July 19, 2004; amended in R05-8 at 29 Ill. Reg. 6003, effective April 13, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 2992, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 791, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11786, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 986, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18611, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17734, effective October 14, 2011; amended in R13-5 at 37 Ill. Reg. 3213, effective March 4, 2013; amended in R14-13 at 38 Ill. Reg. 12442, effective May 27, 2014; amended in R15-1 at 39 Ill. Reg. 1607, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11367, effective August 9, 2016; amended in R19-2 at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 721.104 Exclusions

- a) Materials that are not solid wastes. The following materials are not solid wastes for the purpose of this Part:
 - 1) Sewage.
 - A) Domestic sewage (untreated sanitary wastes that pass through a

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sewer system); and

B) Any mixture of domestic sewage and other waste that passes through a sewer system to publicly-owned treatment works for treatment.

- 2) Industrial wastewater discharges that are point source discharges with National Pollutant Discharge Elimination System (NPDES) permits issued by the Agency pursuant to Section 12(f) of the Environmental Protection Act ~~[415 ILCS 5/12(f)]~~ and 35 Ill. Adm. Code 309.

BOARD NOTE: This exclusion applies only to the actual point source discharge. It does not exclude industrial wastewaters while they are being collected, stored, or treated before discharge, nor does it exclude sludges that are generated by industrial wastewater treatment.

- 3) Irrigation return flows.
- 4) Source, by-product, or special nuclear material, as defined by section 11 of the Atomic Energy Act of 1954, as amended (42 USC 2014), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- 5) Materials subjected to in-situ mining techniques that are not removed from the ground as part of the extraction process.
- 6) Pulping liquors (i.e., black liquors) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively, as defined in Section 721.101(c).
- 7) Spent sulfuric acid used to produce virgin sulfuric acid, unless it is accumulated speculatively, as defined in Section 721.101(c).
- 8) Secondary materials that are reclaimed and returned to the original process or processes in which they were generated, where they are reused in the production process, provided that the following is true:
- A) Only tank storage is involved, and the entire process through completion of reclamation is closed by being entirely connected with pipes or other comparable enclosed means of conveyance;

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- B) Reclamation does not involve controlled flame combustion (such as occurs in boilers, industrial furnaces, or incinerators);
 - C) The secondary materials are never accumulated in such tanks for over 12 months without being reclaimed; and
 - D) The reclaimed material is not used to produce a fuel or used to produce products that are used in a manner constituting disposal.
- 9) Wood preserving wastes.
- A) Spent wood preserving solutions that have been used and which are reclaimed and reused for their original intended purpose;
 - B) Wastewaters from the wood preserving process that have been reclaimed and which are reused to treat wood; and
 - C) Prior to reuse, the wood preserving wastewaters and spent wood preserving solutions described in subsections (a)(9)(A) and (a)(9)(B), so long as they meet all of the following conditions:
 - i) The wood preserving wastewaters and spent wood preserving solutions are reused on-site at water-borne plants in the production process for their original intended purpose;
 - ii) Prior to reuse, the wastewaters and spent wood preserving solutions are managed to prevent release to either land or groundwater or both;
 - iii) Any unit used to manage wastewaters or spent wood preserving solutions prior to reuse can be visually or otherwise determined to prevent such releases;
 - iv) Any drip pad used to manage the wastewaters or spent wood preserving solutions prior to reuse complies with the standards in Subpart W of 35 Ill. Adm. Code 725, regardless of whether the plant generates a total of less than

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100 kg/month of hazardous waste; and

- v) Prior to operating pursuant to this exclusion, the plant owner or operator prepares a one-time notification to the Agency stating that the plant intends to claim the exclusion, giving the date on which the plant intends to begin operating under the exclusion, and containing the following language: "I have read the applicable regulation establishing an exclusion for wood preserving wastewaters and spent wood preserving solutions and understand it requires me to comply at all times with the conditions set out in the regulation." The plant must maintain a copy of that document in its on-site records until closure of the facility. The exclusion applies only so long as the plant meets all of the conditions. If the plant goes out of compliance with any condition, it may apply to the Agency for reinstatement. The Agency must reinstate the exclusion in writing if it finds that the plant has returned to compliance with all conditions and that the violations are not likely to recur. If the Agency denies an application, it must transmit to the applicant specific, detailed statements in writing as to the reasons it denied the application. The applicant under this subsection (a)(9)(C)(v) may appeal the Agency's determination to deny the reinstatement, to grant the reinstatement with conditions, or to terminate a reinstatement before the Board pursuant to Section 40 of the Act ~~[415 ILCS 5/40]~~.
- 10) USEPA hazardous~~Hazardous~~ waste numbers K060, K087, K141, K142, K143, K144, K145, K147, and K148, and any wastes from the coke by-products processes that are hazardous only because they exhibit the toxicity characteristic specified in Section 721.124, when subsequent to generation these materials are recycled to coke ovens, to the tar recovery process as a feedstock to produce coal tar, or are mixed with coal tar prior to the tar's sale or refining. This exclusion is conditioned on there being no land disposal of the waste from the point it is generated to the point it is recycled to coke ovens, to tar recovery, to the tar refining processes, or prior to when it is mixed with coal.

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- 11) Nonwastewater splash condenser dross residue from the treatment of [USEPA](#) hazardous waste number K061 in high temperature metals recovery units, provided it is shipped in drums (if shipped) and not land disposed before recovery.
- 12) Certain oil-bearing hazardous secondary materials and recovered oil, as follows:
 - A) Oil-bearing hazardous secondary materials (i.e., sludges, by-products, or spent materials) that are generated at a petroleum refinery (standard industrial classification (SIC) code 2911) and are inserted into the petroleum refining process (SIC code 2911: including, but not limited to, distillation, catalytic cracking, fractionation, or thermal cracking units (i.e., cokers)), unless the material is placed on the land, or speculatively accumulated before being so recycled. Materials inserted into thermal cracking units are excluded under this subsection (a)(12), provided that the coke product also does not exhibit a characteristic of hazardous waste. Oil-bearing hazardous secondary materials may be inserted into the same petroleum refinery where they are generated or sent directly to another petroleum refinery and still be excluded under this provision. Except as provided in subsection (a)(12)(B), oil-bearing hazardous secondary materials generated elsewhere in the petroleum industry (i.e., from sources other than petroleum refineries) are not excluded under this Section. Residuals generated from processing or recycling materials excluded under this subsection (a)(12)(A), where such materials as generated would have otherwise met a listing under Subpart D ~~of this Part~~, are designated as USEPA hazardous waste number F037 listed wastes when disposed of or intended for disposal.
 - B) Recovered oil that is recycled in the same manner and with the same conditions as described in subsection (a)(12)(A). Recovered oil is oil that has been reclaimed from secondary materials (including wastewater) generated from normal petroleum industry practices, including refining, exploration and production, bulk storage, and transportation incident thereto (SIC codes 1311, 1321, 1381, 1382, 1389, 2911, 4612, 4613, 4922, 4923, 4789, 5171, and 5172). Recovered oil does not include oil-bearing hazardous

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wastes listed in Subpart D ~~of this Part~~; however, oil recovered from such wastes may be considered recovered oil. Recovered oil does not include used oil, as defined in 35 Ill. Adm. Code 739.100.

- 13) Excluded scrap metal (processed scrap metal, unprocessed home scrap metal, and unprocessed prompt scrap metal) being recycled.
- 14) Shredded circuit boards being recycled, provided that they meet the following conditions:
 - A) The circuit boards are stored in containers sufficient to prevent a release to the environment prior to recovery; and
 - B) The circuit boards are free of mercury switches, mercury relays, nickel-cadmium batteries, and lithium batteries.
- 15) Condensates derived from the overhead gases from kraft mill steam strippers that are used to comply with federal Clean Air Act regulation 40 CFR 63.446(e). The exemption applies only to combustion at the mill generating the condensates.
- 16) This subsection (a)(16) corresponds with 40 CFR 261.4(a)(16), marked "reserved" by USEPA. This statement maintains structural consistency with the federal regulations.
- 17) Spent materials (as defined in Section 721.101) (other than hazardous wastes listed in Subpart D ~~of this Part~~) generated within the primary mineral processing industry from which minerals, acids, cyanide, water, or other values are recovered by mineral processing or by beneficiation, provided that the following is true:
 - A) The spent material is legitimately recycled to recover minerals, acids, cyanide, water, or other values;
 - B) The spent material is not accumulated speculatively;
 - C) Except as provided in subsection (a)(17)(D), the spent material is stored in tanks, containers, or buildings that meet the following minimum integrity standards: a building must be an engineered

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structure with a floor, walls, and a roof all of which are made of non-earthen materials providing structural support (except that smelter buildings may have partially earthen floors, provided that the spent material is stored on the non-earthen portion), and have a roof suitable for diverting rainwater away from the foundation; a tank must be free standing, not be a surface impoundment (as defined in 35 Ill. Adm. Code 720.110), and be manufactured of a material suitable for containment of its contents; a container must be free standing and be manufactured of a material suitable for containment of its contents. If a tank or container contains any particulate that may be subject to wind dispersal, the owner or operator must operate the unit in a manner that controls fugitive dust. A tank, container, or building must be designed, constructed, and operated to prevent significant releases to the environment of these materials.

- D) The Agency must allow by permit in writing that solid mineral processing spent materials only may be placed on pads, rather than in tanks, containers, or buildings if the facility owner or operator can demonstrate the following: the solid mineral processing secondary materials do not contain any free liquid; the pads are designed, constructed, and operated to prevent significant releases of the spent material into the environment; and the pads provide the same degree of containment afforded by the non-RCRA tanks, containers, and buildings eligible for exclusion.
- i) The Agency must also consider whether storage on pads poses the potential for significant releases via groundwater, surface water, and air exposure pathways. Factors to be considered for assessing the groundwater, surface water, and air exposure pathways must include the following: the volume and physical and chemical properties of the spent material, including its potential for migration off the pad; the potential for human or environmental exposure to hazardous constituents migrating from the pad via each exposure pathway; and the possibility and extent of harm to human and environmental receptors via each exposure pathway.

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- ii) Pads must meet the following minimum standards: they must be designed of non-earthen material that is compatible with the chemical nature of the mineral processing spent material; they must be capable of withstanding physical stresses associated with placement and removal; they must have runoff and runoff controls; they must be operated in a manner that controls fugitive dust; and they must have integrity assurance through inspections and maintenance programs.
- iii) Before making a determination under this subsection (a)(17)(D), the Agency must provide notice and the opportunity for comment to all persons potentially interested in the determination. This can be accomplished by placing notice of this action in major local newspapers, or broadcasting notice over local radio stations.

BOARD NOTE: See Subpart D of 35 Ill. Adm. Code 703 for the RCRA Subtitle C permit public notice requirements.

- E) The owner or operator provides a notice to the Agency, providing the following information: the types of materials to be recycled, the type and location of the storage units and recycling processes, and the annual quantities expected to be placed in land-based units. This notification must be updated when there is a change in the type of materials recycled or the location of the recycling process.
 - F) For purposes of subsection (b)(7), mineral processing spent materials must be the result of mineral processing and may not include any listed hazardous wastes. Listed hazardous wastes and characteristic hazardous wastes generated by non-mineral processing industries are not eligible for the conditional exclusion from the definition of solid waste.
- 18) Petrochemical recovered oil from an associated organic chemical manufacturing facility, where the oil is to be inserted into the petroleum refining process (SIC code 2911) along with normal petroleum refinery process streams, provided that both of the following conditions are true of the oil:

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- A) The oil is hazardous only because it exhibits the characteristic of ignitability (as defined in Section 721.121) or toxicity for benzene (Section 721.124, USEPA hazardous waste [numbercode D018](#));
 - B) The oil generated by the organic chemical manufacturing facility is not placed on the land, or speculatively accumulated before being recycled into the petroleum refining process. An "associated organic chemical manufacturing facility" is a facility for which all of the following is true: its primary SIC code is 2869, but its operations may also include SIC codes 2821, 2822, and 2865; it is physically co-located with a petroleum refinery; and the petroleum refinery to which the oil being recycled is returned also provides hydrocarbon feedstocks to the organic chemical manufacturing facility. "Petrochemical recovered oil" is oil that has been reclaimed from secondary materials (i.e., sludges, by-products, or spent materials, including wastewater) from normal organic chemical manufacturing operations, as well as oil recovered from organic chemical manufacturing processes.
- 19) Spent caustic solutions from petroleum refining liquid treating processes used as a feedstock to produce cresylic or naphthenic acid, unless the material is placed on the land or accumulated speculatively, as defined in Section 721.101(c).
- 20) Hazardous secondary materials used to make zinc fertilizers, provided that the following conditions are satisfied:
- A) Hazardous secondary materials used to make zinc micronutrient fertilizers must not be accumulated speculatively, as defined in Section 721.101(c)(8).
 - B) A generator or intermediate handler of zinc-bearing hazardous secondary materials that are to be incorporated into zinc fertilizers must fulfill the following conditions:
 - i) It must submit a one-time notice to the Agency that contains the name, address, and USEPA identification number of the generator or intermediate handler facility,

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that provides a brief description of the secondary material that will be subject to the exclusion, and which identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).

- ii) It must store the excluded secondary material in tanks, containers, or buildings that are constructed and maintained in a way that prevents releases of the secondary materials into the environment. At a minimum, any building used for this purpose must be an engineered structure made of non-earthen materials that provide structural support, and it must have a floor, walls, and a roof that prevent wind dispersal and contact with rainwater. A tank used for this purpose must be structurally sound and, if outdoors, it must have a roof or cover that prevents contact with wind and rain. A container used for this purpose must be kept closed, except when it is necessary to add or remove material, and it must be in sound condition. Containers that are stored outdoors must be managed within storage areas that fulfill the conditions of subsection (a)(20)(F):
 - iii) With each off-site shipment of excluded hazardous secondary materials, it must provide written notice to the receiving facility that the material is subject to the conditions of this subsection (a)(20).
 - iv) It must maintain records at the generator's or intermediate handler's facility for no less than three years of all shipments of excluded hazardous secondary materials. For each shipment these records must, at a minimum, contain the information specified in subsection (a)(20)(G).
- C) A manufacturer of zinc fertilizers or zinc fertilizer ingredients made from excluded hazardous secondary materials must fulfill the following conditions:
- i) It must store excluded hazardous secondary materials in accordance with the storage requirements for generators

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and intermediate handlers, as specified in subsection (a)(20)(B)(ii).

- ii) It must submit a one-time notification to the Agency that, at a minimum, specifies the name, address, and USEPA identification number of the manufacturing facility and which identifies when the manufacturer intends to begin managing excluded zinc-bearing hazardous secondary materials under the conditions specified in this subsection (a)(20).
 - iii) It must maintain for a minimum of three years records of all shipments of excluded hazardous secondary materials received by the manufacturer, which must at a minimum identify for each shipment the name and address of the generating facility, the name of transporter, and the date on which the materials were received, the quantity received, and a brief description of the industrial process that generated the material.
 - iv) It must submit an annual report to the Agency that identifies the total quantities of all excluded hazardous secondary materials that were used to manufacture zinc fertilizers or zinc fertilizer ingredients in the previous year, the name and address of each generating facility, and the industrial processes from which the hazardous secondary materials were generated.
- D) Nothing in this Section preempts, overrides, or otherwise negates the provision in 35 Ill. Adm. Code 722.111 that requires any person who generates a solid waste to determine if that waste is a hazardous waste.
- E) Interim status and permitted storage units that have been used to store only zinc-bearing hazardous wastes prior to the submission of the one-time notice described in subsection (a)(20)(B)(i), and that afterward will be used only to store hazardous secondary materials excluded under this subsection (a)(20), are not subject to the closure requirements of 35 Ill. Adm. Code 724 and 725.

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- F) A container used to store excluded secondary material must fulfill the following conditions:
- i) It must have containment structures or systems sufficiently impervious to contain leaks, spills, and accumulated precipitation;
 - ii) It must provide for effective drainage and removal of leaks, spills, and accumulated precipitation; and
 - iii) It must prevent run-on into the containment system.

BOARD NOTE: Subsections (a)(20)(F)(i) through (a)(20)(F)(iii) are derived from 40 CFR 261.4(a)(20)(ii)(B)(1) through (a)(20)(ii)(B)(3). The Board added the preamble to these federal paragraphs as subsection (a)(20)(F) to comport with Illinois Administrative Code codification requirements.

- G) Required records of shipments of excluded hazardous secondary materials must, at a minimum, contain the following information:
- i) The name of the transporter and date of the shipment;
 - ii) The name and address of the facility that received the excluded material, along with documentation confirming receipt of the shipment; and
 - iii) The type and quantity of excluded secondary material in each shipment.

BOARD NOTE: Subsections (a)(20)(G)(i) through (a)(20)(G)(iii) are derived from 40 CFR 261.4(a)(20)(ii)(D)(1) through (a)(20)(ii)(D)(3). The Board added the preamble to these federal paragraphs as subsection (a)(20)(G) to comport with Illinois Administrative Code codification requirements.

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- 21) Zinc fertilizers made from hazardous wastes or hazardous secondary materials that are excluded under subsection (a)(20), provided that the following conditions are fulfilled:

- A) The fertilizers meet the following contaminant limits:

- i) For metal contaminants:

Constituent	Maximum Allowable Total Concentration in Fertilizer, per Unit (1%) of Zinc (ppm)
Arsenic	0.3
Cadmium	1.4
Chromium	0.6
Lead	2.8
Mercury	0.3

- ii) For dioxin contaminants, the fertilizer must contain no more than eight parts per trillion of dioxin, measured as toxic equivalent (TEQ).

- B) The manufacturer performs sampling and analysis of the fertilizer product to determine compliance with the contaminant limits for metals no less frequently than once every six months, and for dioxins no less frequently than once every 12 months. Testing must also be performed whenever changes occur to manufacturing processes or ingredients that could significantly affect the amounts of contaminants in the fertilizer product. The manufacturer may use any reliable analytical method to demonstrate that no constituent of concern is present in the product at concentrations above the applicable limits. It is the responsibility of the manufacturer to ensure that the sampling and analysis are unbiased, precise, and representative of the products introduced into commerce.
- C) The manufacturer maintains for no less than three years records of all sampling and analyses performed for purposes of determining compliance with subsection (a)(21)(B). Such records must at a minimum include the following:

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- i) The dates and times product samples were taken, and the dates the samples were analyzed;
 - ii) The names and qualifications of the persons taking the samples;
 - iii) A description of the methods and equipment used to take the samples;
 - iv) The name and address of the laboratory facility at which analyses of the samples were performed;
 - v) A description of the analytical methods used, including any cleanup and sample preparation methods; and
 - vi) All laboratory analytical results used to determine compliance with the contaminant limits specified in this subsection (a)(21).
- 22) Used CRTs.
- A) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste within the United States, unless they are disposed of or speculatively accumulated, as defined in Section 721.101(c)(8), by a CRT collector or glass processor.
 - B) Used, intact CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste when exported for recycling, provided that they meet the requirements of Section 721.140.
 - C) Used, broken CRTs, as defined in 35 Ill. Adm. Code 720.110, are not solid waste, provided that they meet the requirements of Section 721.139.
 - D) Glass removed from CRTs is not a solid waste provided that it meets the requirements of Section 721.139(c).
- 23) Hazardous secondary materials reclaimed under the control of the generator. Hazardous secondary material generated and legitimately

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reclaimed within the United States or its territories and under the control of the generator, provided that the material complies with subsections (a)(23)(A) and (a)(23)(B):

- A) Excluded hazardous secondary materials.
- i) The hazardous secondary material is generated and reclaimed at the generating facility. (For purposes of this subsection (a)(23)(A)(i), "generating facility" means all contiguous property owned, leased, or otherwise controlled by the hazardous secondary material generator.);
 - ii) The hazardous secondary material is generated and reclaimed at different facilities, if the reclaiming facility is controlled by the generator or if both the generating facility and the reclaiming facility are controlled by a person as defined in 35 Ill. Adm. Code 720.110, and if the generator provides one of the following certifications:

"On behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], which is controlled by [insert generator facility name] and that [insert name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material."

or

"On behalf of [insert generator facility name], I certify that this facility will send the indicated hazardous secondary material to [insert reclaimer facility name], that both facilities are under common control, and that [insert name of either facility] has acknowledged full responsibility for the safe management of the hazardous secondary material."

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For purposes of this subsection (a)(23)(A)(ii), "control" means the power to direct the policies of the facility, whether by the ownership of stock, voting rights, or otherwise, except that contractors who operate facilities on behalf of a different person, as defined in 35 Ill. Adm. Code 720.110, cannot be deemed to "control" such facilities. The generating and receiving facilities must both maintain at their facilities for no less than three years records of hazardous secondary materials sent or received under this exclusion. In both cases, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received under the exclusion. These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of USDOT shipping papers, or electronic confirmations); or

- iii) The hazardous secondary material is generated pursuant to a written contract between a tolling contractor and a toll manufacturer and is reclaimed by the tolling contractor, if the tolling contractor certifies as follows:

"On behalf of [insert tolling contractor name], I certify that [insert tolling contractor name] has a written contract with [insert toll manufacturer name] to manufacture [insert name of product or intermediate] which is made from specified unused materials, and that [insert tolling contractor name] will reclaim the hazardous secondary materials generated during this manufacture. On behalf of [insert tolling contractor name], I also certify that [insert tolling contractor name] retains ownership of, and responsibility for, the hazardous secondary materials that are generated during the course of the manufacture, including any releases of hazardous secondary materials that occur during the manufacturing process."

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The tolling contractor must maintain at its facility for no less than three years records of hazardous secondary materials received pursuant to its written contract with the tolling manufacturer, and the tolling manufacturer must maintain at its facility for no less than three years records of hazardous secondary materials shipped pursuant to its written contract with the tolling contractor. In both cases, the records must contain the name of the transporter, the date of the shipment, and the type and quantity of the hazardous secondary material shipped or received pursuant to the written contract. These requirements may be satisfied by routine business records (e.g., financial records, bills of lading, copies of USDOT shipping papers, or electronic confirmations). For purposes of this subsection (a)(23)(A)(ii), "tolling contractor" means a person who arranges for the production of a product or intermediate made from specified unused materials through a written contract with a toll manufacturer. "Toll manufacturer" means a person who produces a product or intermediate made from specified unused materials pursuant to a written contract with a tolling contractor.

- B) Management of hazardous secondary materials.
- i) The hazardous secondary material is contained, as defined in 35 Ill. Adm. Code 720.110. A hazardous secondary material released to the environment is discarded material and a solid waste unless it is immediately recovered for the purpose of reclamation. Hazardous secondary material managed in a unit with leaks or other continuing or intermittent unpermitted releases is discarded material and a solid waste;
 - ii) The hazardous secondary material is not speculatively accumulated, as defined in Section 721.101(c)(8);
 - iii) Notice is provided, as required by 35 Ill. Adm. Code 720.142;

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- iv) The hazardous secondary material is not otherwise subject to material-specific management conditions under subsection (a) when reclaimed, and it is not a spent lead acid battery (see 35 Ill. Adm. Code 726.180 and 733.102);
 - v) Persons performing the recycling of hazardous secondary materials under this exclusion must maintain documentation of their legitimacy determination on-site. Documentation must be a written description of how the recycling meets all ~~three~~ four factors in 35 Ill. Adm. Code 720.143(a) and how the factor in 35 Ill. Adm. Code 720.143(b) was considered. Documentation must be maintained for three years after the recycling operation has ceased; and
 - vi) The emergency preparedness and response requirements found in Subpart M ~~of this Part~~ are met.
- 24) Hazardous secondary materials transferred for off-site reclamation. Hazardous secondary material that is generated and then transferred to another person a verified reclamation facility for the purpose of reclamation is not a solid waste if the management of the material fulfills the conditions of subsections (a)(24)(A) through (a)(24)(G):
- A) The hazardous secondary material must not be speculatively accumulated, as defined in Section 721.101(c)(8).
 - B) No person or facility other than the hazardous secondary material generator, the transporter, an intermediate facility, or a reclaimer manages the material; the hazardous secondary material must not be stored for more than 10 days at a transfer facility, as defined in Section 721.110; and the hazardous secondary material must be packaged according to applicable USDOT regulations codified as 49 CFR 173, 178, and 179, incorporated by reference in 35 Ill. Adm. Code 720.111, while in transport.
 - C) The hazardous secondary material must not otherwise be subject to material-specific management conditions pursuant to other provisions of this subsection (a) when reclaimed, and the

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hazardous secondary material must not be a spent lead-acid battery (see 35 Ill. Adm. Code 726.180 and 733.102).

- D) The reclamation of the hazardous secondary material must be legitimate, as determined pursuant to 35 Ill. Adm. Code 720.143.
- E) The hazardous secondary material generator must satisfy each of the following conditions:
- i) The hazardous secondary material must be contained as defined in 35 Ill. Adm. Code 720.110. A hazardous secondary material released to the environment is discarded and a solid waste unless it is immediately recovered for the purpose of recycling. Hazardous secondary material managed in a unit that leaks or which otherwise continuously releases hazardous secondary material is discarded material and a solid waste.
 - ii) Prior to arranging the hazardous secondary material generator must arrange for transport of hazardous secondary materials to a verified-reclamation facility in the United States. A "verified-reclamation facility" is a facility that has been granted a verified facility determination pursuant to 35 Ill. Adm. Code 720.131(d), or a reclamation facility where the management of the hazardous secondary material is managed in a unit that is not subject to a RCRA permit or interim status standards, the hazardous secondary material generator must make reasonable efforts to ensure that each reclaimer intends to properly and legitimately reclaim the hazardous secondary material and not discard it, and that each reclaimer will manage the hazardous secondary material in a manner that is protective of human health and the environment regulated by any of 35 Ill. Adm. Code 724, 725, 726, or 727. If the hazardous secondary material will pass through an intermediate facility where, the facility must be a "verified intermediate facility" that has been granted a verified facility determination pursuant to 35 Ill. Adm. Code 720.131(d) or management of the hazardous secondary materials is managed at that facility in

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a unit that is not subject to a RCRA permit or interim status standards must be regulated by any of 35 Ill. Adm. Code 724, 725, 726, or 727, and the hazardous secondary material generator must make contractual arrangements with the intermediate facility to ensure that the hazardous secondary material is sent to the reclamation facility identified by the hazardous secondary material generator, and the hazardous secondary material generator must perform reasonable efforts to ensure that the intermediate facility will manage the hazardous secondary material in a manner that is protective of human health and the environment. Reasonable efforts must be repeated at a minimum of every three years for the hazardous secondary material generator to claim the exclusion and to send the hazardous secondary materials to each reclaimer and any intermediate facility. In making these reasonable efforts, the generator may use any credible evidence available, including information gathered by the hazardous secondary material generator, provided by the reclaimer or intermediate facility, or provided by a third party. The hazardous secondary material generator must affirmatively answer all of the questions in subsection (a)(24)(H) for each reclamation facility and any intermediate facility.

BOARD NOTE: The Board moved the required generator inquiries of 40 CFR 261.4(a)(24)(v)(B)(I) through (a)(24)(v)(B)(5) to subsection (a)(24)(H) to comply with codification requirements.

- iii) The hazardous secondary material generator must maintain for a minimum of three years documentation and certification that reasonable efforts were made for each reclamation facility and, if applicable, intermediate facility where the facility manages the hazardous secondary materials in a unit that is not subject to under a RCRA permit or interim status standards prior to transferring hazardous secondary material. Documentation and certification must be made available upon request by a regulatory authority within 72 hours, or within a longer

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period of time as specified by the regulatory authority. The certification statement must include the printed name and official title of an authorized representative of the hazardous secondary material generator company, the authorized representative's signature, and the date signed. The certification statement must also incorporate the following language:

"I hereby certify in good faith and to the best of my knowledge that, prior to arranging for transport of excluded hazardous secondary materials to (insert name(s) of reclamation facility and any intermediate facility), reasonable efforts were made in accordance with 35 Ill. Adm. Code 721.104(a)(24)(E)(ii) to ensure that the hazardous secondary materials would be recycled legitimately, and otherwise managed in a manner that is protective of human health and the environment, and that such efforts were based on current and accurate information."

BOARD NOTE: The Board combined the documentation, certification, and records retention requirements of corresponding 40 CFR 261.4(a)(24)(v)(C)(1) through (a)(24)(v)(C)(3) into subsection (a)(24)(E)(iii) to comply with codification requirements.

- iv+ii) The hazardous secondary material generator must maintain certain records at the generating facility for a minimum of three years that document every off-site shipment of hazardous secondary materials. The documentation for each shipment must, at a minimum, include the following information about the shipment: the name of the transporter and date of the shipment; the name and address of each reclaimer and intermediate facility to which the hazardous secondary material was sent; and the type and quantity of hazardous secondary material in the shipment.

BOARD NOTE: The Board combined and moved the shipping documentation and records retention requirements

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of corresponding 40 CFR 261.4(a)(24)(v)(C) and (a)(24)(v)(C)(1) through (a)(24)(v)(C)(3) to this single subsection (a)(24)(E)(~~iv~~ⁱⁱⁱ). This combination allowed compliance with codification requirements relating to the maximum permissible indent level.

- ~~vi~~^v) The hazardous secondary material generator must maintain at the generating facility, for a minimum of three years, for every off-site shipment of hazardous secondary materials, confirmations of receipt from each reclaimer and intermediate facility to which its hazardous secondary materials were sent. Each confirmation of receipt must include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received, and the date on which the facility received the hazardous secondary materials. The generator may satisfy this requirement using routine business records (e.g., financial records, bills of lading, copies of USDOT shipping papers, or electronic confirmations of receipt).
- ~~vi~~^v) The hazardous secondary material generator must comply with the emergency preparedness and response conditions in Subpart M ~~of this Part~~.

BOARD NOTE: The Board intends that "RCRA permit" in subsections (a)(24)(E)(ii) and (a)(24)(E)(iii) include a permit issued by USEPA or a sister state pursuant to section 3005 of RCRA (42 USC 6925).

- F) The reclaimer of hazardous secondary material or any intermediate facility, as defined in 35 Ill. Adm. Code 720.110, that manages material which is excluded from regulation pursuant to this subsection (a)(24) must satisfy all of the following conditions:
- i) The owner or operator of a reclamation or intermediate facility must maintain at its facility for a minimum of three years records of every shipment of hazardous secondary material that the facility received and, if applicable, for

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every shipment of hazardous secondary material that the facility received and subsequently sent off-site from the facility for further reclamation. For each shipment, these records must, at a minimum, contain the following information: the name of the transporter and date of the shipment; the name and address of the hazardous secondary material generator and, if applicable, the name and address of the reclaimer or intermediate facility from which the facility received the hazardous secondary materials; the type and quantity of hazardous secondary material in the shipment; and, for hazardous secondary materials that the facility subsequently transferred off-site for further reclamation after receiving it, the name and address of the (subsequent) reclaimer and any intermediate facility to which the facility sent the hazardous secondary material.

BOARD NOTE: The Board combined the provisions from 40 CFR 261.4(a)(24)(vi)(A) and (a)(24)(vi)(A)(1) through (a)(24)(vi)(A)(3) that enumerate the required information into this single subsection (a)(24)(F)(i). This combination allowed compliance with codification requirements relating to the maximum permissible indent level.

- ii) The intermediate facility must send the hazardous secondary material to the reclaimers designated by the generator of the hazardous secondary materials.
- iii) The reclaimer or intermediate facility that receives a shipment of hazardous secondary material must send a confirmation of receipt to the hazardous secondary material generator for each off-site shipment of hazardous secondary materials. A confirmation of receipt must include the name and address of the reclaimer (or intermediate facility), the type and quantity of the hazardous secondary materials received, and the date on which the facility received the hazardous secondary materials. The reclaimer or intermediate facility may satisfy this requirement using routine business records (e.g.,

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financial records, bills of lading, copies of USDOT shipping papers, or electronic confirmations of receipt).

- iv) The reclaimer or intermediate facility must manage the hazardous secondary material in a manner that is at least as protective of human health and the environment as that employed for analogous raw material, and the material must be contained. An "analogous raw material" is a raw material for which the hazardous secondary material substitutes and that serves the same function and has similar physical and chemical properties as the hazardous secondary material.
 - v) A reclaimer of hazardous secondary materials must manage any residuals that are generated from its reclamation processes in a manner that is protective of human health and the environment. If any residuals of the reclamation process exhibit a characteristic of hazardous waste, as defined in Subpart C ~~of this Part~~, or if the residuals themselves are specifically listed as hazardous waste in Subpart D ~~of this Part~~, those residuals are hazardous waste. The reclaimer and any subsequent persons must manage that hazardous waste in accordance with the applicable requirements of 35 Ill. Adm. Code: Subtitle G or similar regulations authorized by USEPA as equivalent to 40 CFR 260 through 272.
 - vi) The reclaimer and intermediate facility must have financial assurance that satisfies the requirements of Subpart H ~~of this Part~~.
 - vii) ~~The reclaimer and intermediate facility must have been granted a solid waste determination pursuant to 35 Ill. Adm. Code 720.131(d), or have a RCRA Part B permit or be subject to interim status standards that address the management of the hazardous secondary materials; and~~
- G) In addition, any Any person claiming the exclusion for recycled hazardous secondary material pursuant to this subsection (a)(24)

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must provide notification as required by 35 Ill. Adm. Code 720.142.

- H) For the purposes of the reasonable inquiries required by subsection (a)(24)(E)(ii), the hazardous secondary material generator must affirmatively answer all of the following questions for each reclamation facility and any intermediate facility:
- i) Does the available information indicate that the reclamation process is legitimate pursuant to 35 Ill. Adm. Code 720.143? In answering this question, the hazardous secondary material generator can rely on its existing knowledge of the physical and chemical properties of the hazardous secondary material, as well as information from other sources (e.g., the reclamation facility, audit reports, etc.) about the reclamation process.
- ii) Does the publicly available information indicate that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator notified the appropriate authorities of hazardous secondary materials reclamation activities pursuant to 35 Ill. Adm. Code 720.142, and have they notified the appropriate authorities that the financial assurance condition is satisfied per subsection (a)(24)(F)(vi)? In answering these questions, the hazardous secondary material generator can rely on the available information documenting the reclamation facility's and any intermediate facility's compliance with the notification requirements per 35 Ill. Adm. Code 720.142, including the requirement in 35 Ill. Adm. Code 720.142(a)(5) to notify USEPA or the state whether the reclaimer or intermediate facility has financial assurance.
- iii) Does publicly available information indicate that the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has not had any formal enforcement actions taken against the facility in the previous three years for violations of the RCRA

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hazardous waste regulations and has not been classified as a significant noncomplier with RCRA Subtitle C? In answering this question, the hazardous secondary material generator can rely on the publicly available information from USEPA or the state. If the reclamation facility or any intermediate facility that is used by the hazardous secondary material generator has had a formal enforcement action taken against the facility in the previous three years for violations of the RCRA hazardous waste regulations and has been classified as a significant non-complier with RCRA Subtitle C, does the hazardous secondary material generator have credible evidence that the facility will manage the hazardous secondary materials properly? In answering this question, the hazardous secondary material generator can obtain additional information from USEPA, the state, or the facility itself that the facility has addressed the violations, taken remedial steps to address the violations and prevent future violations, or that the violations are not relevant to the proper management of the hazardous secondary materials.

- iv) Does the available information indicate that the reclamation facility and any intermediate facility that is used by the hazardous secondary material generator have the equipment and trained personnel to safely recycle the hazardous secondary material? In answering this question, the generator may rely on a description by the reclamation facility or by an independent third party of the equipment and trained personnel to be used to recycle the generator's hazardous secondary material.
- v) If residuals are generated from the reclamation of the excluded hazardous secondary materials, does the reclamation facility have the permits required (if any) to manage the residuals? If not, does the reclamation facility have a contract with an appropriately permitted facility to dispose of the residuals? If not, does the hazardous secondary material generator have credible evidence that the residuals will be managed in a manner that is protective

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of human health and the environment? In answering these questions, the hazardous secondary material generator can rely on publicly available information from USEPA or the state, or information provided by the facility itself.

BOARD NOTE: The Board moved the required generator inquiries into a reclamation or intermediate facility of 40 CFR 261.4(a)(24)(v)(B) and (a)(24)(v)(B)(1) through (a)(24)(v)(B)(5) to this subsection (a)(24)(H) to comply with codification requirements.

- 25) Hazardous secondary material that is exported from the United States and reclaimed at a reclamation facility located in a foreign country is not a solid waste, provided that the hazardous secondary material generator complies with the applicable requirements of subsections (a)(24)(A) through (a)(24)(E) (excepting subsection (a)(24)(H)(ii) for foreign reclaimers and foreign intermediate facilities), and that the hazardous secondary material generator also complies with the following requirements: This subsection (a)(25) corresponds with 40 CFR 261.4(a)(25), which USEPA removed and marked "reserved." This statement maintains structural consistency with the corresponding federal regulations.

A) The generator must notify USEPA of an intended export before the hazardous secondary material is scheduled to leave the United States. The generator must submit a complete notification at least 60 days before the initial shipment is intended to be shipped off-site. This notification may cover export activities extending over a 12-month or lesser period. The notification must be in writing, signed by the hazardous secondary material generator, and include the following information:

- i) The name, mailing address, telephone number and USEPA identification number (if applicable) of the hazardous secondary material generator;
- ii) A description of the hazardous secondary material and the USEPA hazardous waste number that would apply if the hazardous secondary material was managed as hazardous

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waste and the USDOT proper shipping name, hazard class and identification number (UN or NA) for each hazardous secondary material as identified in the hazardous materials table in 49 CFR 172.101, incorporated by reference in 35 Ill. Adm. Code 720.111;

- iii) The estimated frequency or rate at which the hazardous secondary material is to be exported and the period of time over which the hazardous secondary material is to be exported;
- iv) The estimated total quantity of hazardous secondary material;
- v) All points of entry to and departure from each foreign country through which the hazardous secondary material will pass;
- vi) A description of the means by which each shipment of the hazardous secondary material will be transported (e.g., mode of transportation vehicle (air, highway, rail, water, etc.), types of container (drums, boxes, tanks, etc.));
- vii) A description of the manner in which the hazardous secondary material will be reclaimed in the country of import;
- viii) The name and address of the reclaimer, any intermediate facility, and any alternate reclaimer and intermediate facilities; and
- ix) The name of any countries of transit through which the hazardous secondary material will be sent and a description of the approximate length of time it will remain in such countries and the nature of its handling while there (for purposes of this Section, the terms "USEPA Acknowledgement of Consent", "country of import", and "country of transit" are used as defined in 35 Ill. Adm. Code 722.181 with the exception that the terms in this

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Section refer to hazardous secondary materials, rather than hazardous waste).

- B) The generator must submit notifications electronically using USEPA's Waste Import Export Tracking System (WIETS).
- C) Except for changes to the telephone number required in subsection (a)(25)(A)(i) and decreases in the quantity of hazardous secondary material indicated pursuant to subsection (a)(25)(A)(iv), when the conditions specified on the original notification change (including any exceedance of the estimate of the quantity of hazardous secondary material specified in the original notification), the hazardous secondary material generator must provide USEPA with a written renotification of the change. The shipment must not occur until consent of the country of import to the changes (except for changes to subsection (a)(25)(A)(ix) and in the ports of entry to and departure from countries of transit pursuant to subsection (a)(25)(A)(v)) has been obtained and the hazardous secondary material generator receives from USEPA a USEPA Acknowledgment of Consent reflecting the country of import's consent to the changes.
- D) Upon request by USEPA, the hazardous secondary material generator shall furnish to USEPA any additional information which a country of import requests in order to respond to a notification.
- E) USEPA will provide a complete notification to the country of import and any countries of transit. A notification is complete when USEPA receives a notification which USEPA determines satisfies the requirements of subsection (a)(25)(A). Where a claim of confidentiality is asserted with respect to any notification information required by subsection (a)(25)(A), USEPA may find the notification not complete until any such claim is resolved in accordance with 35 Ill. Adm. Code 720.102.
- F) The export of hazardous secondary material under this subsection (a)(25) is prohibited unless the country of import consents to the intended export. When the country of import consents in writing

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to the receipt of the hazardous secondary material, USEPA will send an USEPA Acknowledgment of Consent to the hazardous secondary material generator. Where the country of import objects to receipt of the hazardous secondary material or withdraws a prior consent, USEPA will notify the hazardous secondary material generator in writing. USEPA will also notify the hazardous secondary material generator of any responses from countries of transit.

- G) For exports to OECD Member countries, the receiving country may respond to the notification using tacit consent. If no objection has been lodged by any country of import or countries of transit to a notification provided pursuant to subsection (a)(25)(A) within 30 days after the date of issuance of the acknowledgement of receipt of notification by the competent authority of the country of import, the transboundary movement may commence. In such cases, USEPA will send a USEPA Acknowledgment of Consent to inform the hazardous secondary material generator that the country of import and any relevant countries of transit have not objected to the shipment, and are thus presumed to have consented tacitly. Tacit consent expires one calendar year after the close of the 30-day period; renotification and renewal of all consents is required for exports after that date.
- H) A copy of the USEPA Acknowledgment of Consent must accompany the shipment. The shipment must conform to the terms of the USEPA Acknowledgment of Consent.
- I) If a shipment cannot be delivered for any reason to the reclaimer, intermediate facility or the alternate reclaimer or alternate intermediate facility, the hazardous secondary material generator must re-notify USEPA of a change in the conditions of the original notification to allow shipment to a new reclaimer in accordance with subsection (a)(25)(C) of this Section and obtain another USEPA Acknowledgment of Consent.
- J) Hazardous secondary material generators must keep a copy of each notification of intent to export and each USEPA Acknowledgment of Consent for a period of three years following receipt of the

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USEPA Acknowledgment of Consent. They may satisfy this recordkeeping requirement by retaining electronically submitted notifications or electronically generated Acknowledgements in their account on USEPA's WIETS, provided that such copies are readily available for viewing and production if requested by any USEPA or Agency inspector. No hazardous secondary material generator may be held liable for the inability to produce a notification or Acknowledgement for inspection under this Section if they can demonstrate that the inability to produce such copies is due exclusively to technical difficulty with USEPA's WIETS for which the hazardous secondary material generator bears no responsibility.

- K) Hazardous secondary material generators must file with the Administrator, no later than March 1 of each year, a report summarizing the types, quantities, frequency and ultimate destination of all hazardous secondary materials exported during the previous calendar year. Annual reports must be submitted electronically using USEPA's WIETS. Such reports must include the following information:
- i) Name, mailing and site address, and USEPA identification number (if applicable) of the hazardous secondary material generator;
 - ii) The calendar year covered by the report;
 - iii) The name and site address of each reclaimer and intermediate facility;
 - iv) By reclaimer and intermediate facility, for each hazardous secondary material exported, a description of the hazardous secondary material and the USEPA hazardous waste number that would apply if the hazardous secondary material was managed as hazardous waste; the USDOT hazard class, incorporated by reference in 35 Ill. Adm. Code 720.111; the name and USEPA identification number (where applicable) for each transporter used, the total

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amount of hazardous secondary material shipped, and the number of shipments pursuant to each notification; and

- v) A certification signed by the hazardous secondary material generator that states as follows:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information including the possibility of fine and imprisonment."

- L) Any person claiming an exclusion under this subsection (a)(25) must provide notification as required by 35 Ill. Adm. Code 720.142.

- 26) Solvent-contaminated wipes that are sent for cleaning and reuse are not solid wastes from the point of generation, provided that all of the following conditions are fulfilled:
- A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes-". The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;

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- B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for cleaning;
- C) At the point of being sent for cleaning on-site or at the point of being transported off-site for cleaning, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;
- D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;
- E) Generators must maintain at their site the following documentation:
 - i) The name and address of the laundry or dry cleaner that is receiving the solvent-contaminated wipes;
 - ii) The documentation that the 180-day accumulation time limit in 35 Ill. Adm. Code 721.104(a)(26)(B) is being met; and
 - iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being laundered or dry cleaned on-site or at the point of being transported off-site for laundering or dry cleaning; and
- F) The solvent-contaminated wipes are sent to a laundry or dry cleaner whose discharge, if any, is regulated under sections 301 and 402 or section 307 of the federal Clean Water Act (33 USC 1311 and 1341 or 33 USC 1317) or equivalent Illinois or sister-state requirements approved by USEPA pursuant to 33 USC 1311 through 1346 and 1370.

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- 27) Hazardous secondary material that is generated and then transferred to another person for the purpose of remanufacturing is not a solid waste, provided that the following conditions are fulfilled:

BOARD NOTE: The North American Industrial Classification System (NAICS) codes used in this subsection (a)(27) are defined in the NAICS Manual, available from the Office of Management and Budget and incorporated by reference in 35 Ill. Adm. Code 720.111.

- A) The hazardous secondary material consists of one or more of the following spent solvents: toluene, xylenes, ethylbenzene, 1,2,4-trimethylbenzene, chlorobenzene, n-hexane, cyclohexane, methyl tert-butyl ether, acetonitrile, chloroform, chloromethane, dichloromethane, methyl isobutyl ketone, N,N-dimethylformamide, tetrahydrofuran, n-butyl alcohol, ethanol, or methanol.
- B) The hazardous secondary material originated from using one or more of the solvents listed in subsection (a)(27)(A) in a commercial grade for reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), or the paints and coatings manufacturing sectors (NAICS 325510).
- C) The hazardous secondary material generator sends the hazardous secondary material spent solvents listed in subsection (a)(27)(A) to a remanufacturer in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), or the paints and coatings manufacturing sectors (NAICS 325510).
- D) After remanufacturing one or more of the solvents listed in subsection (a)(27)(A), the use of the remanufactured solvent must be limited to reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) in the pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and the paints and coatings

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manufacturing sectors (NAICS 325510) or to using them as ingredients in a product. These allowed uses correspond to chemical functional uses enumerated in 40 CFR 711.15(b)(4)(i)(C) (Reporting Information to EPA), incorporated by reference in 35 Ill. Adm. Code 720.111, including Industrial Function Category Codes U015 (solvents consumed in a reaction to produce other chemicals) and U030 (solvents that become part of the mixture).

BOARD NOTE: The Board observes that the citation to Toxic Substances Control Act function categories and use of the word "including" to preface specific example Industrial Function Category Codes does not expand the range of permissible uses beyond the express limitations recited in the first segment of this subsection (a)(27)(D) and subsection (a)(27)(E).

- E) After remanufacturing one or more of the solvents listed in subsection (a)(27)(i), the use of the remanufactured solvent does not involve cleaning or degreasing oil, grease, or similar material from textiles, glassware, metal surfaces, or other articles. (These disallowed continuing uses correspond to chemical functional uses in Industrial Function Category Code U029 (solvents (for cleaning and degreasing)) in 40 CFR 711.15(b)(4)(i)(C), incorporated by reference in 35 Ill. Adm. Code 720.111.
- F) Both the hazardous secondary material generator and the remanufacturer must fulfill the following requirements:
- i) The generator and remanufacturer must notify USEPA Region 5 and the Agency, and update the notification every two years per 35 Ill. Adm. Code 720.142;
 - ii) The generator and remanufacturer must develop and maintain an up-to-date remanufacturing plan that identifies the information enumerated in subsection (a)(27)(G);

BOARD NOTE: The Board moved corresponding 40 CFR 261.4(a)(27)(vi)(B)(1) through (a)(27)(vi)(B)(1) to appear as subsections (a)(27)(G)(i) through (a)(27)(G)(v) to comport with codification requirements.

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- iii) The generator and remanufacturer must maintain records of shipments and confirmations of receipts for a period of three years from the dates of the shipments;
 - iv) The generator and remanufacturer must, prior to remanufacturing, store the hazardous spent solvents in tanks or containers that meet technical standards found in Subparts I and J ~~of this Part~~, with the tanks and containers being labeled or otherwise having an immediately available record of the material being stored;
 - v) The generator and remanufacturer must, during remanufacturing, and during storage of the hazardous secondary materials prior to remanufacturing, the remanufacturer certifies that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the applicable Clean Air Act regulations of 40 CFR 60, 61 and 63, incorporated by reference in 35 Ill. Adm. Code 720.111; or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in Subparts AA (vents), BB (equipment) and CC (tank storage) ~~of this Part~~; and
 - vi) The generator and remanufacturer must meet the requirements prohibiting speculative accumulation in Section 721.101(c)(8).
- G) The following information items are required elements for a remanufacturing plan.
- i) The name, address and USEPA ID number of the generators and the remanufacturers;
 - ii) The types and estimated annual volumes of spent solvents to be remanufactured;

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- iii) The processes and industry sectors that generate the spent solvents;
- iv) The specific uses and industry sectors for the remanufactured solvents; and
- v) A certification from the remanufacturer stating as follows:
"On behalf of [insert remanufacturer facility name], I certify that this facility is a remanufacturer under pharmaceutical manufacturing (NAICS 325412), basic organic chemical manufacturing (NAICS 325199), plastics and resins manufacturing (NAICS 325211), and/or the paints and coatings manufacturing sectors (NAICS 325510), and will accept the spent solvent(s) for the sole purpose of remanufacturing into commercial-grade solvent(s) that will be used for reacting, extracting, purifying, or blending chemicals (or for rinsing out the process lines associated with these functions) or for use as product ingredient(s). I also certify that the remanufacturing equipment, vents, and tanks are equipped with and are operating air emission controls in compliance with the appropriate Clean Air Act regulations under 40 CFR ~~part-60~~, ~~part-61~~ or ~~part-63~~, or, absent such Clean Air Act standards for the particular operation or piece of equipment covered by the remanufacturing exclusion, are in compliance with the appropriate standards in Subparts AA (vents), BB (equipment) and CC (tank storage)."

BOARD NOTE: Subsections (a)(27)(G)(i) through (a)(27)(G)(v) correspond with 40 CFR 261.4(a)(27)(vi)(B)(1) through (a)(27)(vi)(B)(1), moved to this subsection (a)(27)(G) to comport with codification requirements.

- b) Solid wastes that are not hazardous wastes. The following solid wastes are not hazardous wastes:
 - 1) Household waste, including household waste that has been collected, transported, stored, treated, disposed of, recovered (e.g., refuse-derived

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fuel), or reused. "Household waste" means any waste material (including garbage, trash, and sanitary wastes in septic tanks) derived from households (including single and multiple residences, hotels, and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds, and day-use recreation areas). A resource recovery facility managing municipal solid waste must not be deemed to be treating, storing, disposing of, or otherwise managing hazardous wastes for the purposes of regulation under this Part, if the following describe the facility:

- A) The facility receives and burns only the following waste:
 - i) Household waste (from single and multiple dwellings, hotels, motels, and other residential sources); or
 - ii) Solid waste from commercial or industrial sources that does not contain hazardous waste; and
- B) The facility does not accept hazardous waste and the owner or operator of such facility has established contractual requirements or other appropriate notification or inspection procedures to assure that hazardous wastes are not received at or burned in such facility.

BOARD NOTE: The U.S. Supreme Court determined, in *City of Chicago v. Environmental Defense Fund, Inc.*, 511 U.S. 328, 114 S. Ct. 1588, 128 L. Ed. 2d 302 (1994), that this exclusion and RCRA section 3001(i) (42 USC 6921(i)) do not exclude the ash from facilities covered by this subsection (b)(1) from regulation as a hazardous waste. At 59 Fed. Reg. 29372 (June 7, 1994), USEPA granted facilities managing ash from such facilities that is determined a hazardous waste under Subpart C ~~of this Part~~ until December 7, 1994 to file a Part A permit application pursuant to 35 Ill. Adm. Code 703.181. At 60 Fed. Reg. 6666 (Feb. 3, 1995), USEPA stated that it interpreted that the point at which ash becomes subject to RCRA Subtitle C regulation is when that material leaves the combustion building (including connected air pollution control equipment).

- 2) Solid wastes generated by any of the following that are returned to the soil as fertilizers:

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- A) The growing and harvesting of agricultural crops, or
 - B) The raising of animals, including animal manures.
- 3) Mining overburden returned to the mine site.
- 4) Coal and fossil fuel combustion waste.
- A) Fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste generated primarily from the combustion of coal or other fossil fuels, except as provided in 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
 - B) The following wastes generated primarily from processes that support the combustion of coal or other fossil fuels that are co-disposed with the wastes in subsection (b)(4)(A), except as provided by 35 Ill. Adm. Code 726.112 for facilities that burn or process hazardous waste:
 - i) Coal pile run-off. For purposes of [this](#) subsection (b)(4), coal pile run-off means any precipitation that drains off coal piles.
 - ii) Boiler cleaning solutions. For purposes of this subsection (b)(4), boiler cleaning solutions means water solutions and chemical solutions used to clean the fire-side and waterside of the boiler.
 - iii) Boiler blowdown. For purposes of this subsection (b)(4), boiler blowdown means water purged from boilers used to generate steam.
 - iv) Process water treatment and demineralizer regeneration wastes. For purposes of this subsection (b)(4), process water treatment and demineralizer regeneration wastes means sludges, rinses, and spent resins generated from processes to remove dissolved gases, suspended solids, and

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- dissolved chemical salts from combustion system process water.
- v) Cooling tower blowdown. For purposes of this subsection (b)(4), cooling tower blowdown means water purged from a closed cycle cooling system. Closed cycle cooling systems include cooling towers, cooling ponds, or spray canals.
 - vi) Air heater and precipitator washes. For purposes of this subsection (b)(4), air heater and precipitator washes means wastes from cleaning air preheaters and electrostatic precipitators.
 - vii) Effluents from floor and yard drains and sumps. For purposes of this subsection (b)(4), effluents from floor and yard drains and sumps means wastewaters, such as wash water, collected by or from floor drains, equipment drains, and sumps located inside the power plant building; and wastewaters, such as rain runoff, collected by yard drains and sumps located outside the power plant building.
 - viii) Wastewater treatment sludges. For purposes of this subsection (b)(4), wastewater treatment sludges refers to sludges generated from the treatment of wastewaters specified in subsections (b)(4)(B)(i) through (b)(4)(B)(vi).
- 5) Drilling fluids, produced waters, and other wastes associated with the exploration, development, or production of crude oil, natural gas, or geothermal energy.
 - 6) Chromium wastes.
 - A) Wastes that fail the test for the toxicity characteristic (Section 721.124 and Appendix B ~~to this Part~~) because chromium is present or which are listed in Subpart D ~~of this Part~~ due to the presence of chromium, that do not fail the test for the toxicity characteristic for any other constituent or which are not listed due to the presence of any other constituent, and that do not fail the test for any other

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characteristic, if the waste generator shows the following:

- i) The chromium in the waste is exclusively (or nearly exclusively) trivalent chromium;
 - ii) The waste is generated from an industrial process that uses trivalent chromium exclusively (or nearly exclusively) and the process does not generate hexavalent chromium; and
 - iii) The waste is typically and frequently managed in non-oxidizing environments.
- B) The following are specific wastes that meet the standard in subsection (b)(6)(A) (so long as they do not fail the test for the toxicity characteristic for any other constituent and do not exhibit any other characteristic):
- i) Chrome (blue) trimmings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
 - ii) Chrome (blue) shavings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
 - iii) Buffing dust generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue;
 - iv) Sewer screenings generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse,

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- through-the-blue, and shearling;
- v) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, retan/wet finish, no beamhouse, through-the-blue, and shearling;
 - vi) Wastewater treatment sludges generated by the following subcategories of the leather tanning and finishing industry: hair pulp/chrome tan/retan/wet finish, hair save/chrome tan/retan/wet finish, and through-the-blue;
 - vii) Waste scrap leather from the leather tanning industry, the shoe manufacturing industry, and other leather product manufacturing industries; and
 - viii) Wastewater treatment sludges from the production of titanium dioxide pigment using chromium-bearing ores by the chloride process.
- 7) Solid waste from the extraction, beneficiation, and processing of ores and minerals (including coal, phosphate rock, and overburden from the mining of uranium ore), except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- A) For purposes of this subsection (b)(7), beneficiation of ores and minerals is restricted to the following activities: crushing; grinding; washing; dissolution; crystallization; filtration; sorting; sizing; drying; sintering; pelletizing; briquetting; calcining to remove water or carbon dioxide; roasting; autoclaving or chlorination in preparation for leaching (except where the roasting (or autoclaving or chlorination) and leaching sequence produces a final or intermediate product that does not undergo further beneficiation or processing); gravity concentration; magnetic separation; electrostatic separation; floatation; ion exchange; solvent extraction; electrowinning; precipitation; amalgamation; and heap, dump, vat tank, and in situ leaching.

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- B) For the purposes of this subsection (b)(7), solid waste from the processing of ores and minerals includes only the following wastes as generated:
- i) Slag from primary copper processing;
 - ii) Slag from primary lead processing;
 - iii) Red and brown muds from bauxite refining;
 - iv) Phosphogypsum from phosphoric acid production;
 - v) Slag from elemental phosphorus production;
 - vi) Gasifier ash from coal gasification;
 - vii) Process wastewater from coal gasification;
 - viii) Calcium sulfate wastewater treatment plant sludge from primary copper processing;
 - ix) Slag tailings from primary copper processing;
 - x) Fluorogypsum from hydrofluoric acid production;
 - xi) Process wastewater from hydrofluoric acid production;
 - xii) Air pollution control dust or sludge from iron blast furnaces;
 - xiii) Iron blast furnace slag;
 - xiv) Treated residue from roasting and leaching of chrome ore;
 - xv) Process wastewater from primary magnesium processing by the anhydrous process;
 - xvi) Process wastewater from phosphoric acid production;

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- xvii) Basic oxygen furnace and open hearth furnace air pollution control dust or sludge from carbon steel production;
 - xviii) Basic oxygen furnace and open hearth furnace slag from carbon steel production;
 - xix) Chloride processing waste solids from titanium tetrachloride production; and
 - xx) Slag from primary zinc production.
- C) A residue derived from co-processing mineral processing secondary materials with normal beneficiation raw materials or with normal mineral processing raw materials remains excluded under this subsection (b) if the following conditions are fulfilled:
- i) The owner or operator processes at least 50 percent by weight normal beneficiation raw materials or normal mineral processing raw materials; and
 - ii) The owner or operator legitimately reclaims the secondary mineral processing materials.
- 8) Cement kiln dust waste, except as provided by 35 Ill. Adm. Code 726.212 for facilities that burn or process hazardous waste.
- 9) Solid waste that consists of discarded arsenical-treated wood or wood products that fails the test for the toxicity characteristic for [USEPA](#) hazardous waste [numberseodes](#) D004 through D017 and which is not a hazardous waste for any other reason if the waste is generated by persons that utilize the arsenical-treated wood and wood products for these materials' intended end use.
- 10) Petroleum-contaminated media and debris that fail the test for the toxicity characteristic of Section 721.124 ([USEPA](#) hazardous waste [numbers eodes](#) D018 through D043 only) and which are subject to corrective action regulations under 35 Ill. Adm. Code 731.
- 11) This subsection (b)(11) corresponds with 40 CFR 261.4(b)(11), which

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expired by its own terms on January 25, 1993. This statement maintains structural parity with USEPA regulations.

- 12) Used chlorofluorocarbon refrigerants from totally enclosed heat transfer equipment, including mobile air conditioning systems, mobile refrigeration, and commercial and industrial air conditioning and refrigeration systems, that use chlorofluorocarbons as the heat transfer fluid in a refrigeration cycle, provided the refrigerant is reclaimed for further use.
- 13) Non-terne plated used oil filters that are not mixed with wastes listed in Subpart D ~~of this Part~~, if these oil filters have been gravity hot-drained using one of the following methods:
 - A) Puncturing the filter anti-drain back valve or the filter dome end and hot-draining;
 - B) Hot-draining and crushing;
 - C) Dismantling and hot-draining; or
 - D) Any other equivalent hot-draining method that will remove used oil.
- 14) Used oil re-refining distillation bottoms that are used as feedstock to manufacture asphalt products.
- 15) Leachate or gas condensate collected from landfills where certain solid wastes have been disposed of, under the following circumstances:
 - A) The following conditions must be fulfilled:
 - i) The solid wastes disposed of would meet one or more of the listing descriptions for the following USEPA hazardous waste numbers that are generated after the effective date listed for the waste:

USEPA Hazardous
Waste Numbers

Listing Effective Date

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K169, K170, K171, and K172 February 8, 1999

K174 and K175 May 7, 2001

K176, K177, and K178 May 20, 2002

K181 August 23, 2005

- ii) The solid wastes described in subsection (b)(15)(A)(i) were disposed of prior to the effective date of the listing (as set forth in that subsection);
 - iii) The leachate or gas condensate does not exhibit any characteristic of hazardous waste nor is derived from any other listed hazardous waste; and
 - iv) Discharge of the leachate or gas condensate, including leachate or gas condensate transferred from the landfill to a POTW by truck, rail, or dedicated pipe, is subject to regulation under section 307(b) or 402 of the federal Clean Water Act (33 USC 1317(b) or 1342).
- B) Leachate or gas condensate derived from K169, K170, K171, K172, K176, K177, K178, or K181 waste will no longer be exempt if it is stored or managed in a surface impoundment prior to discharge. There is one exception: if the surface impoundment is used to temporarily store leachate or gas condensate in response to an emergency situation (e.g., shutdown of wastewater treatment system), provided the impoundment has a double liner, and provided the leachate or gas condensate is removed from the impoundment and continues to be managed in compliance with the conditions of this subsection (b)(15) after the emergency ends.
- 16) This subsection (b)(16) corresponds with 40 CFR 261.4(b)(16), which USEPA has marked "reserved-". This statement maintains structural parity with USEPA regulations.
- 17) This subsection (b)(17) corresponds with 40 CFR 261.4(b)(17), which pertains exclusively to waste generated by a specific facility outside Illinois. This statement maintains structural parity with USEPA regulations.

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- 18) Solvent-contaminated wipes, except for wipes that are hazardous waste due to the presence of trichloroethylene, that are sent for disposal are not hazardous wastes from the point of generation provided that all of the following conditions are fulfilled:
- A) The solvent-contaminated wipes, when accumulated, stored, and transported, are contained in non-leaking, closed containers that are labeled "Excluded Solvent-Contaminated Wipes-". The containers must be able to contain free liquids, should free liquids occur. During accumulation, a container is considered closed when there is complete contact between the fitted lid and the rim, except when it is necessary to add or remove solvent-contaminated wipes. When the container is full, when the solvent-contaminated wipes are no longer being accumulated, or when the container is being transported, the container must be sealed with all lids properly and securely affixed to the container and all openings tightly bound or closed sufficiently to prevent leaks and emissions;
 - B) The solvent-contaminated wipes may be accumulated by the generator for up to 180 days from the start date of accumulation for each container prior to being sent for disposal;
 - C) At the point of being transported for disposal, the solvent-contaminated wipes must contain no free liquids, as defined in 35 Ill. Adm. Code 720.110;
 - D) Free liquids removed from the solvent-contaminated wipes or from the container holding the wipes must be managed according to the applicable regulations found in this Part and 35 Ill. Adm. Code 720, 722 through 728, and 733;
 - E) Generators must maintain at their site the following documentation:
 - i) The name and address of the landfill or combustor that is receiving the solvent-contaminated wipes;

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- ii) The documentation that the 180 day accumulation time limit in 35 Ill. Adm. Code 721.104(b)(18)(B) is being met; and
 - iii) A description of the process the generator is using to ensure that the solvent-contaminated wipes contain no free liquids at the point of being transported for disposal; and
- F) The solvent-contaminated wipes are sent for disposal at one of the following facilities:
- i) A municipal solid waste landfill regulated under RCRA Subtitle D regulations: 35 Ill. Adm. Code 810 through 815, including the landfill design criteria of 35 Ill. Adm. Code 811.303 through 811.309, 811.315 through 811.317, and Subpart E of 35 Ill. Adm. Code 811 or 35 Ill. Adm. Code 814.302 and 814.402; 40 CFR 258, including the landfill design criteria of 40 CFR 258.40; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6943 and 6947; or
 - ii) A hazardous waste landfill regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725; 40 CFR 264 or 265; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926; or
 - iii) A municipal waste combustor or other combustion facility regulated under section 129 of the Clean Air Act (42 USC 7429) or equivalent Illinois or sister-state regulations approved by USEPA pursuant to 42 USC 7429; or
 - iv) A hazardous waste combustor, boiler, or industrial furnace regulated under RCRA Subtitle C regulations: 35 Ill. Adm. Code 724 or 725 or Subpart H of 35 Ill. Adm. Code 726; 40 CFR 264 or 265 or subpart H of 40 CFR 266; or equivalent regulations of a sister state that USEPA has approved pursuant to 42 USC 6926.
- c) Hazardous wastes that are exempted from certain regulations. A hazardous waste

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that is generated in a product or raw material storage tank, a product or raw material transport vehicle or vessel, a product or raw material pipeline, or in a manufacturing process unit, or an associated non-waste-treatment manufacturing unit, is not subject to regulation under 35 Ill. Adm. Code 702, 703, and 722 through 728 or to the notification requirements of section 3010 of RCRA (42 USC 6930) until it exits the unit in which it was generated, unless the unit is a surface impoundment, or unless the hazardous waste remains in the unit more than 90 days after the unit ceases to be operated for manufacturing or for storage or transportation of product or raw materials.

- d) Samples.
- 1) Except as provided in subsection (d)(2), a sample of solid waste or a sample of water, soil, or air that is collected for the sole purpose of testing to determine its characteristics or composition is not subject to any requirements of this Part or 35 Ill. Adm. Code 702, 703, and 722 through 728. The sample qualifies when it fulfills one of the following conditions:
 - A) The sample is being transported to a laboratory for the purpose of testing;
 - B) The sample is being transported back to the sample collector after testing;
 - C) The sample is being stored by the sample collector before transport to a laboratory for testing;
 - D) The sample is being stored in a laboratory before testing;
 - E) The sample is being stored in a laboratory for testing but before it is returned to the sample collector; or
 - F) The sample is being stored temporarily in the laboratory after testing for a specific purpose (for example, until conclusion of a court case or enforcement action where further testing of the sample may be necessary).
 - 2) In order to qualify for the exemption in subsection (d)(1)(A) or (d)(1)(B), a sample collector shipping samples to a laboratory and a laboratory

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returning samples to a sample collector must do the following:

- A) Comply with USDOT, U.S. Postal Service (USPS), or any other applicable shipping requirements; or
 - B) Comply with the following requirements if the sample collector determines that USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample:
 - i) Assure that the following information accompanies the sample: The sample collector's name, mailing address, and telephone number; the laboratory's name, mailing address, and telephone number; the quantity of the sample; the date of the shipment; and a description of the sample; and
 - ii) Package the sample so that it does not leak, spill, or vaporize from its packaging.
 - 3) This exemption does not apply if the laboratory determines that the waste is hazardous but the laboratory is no longer meeting any of the conditions stated in subsection (d)(1).
- e) Treatability study samples.
- 1) Except as is provided in subsection (e)(2), a person that generates or collects samples for the purpose of conducting treatability studies, as defined in 35 Ill. Adm. Code 720.110, are not subject to any requirement of 35 Ill. Adm. Code 721 through 723 or to the notification requirements of section 3010 of [RCRA \(42 USC 6930\)](#)~~the Resource Conservation and Recovery Act~~. Nor are such samples included in the quantity determinations of Section 721.105 and 35 Ill. Adm. Code 722.134(d) when:
 - A) The sample is being collected and prepared for transportation by the generator or sample collector;
 - B) The sample is being accumulated or stored by the generator or sample collector prior to transportation to a laboratory or testing facility; or

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- C) The sample is being transported to the laboratory or testing facility for the purpose of conducting a treatability study.
- 2) The exemption in subsection (e)(1) is applicable to samples of hazardous waste being collected and shipped for the purpose of conducting treatability studies provided that the following conditions are fulfilled:
- A) The generator or sample collector uses (in "treatability studies") no more than 10,000 kg of media contaminated with non-acute hazardous waste, 1,000 kg of non-acute hazardous waste other than contaminated media, 1 kg of acute hazardous waste, or 2,500 kg of media contaminated with acute hazardous waste for each process being evaluated for each generated waste stream;
 - B) The mass of each shipment does not exceed 10,000 kg; the 10,000 kg quantity may be all media contaminated with non-acute hazardous waste, or may include 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of hazardous waste, and 1 kg of acute hazardous waste;
 - C) The sample must be packaged so that it does not leak, spill, or vaporize from its packaging during shipment and the requirements of subsection (e)(2)(C)(i) or (e)(2)(C)(ii) are met.
 - i) The transportation of each sample shipment complies with USDOT, USPS, or any other applicable shipping requirements; or
 - ii) If the USDOT, USPS, or other shipping requirements do not apply to the shipment of the sample, the following information must accompany the sample: The name, mailing address, and telephone number of the originator of the sample; the name, address, and telephone number of the facility that will perform the treatability study; the quantity of the sample; the date of the shipment; and, a description of the sample, including its USEPA hazardous waste number;

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- D) The sample is shipped to a laboratory or testing facility that is exempt under subsection (f), or has an appropriate RCRA permit or interim status;
 - E) The generator or sample collector maintains the following records for a period ending three years after completion of the treatability study:
 - i) Copies of the shipping documents;
 - ii) A copy of the contract with the facility conducting the treatability study; and
 - iii) Documentation showing the following: The amount of waste shipped under this exemption; the name, address, and USEPA identification number of the laboratory or testing facility that received the waste; the date the shipment was made; and whether or not unused samples and residues were returned to the generator; and
 - F) The generator reports the information required in subsection (e)(2)(E)(iii) in its report under 35 Ill. Adm. Code 722.141.
- 3) The Agency may grant requests on a case-by-case basis for up to an additional two years for treatability studies involving bioremediation. The Agency may grant requests, on a case-by-case basis, for quantity limits in excess of those specified in subsections (e)(2)(A), (e)(2)(B), and (f)(4), for up to an additional 5,000 kg of media contaminated with non-acute hazardous waste, 500 kg of non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, and 1 kg of acute hazardous waste under the circumstances set forth in either subsection (e)(3)(A) or (e)(3)(B), subject to the limitations of subsection (e)(3)(C):
- A) In response to requests for authorization to ship, store, and conduct further treatability studies on additional quantities in advance of commencing treatability studies. Factors to be considered in reviewing such requests include the nature of the technology, the type of process (e.g., batch versus continuous), the size of the unit undergoing testing (particularly in relation to scale-up

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considerations), the time or quantity of material required to reach steady-state operating conditions, or test design considerations, such as mass balance calculations.

- B) In response to requests for authorization to ship, store, and conduct treatability studies on additional quantities after initiation or completion of initial treatability studies when the following occurs: There has been an equipment or mechanical failure during the conduct of the treatability study, there is need to verify the results of a previously-conducted treatability study, there is a need to study and analyze alternative techniques within a previously-evaluated treatment process, or there is a need to do further evaluation of an ongoing treatability study to determine final specifications for treatment.
- C) The additional quantities allowed and timeframes allowed in subsections (e)(3)(A) and (e)(3)(B) are subject to all the provisions in subsections (e)(1) and (e)(2)(B) through (e)(2)(F). The generator or sample collector must apply to the Agency and provide in writing the following information:
- i) The reason why the generator or sample collector requires additional time or quantity of sample for the treatability study evaluation and the additional time or quantity needed;
 - ii) Documentation accounting for all samples of hazardous waste from the waste stream that have been sent for or undergone treatability studies, including the date each previous sample from the waste stream was shipped, the quantity of each previous shipment, the laboratory or testing facility to which it was shipped, what treatability study processes were conducted on each sample shipped, and the available results of each treatability study;
 - iii) A description of the technical modifications or change in specifications that will be evaluated and the expected results;
 - iv) If such further study is being required due to equipment or

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mechanical failure, the applicant must include information regarding the reason for the failure or breakdown and also include what procedures or equipment improvements have been made to protect against further breakdowns; and

- v) Such other information as the Agency determines is necessary.
- 4) Final Agency determinations pursuant to this subsection (e) may be appealed to the Board.
- f) Samples undergoing treatability studies at laboratories or testing facilities. Samples undergoing treatability studies and the laboratory or testing facility conducting such treatability studies (to the extent such facilities are not otherwise subject to RCRA requirements) are not subject to any requirement of this Part, or of 35 Ill. Adm. Code 702, 703, 722 through 726, and 728 or to the notification requirements of ~~section~~Section 3010 of ~~RCRA~~~~the Resource Conservation and Recovery Act~~ (42 USC 6930), provided that the requirements of subsections (f)(1) through (f)(11) are met. A mobile treatment unit may qualify as a testing facility subject to subsections (f)(1) through (f)(11). Where a group of mobile treatment units are located at the same site, the limitations specified in subsections (f)(1) through (f)(11) apply to the entire group of mobile treatment units collectively as if the group were one mobile treatment unit.
- 1) No less than 45 days before conducting treatability studies, the facility notifies the Agency in writing that it intends to conduct treatability studies under this subsection (f).
 - 2) The laboratory or testing facility conducting the treatability study has a USEPA identification number.
 - 3) No more than a total of 10,000 kg of "as received" media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, or 250 kg of other "as received" hazardous waste is subject to initiation of treatment in all treatability studies in any single day. "As received" waste refers to the waste as received in the shipment from the generator or sample collector.
 - 4) The quantity of "as received" hazardous waste stored at the facility for the

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purpose of evaluation in treatability studies does not exceed 10,000 kg, the total of which can include 10,000 kg of media contaminated with non-acute hazardous waste, 2,500 kg of media contaminated with acute hazardous waste, 1,000 kg of non-acute hazardous wastes other than contaminated media, and 1 kg of acute hazardous waste. This quantity limitation does not include treatment materials (including non-hazardous solid waste) added to "as received" hazardous waste.

- 5) No more than 90 days have elapsed since the treatability study for the sample was completed, or no more than one year (two years for treatability studies involving bioremediation) has elapsed since the generator or sample collector shipped the sample to the laboratory or testing facility, whichever date first occurs. Up to 500 kg of treated material from a particular waste stream from treatability studies may be archived for future evaluation up to five years from the date of initial receipt. Quantities of materials archived are counted against the total storage limit for the facility.
- 6) The treatability study does not involve the placement of hazardous waste on the land or open burning of hazardous waste.
- 7) The facility maintains records for three years following completion of each study that show compliance with the treatment rate limits and the storage time and quantity limits. The following specific information must be included for each treatability study conducted:
 - A) The name, address, and USEPA identification number of the generator or sample collector of each waste sample;
 - B) The date the shipment was received;
 - C) The quantity of waste accepted;
 - D) The quantity of "as received" waste in storage each day;
 - E) The date the treatment study was initiated and the amount of "as received" waste introduced to treatment each day;
 - F) The date the treatability study was concluded;

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- G) The date any unused sample or residues generated from the treatability study were returned to the generator or sample collector or, if sent to a designated facility, the name of the facility and the USEPA identification number.
- 8) The facility keeps, on-site, a copy of the treatability study contract and all shipping papers associated with the transport of treatability study samples to and from the facility for a period ending three years from the completion date of each treatability study.
 - 9) The facility prepares and submits a report to the Agency, by March 15 of each year, that includes the following information for the previous calendar year:
 - A) The name, address, and USEPA identification number of the facility conducting the treatability studies;
 - B) The types (by process) of treatability studies conducted;
 - C) The names and addresses of persons for whom studies have been conducted (including their USEPA identification numbers);
 - D) The total quantity of waste in storage each day;
 - E) The quantity and types of waste subjected to treatability studies;
 - F) When each treatability study was conducted; and
 - G) The final disposition of residues and unused sample from each treatability study.
 - 10) The facility determines whether any unused sample or residues generated by the treatability study are hazardous waste under Section 721.103 and, if so, are subject to 35 Ill. Adm. Code 702, 703, and 721 through 728, unless the residues and unused samples are returned to the sample originator under the exemption of subsection (e).
 - 11) The facility notifies the Agency by letter when the facility is no longer

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planning to conduct any treatability studies at the site.

- g) Dredged material that is not a hazardous waste. Dredged material that is subject to the requirements of a permit that has been issued under section 404 of the Federal Water Pollution Control Act (33 USC 1344) is not a hazardous waste. For the purposes of this subsection (g), the following definitions apply:

"Dredged material" has the meaning ascribed it in 40 CFR 232.2 (Definitions), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

"Permit" means any of the following:

A permit issued by the U.S. Army Corps of Engineers (Army Corps) under section 404 of the Federal Water Pollution Control Act (33 USC 1344);

A permit issued by the Army Corps under section 103 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 USC 1413); or

In the case of Army Corps civil works projects, the administrative equivalent of the permits referred to in the preceding two paragraphs of this definition, as provided for in Army Corps regulations (for example, see 33 CFR 336.1, 336.2, and 337.6).

- h) Carbon dioxide stream injected for geologic sequestration. Carbon dioxide streams that are captured and transported for purposes of injection into an underground injection well subject to the requirements for Class VI carbon sequestration injection wells, including the requirements in 35 Ill. Adm. Code 704 and 730, are not a hazardous waste, provided the following conditions are met:
- 1) Transportation of the carbon dioxide stream must be in compliance with U.S. Department of Transportation requirements, including the pipeline safety laws (chapter 601 of subtitle VIII of 49 USC, incorporated by reference in 35 Ill. Adm. Code 720.111) and regulations (49 CFR 190 through 199, incorporated by reference in 35 Ill. Adm. Code 720.111) of the U.S. Department of Transportation, and pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 USC 60105, incorporated by reference in 35 Ill. Adm. Code

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720.111, and 49 CFR 171 through 180, incorporated by reference in 35 Ill. Adm. Code 720.111, as applicable;

BOARD NOTE: The parenthetical language relating to pipeline transportation does not preclude transportation by air, water, highway, or rail that complies with U.S. Department of Transportation regulations at 49 CFR 171 through 180. For this reason, the Board has added citations of those regulations.

- 2) Injection of the carbon dioxide stream must be in compliance with the applicable requirements for Class VI carbon sequestration injection wells, including the applicable requirements in 35 Ill. Adm. Code 704 and 730;
- 3) No hazardous wastes may be mixed with, or otherwise co-injected with, the carbon dioxide stream; and
- 4) Required Certifications.
 - A) Any generator of a carbon dioxide stream, who claims that a carbon dioxide stream is excluded under this subsection (h), must have an authorized representative (as defined in 35 Ill. Adm. Code 720.110) sign a certification statement worded as follows:

"I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under 35 Ill. Adm. Code 721.104(h) has not been mixed with hazardous wastes, and I have transported the carbon dioxide stream in compliance with (or have contracted with a pipeline operator or transporter to transport the carbon dioxide stream in compliance with) U.S. Department of Transportation requirements, including the pipeline safety laws (49 USC 60101 et seq.) and regulations (49 CFR Parts 190 through 199) of the U.S. Department of Transportation, and the pipeline safety regulations adopted and administered by a state authority pursuant to a certification under 49 USC 60105, as applicable, for injection into a well subject to the requirements for the Class VI Underground Injection Control Program of the federal Safe Drinking Water Act (42 USC 300f et seq.)."

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- B) Any Class VI carbon sequestration injection well owner or operator, who claims that a carbon dioxide stream is excluded under this subsection (h), must have an authorized representative (as defined in 35 Ill. Adm. Code 720.110) sign a certification statement worded as follows:

"I certify under penalty of law that the carbon dioxide stream that I am claiming to be excluded under 35 Ill. Adm. Code 721.104(h) has not been mixed with, or otherwise co-injected with, hazardous waste at the UIC Class VI permitted facility, and that injection of the carbon dioxide stream is in compliance with the applicable requirements for UIC Class VI wells, including the applicable requirements in 35 Ill. Adm. Code 704 and 730."

- C) The signed certification statement must be kept on-site for no less than three years, and must be made available within 72 hours after a written request from the Agency or USEPA, or their designee. The signed certification statement must be renewed every year that the exclusion is claimed, by having an authorized representative (as defined in 35 Ill. Adm. Code 720.110) annually prepare and sign a new copy of the certification statement within one year after the date of the previous statement. The signed certification statement must also be readily accessible on the facility's publicly-available website (if such website exists) as a public notification with the title of "Carbon Dioxide Stream Certification" at the time the exclusion is claimed.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Standards Applicable to Generators of Hazardous Waste
- 2) Code Citation: 35 Ill. Adm. Code 722
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
722.120	Amendment
722.121	Amendment
722.124	Amendment
722.Appendix A	Repealed
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Part 722 are a single segment of the docket R19-3 rulemaking that also affects 35 Ill. Adm. Code 720, 721, and 723 through 725. The R19-3 rulemaking updates the Illinois hazardous waste rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during the first half of 2018: January 1, 2018 through June 30, 2018. To save space, a more detailed description of the subjects and issues involved in the docket R19-3 rulemaking appears in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of July 26, 2018, proposing amendments in docket R19-3, which opinion and order is available from the address below.

R19-3 further includes limited corrections and non-substantive stylistic revisions that the Board finds necessary. Some of these were included in the pending consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking, which appeared in the following issues of the *Illinois Register* as indicated in the answer to question 10 below.

Specifically, the amendments to Part 722 incorporate changes in the general hazardous waste manifest requirements. The Board makes several needed corrections in the text of the rules.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to docket R19-3. The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in docket R19-3.

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

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does 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? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
722.101	New Section	42 Ill. Reg. 10808; June 22, 2018
722.105	Renumber, Amendment	42 Ill. Reg. 10808; June 22, 2018
722.110	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.111	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.112	Repealed	42 Ill. Reg. 10808; June 22, 2018
722.113	New Section	42 Ill. Reg. 10808; June 22, 2018
722.114	New Section	42 Ill. Reg. 10808; June 22, 2018
722.115	New Section	42 Ill. Reg. 10808; June 22, 2018
722.116	New Section	42 Ill. Reg. 10808; June 22, 2018
722.117	New Section	42 Ill. Reg. 10808; June 22, 2018
722.118	New Section	42 Ill. Reg. 10808; June 22, 2018
722.120	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.121	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.123	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.124	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.132	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.134	Repealed	42 Ill. Reg. 10808; June 22, 2018
722.135	New Section	42 Ill. Reg. 10808; June 22, 2018
722.140	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.141	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.142	Amendment	42 Ill. Reg. 10808; June 22, 2018

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722.143	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.144	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.150	Repealed	42 Ill. Reg. 10808; June 22, 2018
722.151	Repealed	42 Ill. Reg. 10808; June 22, 2018
722.152	Repealed	42 Ill. Reg. 10808; June 22, 2018
722.153	Repealed	42 Ill. Reg. 10808; June 22, 2018
722.154	Repealed	42 Ill. Reg. 10808; June 22, 2018
722.155	Repealed	42 Ill. Reg. 10808; June 22, 2018
722.156	Repealed	42 Ill. Reg. 10808; June 22, 2018
722.157	Repealed	42 Ill. Reg. 10808; June 22, 2018
722.158	Repealed	42 Ill. Reg. 10808; June 22, 2018
722.160	Repealed	42 Ill. Reg. 10808; June 22, 2018
722.180	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.181	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.182	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.183	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.184	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.185	Repealed	42 Ill. Reg. 10808; June 22, 2018
722.186	Repealed	42 Ill. Reg. 10808; June 22, 2018
722.187	Repealed	42 Ill. Reg. 10808; June 22, 2018
722.189	Repealed	42 Ill. Reg. 10808; June 22, 2018
722.300	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.301	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.302	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.303	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.304	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.306	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.307	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.308	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.309	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.310	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.311	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.312	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.313	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.314	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.316	Amendment	42 Ill. Reg. 10808; June 22, 2018
722.330	New Section	42 Ill. Reg. 10808; June 22, 2018
722.331	New Section	42 Ill. Reg. 10808; June 22, 2018
722.332	New Section	42 Ill. Reg. 10808; June 22, 2018

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722.333	New Section	42 Ill. Reg. 10808; June 22, 2018
722.350	New Section	42 Ill. Reg. 10808; June 22, 2018
722.351	New Section	42 Ill. Reg. 10808; June 22, 2018
722.352	New Section	42 Ill. Reg. 10808; June 22, 2018
722.353	New Section	42 Ill. Reg. 10808; June 22, 2018
722.354	New Section	42 Ill. Reg. 10808; June 22, 2018
722.355	New Section	42 Ill. Reg. 10808; June 22, 2018
722.356	New Section	42 Ill. Reg. 10808; June 22, 2018
722.360	New Section	42 Ill. Reg. 10808; June 22, 2018
722.361	New Section	42 Ill. Reg. 10808; June 22, 2018
722.362	New Section	42 Ill. Reg. 10808; June 22, 2018
722.363	New Section	42 Ill. Reg. 10808; June 22, 2018
722.364	New Section	42 Ill. Reg. 10808; June 22, 2018
722.365	New Section	42 Ill. Reg. 10808; June 22, 2018

- 11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R19-3 and be addressed to:

Don A. Brown, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago IL 60601

Please direct inquiries to the following person and reference docket R19-3:

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

312/814-6924

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email: michael.mccambridge@illinois.gov

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

14) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 722
STANDARDS APPLICABLE TO
GENERATORS OF HAZARDOUS WASTE

SUBPART A: GENERAL

Section

722.110	Purpose, Scope, and Applicability
722.111	Hazardous Waste Determination
722.112	USEPA Identification Numbers
722.113	Electronic Reporting

SUBPART B: MANIFEST REQUIREMENTS APPLICABLE TO
SMALL AND LARGE QUANTITY GENERATORS

Section

722.120	General Requirements
722.121	Manifest Tracking Numbers, Manifest Printing, and Obtaining Manifests
722.122	Number of Copies
722.123	Use of the Manifest
722.124	Use of the Electronic Manifest
722.125	Electronic Manifest Signatures
722.127	Waste Minimization Certification

SUBPART C: PRE-TRANSPORT REQUIREMENTS APPLICABLE TO
SMALL AND LARGE QUANTITY GENERATORS

Section

722.130	Packaging
722.131	Labeling
722.132	Marking
722.133	Placarding
722.134	Accumulation Time

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SUBPART D: RECORDKEEPING AND REPORTING REQUIREMENTS
APPLICABLE TO SMALL AND LARGE QUANTITY GENERATORS

Section

722.140	Recordkeeping
722.141	Annual Reporting
722.142	Exception Reporting
722.143	Additional Reporting
722.144	Special Requirements for Generators of between 100 and 1,000 kilograms per month

SUBPART E: EXPORTS OF HAZARDOUS WASTE

722.150	Applicability
722.151	Definitions
722.152	General Requirements
722.153	Notification of Intent to Export
722.154	Special Manifest Requirements
722.155	Exception Report
722.156	Annual Reports
722.157	Recordkeeping
722.158	International Agreements

SUBPART F: IMPORTS OF HAZARDOUS WASTE

722.160	Imports of Hazardous Waste
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SUBPART G: FARMERS

Section

722.170	Farmers
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SUBPART H: TRANS-BOUNDARY SHIPMENTS OF
HAZARDOUS WASTE FOR RECOVERY OR DISPOSAL

Section

722.180	Applicability
722.181	Definitions
722.182	General Conditions

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722.183	Notification and Consent
722.184	Movement Document
722.185	Contracts
722.186	Provisions Relating to Recognized Traders
722.187	Reporting and Recordkeeping
722.189	OECD Waste Lists

SUBPART K: ALTERNATIVE REQUIREMENTS FOR HAZARDOUS WASTE
DETERMINATION AND ACCUMULATION OF UNWANTED MATERIAL FOR
LABORATORIES OWNED BY ELIGIBLE ACADEMIC ENTITIES

Section	
722.300	Definitions
722.301	Applicability
722.302	Opting into the Subpart K Requirements
722.303	Notice of Election into the Subpart K Requirements
722.304	Notice of Withdrawal from the Subpart K Requirements
722.305	Summary of the Requirements of this Subpart K
722.306	Container Standards in the Laboratory
722.307	Personnel Training
722.308	Removing Unwanted Material from the Laboratory
722.309	Hazardous Waste Determination and Removal of Unwanted Material from the Laboratory
722.310	Hazardous Waste Determination in the Laboratory
722.311	Hazardous Waste Determination at an On-Site Central Accumulation Area
722.312	Hazardous Waste Determination at an On-Site Treatment, Storage, or Disposal Facility
722.313	Laboratory Clean-Outs
722.314	Laboratory Management Plan
722.315	Unwanted Material That Is Not Solid Waste or Hazardous Waste
722.316	Non-Laboratory Hazardous Waste Generated at an Eligible Academic Entity

722.APPENDIX A Hazardous Waste Manifest ([Repealed](#))

AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg.

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2518, effective February 22, 1983; amended in R84-9 at 9 Ill. Reg. 11950, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1131, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14112, effective August 12, 1986; amended in R86-19 at 10 Ill. Reg. 20709, effective December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13555, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19392, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13129, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 452, effective December 27, 1988; amended in R89-1 at 13 Ill. Reg. 18523, effective November 13, 1989; amended in R90-10 at 14 Ill. Reg. 16653, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9644, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14562, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17696, effective November 6, 1992; amended in R93-4 at 17 Ill. Reg. 20822, effective November 22, 1993; amended in R95-6 at 19 Ill. Reg. 9935, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11236, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 603, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17950, effective September 28, 1998; amended in R00-5 at 24 Ill. Reg. 1136, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9822, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5105, effective June 20, 2000; amended in R05-2 at 29 Ill. Reg. 6312, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3138, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 871, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11927, effective July 14, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18817, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17888, effective October 14, 2011; amended in R12-7 at 36 Ill. Reg. 8773, effective June 4, 2012; amended in R13-15 at 37 Ill. Reg. 17763, effective October 24, 2013; amended in R15-1 at 39 Ill. Reg. 1700, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11717, effective August 9, 2016; recodified at 42 Ill. Reg. 11553; amended in R19-2 at 42 Ill. Reg. _____, effective _____.

SUBPART B: MANIFEST REQUIREMENTS APPLICABLE TO
SMALL AND LARGE QUANTITY GENERATORS

Section 722.120 General Requirements

- a) Manifest form required.
 - 1) A generator that transports hazardous waste or offers a hazardous waste for transportation for off-site treatment, storage, or disposal or a treatment, storage, or disposal facility that offers for transport a rejected load of hazardous waste must prepare a manifest on USEPA Form 8700-22 (and, if necessary, on USEPA Form 8700-22A) according to the instructions

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included in the ~~appendix to 40 CFR 262~~ (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A ~~and Their Instructions~~)), incorporated by reference in 35 Ill. Adm. Code 720.111(b).

- 2) This subsection (a)(2) corresponds with 40 CFR 262.20(a)(2), an applicability statement that became obsolete for the purposes of the Illinois rules on September 6, 2006. This statement maintains structural parity with the corresponding federal regulations.
- 3) E-Manifest. In lieu of using the manifest form specified in subsection (a)(1) ~~of this Section~~, a person required to prepare a manifest under subsection (a)(1) ~~of this Section~~ may prepare and use an e-Manifest, provided that the person complies with the following requirements:
 - A) Section 722.124 for use of e-Manifests; and
 - B) 40 CFR 3.10, incorporated by reference in 35 Ill. Adm. Code 720.111, for the reporting of electronic documents to USEPA.
- b) A generator must designate on the manifest one receiving facility that is permitted to handle the waste described on the manifest.
- c) A generator may also designate on the manifest one alternate receiving facility that is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.
- d) If the transporter is unable to deliver the hazardous waste to the designated receiving facility or the alternate facility, the generator must either designate another receiving facility or instruct the transporter to return the waste.
- e) The requirements of this Subpart B do not apply to hazardous waste produced by generators of greater than 100 kg but less than 1,000 kg in a calendar month where the following conditions are fulfilled:
 - 1) The waste is reclaimed under a contractual agreement that specifies the type of waste and frequency of shipments;
 - 2) The vehicle used to transport the waste to the recycling facility and to deliver regenerated material back to the generator is owned and operated

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by the reclaimer of the waste; and

- 3) The generator maintains a copy of the reclamation agreement in his files for a period of at least three years after termination or expiration of the agreement.
- f) The requirements of this Subpart B and Section 722.132(b) do not apply to the transport of hazardous wastes on a public or private right-of-way within or along the border of contiguous property under the control of the same person, even if such contiguous property is divided by a public or private right-of-way. Notwithstanding 35 Ill. Adm. Code 723.110(a), the generator or transporter must comply with the requirements for transporters set forth in 35 Ill. Adm. Code 723.130 and 723.131 in the event of a discharge of hazardous waste on a public or private right-of-way.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 722.121 Manifest Tracking Numbers, Manifest Printing, and Obtaining Manifests

- a) USEPA approval of manifest.
 - 1) A registrant may not print the manifest or have the manifest printed for use or distribution, unless it has received approval from the USEPA Director of the Office of Resource Conservation and Recovery to do so pursuant to 40 CFR 262.21(c) and (e), as described in subsections (c) and (e) ~~of this Section~~.
 - 2) The approved registrant is responsible for ensuring that the organizations identified in its application are in compliance with the procedures of its approved application and the requirements of 40 CFR 262.21, as described in this Section. The registrant is responsible for assigning manifest tracking numbers to its manifests.
- b) A registrant must submit an initial application to the USEPA Director of the Office of Resource Conservation and Recovery that contains the following information:
 - 1) The name and mailing address of registrant;

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- 2) The name, telephone number, and email address of contact person;
- 3) A brief description of registrant's government or business activity;
- 4) The USEPA identification number of the registrant, if applicable;
- 5) A description of the scope of the operations that the registrant plans to undertake in printing, distributing, and using its manifests, including the following:
 - A) A description of the printing operation. The description should include an explanation of whether the registrant intends to print its manifests in-house (i.e., using its own printing establishments) or through a separate (i.e., unaffiliated) printing company. If the registrant intends to use a separate printing company to print the manifest on its behalf, the application must identify this printing company and discuss how the registrant will oversee the company. If this includes the use of intermediaries (e.g., prime and subcontractor relationships), the role of each must be discussed. The application must provide the name and mailing address of each company. It also must provide the name and telephone number of the contact person at each company;
 - B) A description of how the registrant will ensure that its organization and unaffiliated companies, if any, comply with the requirements of 40 CFR 262.21, as described in this Section. The application must discuss how the registrant will ensure that a unique manifest tracking number will be preprinted on each manifest. The application must describe the internal control procedures to be followed by the registrant and unaffiliated companies to ensure that numbers are tightly controlled and remain unique. In particular, the application must describe how the registrant will assign manifest tracking numbers to its manifests. If computer systems or other infrastructure will be used to maintain, track, or assign numbers, these should be indicated. The application must also indicate how the printer will pre-print a unique number on each form (e.g., crash or press numbering). The application also must explain the other quality procedures to be followed by each establishment and printing company to ensure that all required

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print specifications are consistently achieved and that printing violations are identified and corrected at the earliest practicable time; and

- C) An indication of whether the registrant intends to use the manifests for its own business operations or to distribute the manifests to a separate company or to the general public (e.g., for purchase);
 - 6) A brief description of the qualifications of the company that will print the manifest. The registrant may use readily available information to do so (e.g., corporate brochures, product samples, customer references, documentation of ISO certification), so long as such information pertains to the establishments or company being proposed to print the manifest;
 - 7) Proposed unique three-letter manifest tracking number suffix. If the registrant is approved to print the manifest, the registrant must use this suffix to pre-print a unique manifest tracking number on each manifest; and
 - 8) A signed certification by a duly authorized employee of the registrant that the organizations and companies in its application will comply with the procedures of its approved application and the requirements of 40 CFR 262.21, as described in this Section and that it will notify the Agency and the USEPA Director of the Office of Resource Conservation and Recovery of any duplicated manifest tracking numbers on manifests that have been used or distributed to other parties as soon as this becomes known.
- c) USEPA will review the application submitted under subsection (b) ~~of this Section~~ and either approve it or request additional information or modification before approving it.
 - d) Submission of document samples.
 - 1) Upon USEPA approval of the application pursuant to 40 CFR 262.21(c), as described in subsection (c) ~~of this Section~~, USEPA will provide the registrant an electronic file of the manifest, continuation sheet, and manifest instructions and ask the registrant to submit three fully assembled manifests and continuation sheet samples, except as noted in 40 CFR 262.21(d)(3), as described in subsection (d)(3) ~~of this Section~~. The

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registrant's samples must meet all of the specifications in 40 CFR 262.21(f), as described in subsection (f) ~~of this Section~~, and be printed by the company that will print the manifest as identified in the application approved by USEPA pursuant to 40 CFR 262.21(c), as described in subsection (c) ~~of this Section~~.

- 2) The registrant must submit a description of the manifest samples as follows:
 - A) The paper type (i.e., manufacturer and grade of the manifest paper);
 - B) The paper weight of each copy;
 - C) The ink color of the manifest's instructions. If screening of the ink was used, the registrant must indicate the extent of the screening; and
 - D) The method of binding the copies.
 - 3) The registrant need not submit samples of the continuation sheet if it will print its continuation sheet using the same paper type, paper weight of each copy, ink color of the instructions, and binding method as its manifest form samples.
- e) USEPA will evaluate the forms and either approve the registrant to print them as proposed or request additional information or modification to them before approval. USEPA will notify the registrant of its decision by mail. The registrant cannot use or distribute its forms until USEPA approves them. An approved registrant must print the manifest and continuation sheet according to its application approved by USEPA pursuant to 40 CFR 262.21(c), as described in subsection (e) ~~of this Section~~ and the manifest specifications in 40 CFR 262.21(f), as described in subsection (f) ~~of this Section~~. It also must print the forms according to the paper type, paper weight, ink color of the manifest instructions and binding method of its approved forms.
 - f) Paper manifests and continuation sheets must be printed according to the following specifications:

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- 1) The manifest and continuation sheet must be printed with the exact format and appearance as USEPA Forms 8700-22 and 8700-22A, respectively. However, information required to complete the manifest may be preprinted on the manifest form.
- 2) A unique manifest tracking number assigned in accordance with a numbering system approved by USEPA must be pre-printed in Item 4 of the manifest. The tracking number must consist of a unique three-letter suffix following nine digits.
- 3) The manifest and continuation sheet must be printed on 8½ x 11-inch white paper, excluding common stubs (e.g., top- or side-bound stubs). The paper must be durable enough to withstand normal use.
- 4) The manifest and continuation sheet must be printed in black ink that can be legibly photocopied, scanned, or faxed, except that the marginal words indicating copy distribution must be printed with a distinct ink color or with another method (e.g., white text against black background in text box or black text against grey background in text box) that clearly distinguishes the copy distribution notations from the other text and data entries on the form.
- 5) The manifest and continuation sheet must be printed as ~~five-copy~~six-copy forms. Copy-to-copy registration must be exact within 1/32 inch. Handwritten and typed impressions on the form must be legible on all ~~five~~six copies. Copies must be bound together by one or more common stubs that reasonably ensure that they will not become detached inadvertently during normal use.
- 6) Each copy of the manifest and continuation sheet must indicate how the copy must be distributed, as follows:
 - A) Page 1 (top copy): "Designated facility to EPA's e-Manifest system~~destination State (if required)~~:".
 - B) Page 2: "Designated facility to generator~~State (if required)~~:".
 - C) Page 3: "Designated facility copy to generator:".

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- D) Page 4: "~~Transporter Designated facility's copy~~".
- E) Page 5 (bottom copy): "~~Generator's initial~~Transporter's copy".
- F) ~~Page 6 (bottom copy): "Generator's initial copy."~~
- 7) The instructions for revision 12-17 of the manifest form (USEPA Form 8700-22) and the manifest continuation sheet (USEPA Form 8700-22A), must be printed in accordance with the content that is currently approved under OMB Control Number 2050-0039 and published to the e-Manifest program's website, incorporated by reference in 35 Ill. Adm. Code 720.111(b). The instructions in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), incorporated by reference in 35 Ill. Adm. Code 720.111(b), must appear legibly on the back of the copies of the manifest and continuation sheet as provided in 40 CFR 262.21(f), as described in this subsection (f). The instructions must not be visible through the front of the copies when photocopied or faxed.
- A) Manifest Form 8700-22.
- i) The "Instructions for Generators" on Copy 56;
 - ii) The "Instructions for International Shipment Block" and "Instructions for Transporters" on Copy 45; and
 - iii) The "Instructions for Treatment, Storage, and Disposal Facilities" on Copy 34.
- B) Manifest Form 8700-22A.
- i) The "Instructions for Generators" on Copy 56;
 - ii) The "Instructions for Transporters" on Copy 45; and
 - iii) The "Instructions for Treatment, Storage, and Disposal Facilities" on Copy 34.

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- 8) The designated facility copy of each manifest and continuation sheet must include in the bottom margin the following warning in prominent font: "If you received this manifest, you have responsibilities under the e-Manifest Act. See instructions on reverse side."
- g) Use of approved manifests.
- 1) A generator may use manifests printed by any source so long as the source of the printed form has received approval from USEPA to print the manifest pursuant to 40 CFR 262.21(c) and (e), as described in subsections (c) and (e) ~~of this Section~~. A registered source may be any of the following:
- A) A state agency;
 - B) A commercial printer;
 - C) A hazardous waste generator, transporter, or treatment, storage, or disposal facility; or
 - D) A hazardous waste broker or other preparer who prepares or arranges shipments of hazardous waste for transportation.
- BOARD NOTE: USEPA maintains a listing of registered sources at <https://www.epa.gov/hwgenerators/approved-registered-printers-epas-manifest-registry>.
- 2) The waste generator must determine whether the generator state or the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under these states' authorized programs. The generator must also determine whether the consignment state or generator state requires the generator to submit any copies of the manifest to these states. In cases where the generator must supply copies to either the generator's state or the consignment state, the generator is responsible for supplying legible photocopies of the manifest to these states.
- h) Manifest revisions.

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- 1) If an approved registrant would like to update any of the information provided in its application approved by USEPA pursuant to 40 CFR 262.21(c), as described in subsection (c) ~~of this Section~~ (e.g., to update a company phone number or name of contact person), the registrant must revise the application and submit it to the USEPA Director of the Office of Resource Conservation and Recovery, along with an indication or explanation of the update, as soon as practicable after the change occurs. The USEPA will either approve or deny the revision. If USEPA denies the revision, it will explain the reasons for the denial, and it will contact the registrant and request further modification before approval.
 - 2) If the registrant would like a new tracking number suffix, the registrant must submit a proposed suffix to the USEPA Director of the Office of Resource Conservation and Recovery, along with the reason for requesting it. USEPA will either approve the suffix or deny the suffix and provide an explanation why it is not acceptable.
 - 3) If a registrant would like to change the paper type, paper weight, ink color of the manifest instructions, or binding method of its manifest or continuation sheet subsequent to approval by USEPA pursuant to 40 CFR 262.21(e), as described in this subsection (e) ~~of this Section~~, then the registrant must submit three samples of the revised form for USEPA review and approval. If the approved registrant would like to use a new printer, the registrant must submit three manifest samples printed by the new printer, along with a brief description of the printer's qualifications to print the manifest. USEPA will evaluate the manifests and either approve the registrant to print the forms as proposed or request additional information or modification to them before approval. USEPA will notify the registrant of its decision by mail. The registrant cannot use or distribute its revised forms until USEPA approves them.
- i) If, subsequent to its approval by USEPA pursuant to 40 CFR 262.21(e), as described in subsection (e) ~~of this Section~~, a registrant typesets its manifest or continuation sheet instead of using the electronic file of the forms provided by USEPA, it must submit three samples of the manifest or continuation sheet to the registry for approval. USEPA will evaluate the manifests or continuation sheets and either approve the registrant to print them as proposed or request additional information or modification to them before approval. USEPA will notify the

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registrant of its decision by mail. The registrant cannot use or distribute its typeset forms until USEPA approves them.

- j) USEPA may exempt a registrant from the requirement to submit form samples pursuant to 40 CFR 262.21(d) or (h)(3), as described in subsection (d) or (h)(3) ~~of this Section~~, if USEPA is persuaded that a separate review of the registrant's forms would serve little purpose in informing an approval decision (e.g., a registrant certifies that it will print the manifest using the same paper type, paper weight, ink color of the instructions, and binding method of the form samples approved for some other registrant). A registrant may request an exemption from USEPA by indicating why an exemption is warranted.
- k) An approved registrant must notify USEPA by phone or email as soon as it becomes aware that it has duplicated tracking numbers on any manifests that have been used or distributed to other parties.
- l) If, subsequent to approval of a registrant by USEPA pursuant to 40 CFR 262.21(e), as described in subsection (e) ~~of this Section~~, USEPA becomes aware that the approved paper type, paper weight, ink color of the instructions, or binding method of the registrant's form is unsatisfactory, USEPA will contact the registrant and require modifications to the form.
- m) Effects of non-compliance.
 - 1) USEPA may suspend and, if necessary, revoke printing privileges if we find that the registrant has done either of the following:
 - A) The registrant has used or distributed forms that deviate from its approved form samples in regard to paper weight, paper type, ink color of the instructions, or binding method; or
 - B) The registrant exhibits a continuing pattern of behavior in using or distributing manifests that contain duplicate manifest tracking numbers.
 - 2) USEPA will send a warning letter to the registrant that specifies the date by which it must come into compliance with the requirements. If the registrant does not come in compliance by the specified date, USEPA will send a second letter notifying the registrant that USEPA has suspended or

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revoked its printing privileges. An approved registrant must provide information on its printing activities to the Agency and USEPA if requested.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 722.124 Use of the Electronic Manifest

- a) Legal equivalence to paper manifests. E-Manifests that are obtained, completed, and transmitted in accordance with Section 722.120(a)(3), and used in accordance with this Section in lieu of USEPA Forms 8700-22 and 8700-22A are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in 35 Ill. Adm. Code 720 through 728 to obtain, complete, sign, provide, use, or retain a manifest.
- 1) Any requirement in 35 Ill. Adm. Code 721 through 728 to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of Section 722.125.
 - 2) Any requirement in 35 Ill. Adm. Code 721 through 728 to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when an e-Manifest is transmitted to the other person by submission to the e-Manifest System.
 - 3) Any requirement in any provision of 35 Ill. Adm. Code 721 through 728 for a generator to keep or retain a copy of each manifest is satisfied by retention of a signed e-Manifest in the generator's account on the national e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or authorized Agency inspector.
 - 4) No generator may be held liable for the inability to produce an e-Manifest for inspection under this Section if the generator can demonstrate that the inability to produce the e-Manifest is due exclusively to a technical difficulty with the e-Manifest System for which the generator bears no responsibility.

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BOARD NOTE: The Board has rendered the language "and requirement in these regulations" in corresponding 40 CFR 722.124(a) and (a)(1) through (a)(3) as "any requirement in any provision of 35 Ill. Adm. Code 720 through 728" in the appropriate segments of this subsection (a). The Board intends that use of the e-Manifest System have the same effect in Illinois as it would where the federal requirements directly apply.

- b) A generator may participate in the e-Manifest System either by accessing the e-Manifest System from its own electronic equipment, or by accessing the e-Manifest System from portable equipment brought to the generator's site by the transporter who accepts the hazardous waste shipment from the generator for off-site transportation.
- c) Restriction on use of e-Manifests. A generator may ~~use~~prepare an e-Manifest for the tracking of ~~hazardous~~ waste shipments involving any ~~RCRA~~ hazardous waste only if it is known at the time the manifest is originated that all waste handlers named on the manifest participate in the use of the electronic manifest, except that a generator may sign by hand and retain a paper copy of the manifest signed by hand by the initial transporter, in lieu of executing the generator copy electronically, thereby enabling the transporter and subsequent waste handlers to execute the remainder of the manifest copies electronically ~~Manifest System.~~
- d) Requirement for one printed copy. To the extent the hazardous materials regulation on shipping papers for carriage by public highway requires shippers of hazardous materials to supply a paper document for compliance with 49 CFR 177.817, incorporated by reference in 35 Ill. Adm. Code 720.111, a generator originating an e-Manifest must also provide the initial transporter with one printed copy of the e-Manifest.
- e) Special procedures when e-Manifest is unavailable. If a generator has prepared an e-Manifest for a hazardous waste shipment, but the e-Manifest System becomes unavailable for any reason prior to the time that the initial transporter has signed electronically to acknowledge the receipt of the hazardous waste from the generator, the generator must obtain and complete a paper manifest and if necessary, a continuation sheet (USEPA Forms 8700-22 and 8700-22A) in accordance with the manifest instructions ~~referenced in Appendix A to this Part,~~ and use these paper forms from this point forward in accordance with the requirements of Section 722.123.

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- f) Special procedures for electronic signature methods undergoing tests. If a generator has prepared an e-Manifest for a hazardous waste shipment, and signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, the generator must also sign with an ink signature the generator or offeror certification on the printed copy of the manifest provided under subsection (d) ~~of this Section~~.
- g) This subsection (g) corresponds with 40 CFR 262.24(g), which USEPA has removed and marked "reserved". This statement maintains consistency with the corresponding federal rules. ~~Imposition of user fee. A generator that is a user of the e-Manifest System may be assessed a user fee by USEPA for the origination of each e-Manifest. USEPA shall maintain and update from time to time the current schedule of e-Manifest user fees, which shall be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System.~~
- ~~BOARD NOTE: USEPA stated in corresponding 40 CFR 262.24(g) that it would publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.~~
- h) Post-Receipt Manifest Data Corrections. After a facility has certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. A generator may participate electronically in the post-receipt data corrections process by following the process described in 35 Ill. Adm. Code 724.171(I), which applies to corrections made to either paper or electronic manifest records.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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Section 722.APPENDIX A Hazardous Waste Manifest (Repealed)

~~The Agency must prepare manifest forms based on the appendix to federal 40 CFR 262, incorporated by reference in 35 Ill. Adm. Code 720.111(b).~~

(Source: Repealed at 42 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Standards Applicable to Transporters of Hazardous Waste
- 2) Code Citation: 35 Ill. Adm. Code 723
- 3)

<u>Section Numbers</u> :	<u>Proposed Actions</u> :
723.120	Amendment
723.121	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Part 723 are a single segment of the docket R19-3 rulemaking that also affects 35 Ill. Adm. Code 720 through 722, 724, and 725. The R19-3 rulemaking updates the Illinois hazardous waste rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during the first half of 2018: January 1, 2018 through June 30, 2018. To save space, a more detailed description of the subjects and issues involved in the docket R19-3 rulemaking appears in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of July 26, 2018, proposing amendments in docket R19-3, which opinion and order is available from the address below.

R19-3 further includes limited corrections and non-substantive stylistic revisions that the Board finds necessary. Some of these were included in the pending consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking, which appeared in the following issues of the *Illinois Register* as indicated in the answer to question 10 below.

Specifically, the amendments to Part 723 incorporate changes in the general hazardous waste manifest requirements. The Board makes several needed corrections in the text of the rules.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to docket R19-3. The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in docket R19-3.

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

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does 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? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
723.110	Amendment	42 Ill. Reg. 10999; June 22, 2018
723.112	Amendment	42 Ill. Reg. 10999; June 22, 2018
723.120	Amendment	42 Ill. Reg. 10999; June 22, 2018
723.121	Amendment	42 Ill. Reg. 10999; June 22, 2018
723.125	Amendment	42 Ill. Reg. 10999; June 22, 2018

- 11) Statement of Statewide Policy Objectives: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking:
The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R19-3 and be addressed to:

Don A. Brown, Clerk
 Illinois Pollution Control Board
 State of Illinois Center, Suite 11-500
 100 W. Randolph St.
 Chicago IL 60601

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Please direct inquiries to the following person and reference docket R19-3:

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

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

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

14) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 723
STANDARDS APPLICABLE TO
TRANSPORTERS OF HAZARDOUS WASTE

SUBPART A: GENERAL

Section	Scope
723.110	Scope
723.111	USEPA Identification Number
723.112	Transfer Facility Requirements
723.113	Electronic Reporting

SUBPART B: COMPLIANCE WITH THE MANIFEST
SYSTEM AND RECORDKEEPING

Section	Scope
723.120	The Manifest System
723.121	Compliance with the Manifest
723.122	Recordkeeping
723.125	Electronic Manifest Signatures

SUBPART C: HAZARDOUS WASTE DISCHARGES

Section	Scope
723.130	Immediate Action
723.131	Discharge Cleanup

AUTHORITY: Implementing Section 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4 and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R84-9 at 9 Ill. Reg. 11961, effective July 24, 1985; amended in R86-19 at 10 Ill. Reg. 20718, effective December 2, 1986; amended in R86-46 at 11 Ill. Reg. 13570, effective August 4, 1987; amended in R87-5 at

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11 Ill. Reg. 19412, effective November 12, 1987; amended in R95-6 at 19 Ill. Reg. 9945, effective June 27, 1995; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 589, effective December 16, 1997; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17965, effective September 28, 1998; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3180, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 881, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 11969, effective July 14, 2008; amended in R11-2/R11-16 at 35 Ill. Reg. 17959, effective October 14, 2011; amended in R15-1 at 39 Ill. Reg. 1711, effective January 12, 2015; amended in R19-2 at 42 Ill. Reg. _____, effective _____.

SUBPART B: COMPLIANCE WITH THE MANIFEST
SYSTEM AND RECORDKEEPING

Section 723.120 The Manifest System

- a) No acceptance without a manifest.
 - 1) Manifest requirement. A transporter may not accept hazardous waste from a generator unless the transporter is also provided with a manifest form (USEPA Form 8700-22, and if necessary, USEPA Form 8700-22A) signed in accordance with the provisions of 35 Ill. Adm. Code 723.123, or is provided with an e-Manifest that is obtained, completed, and transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3) and signed with a valid and enforceable electronic signature as described in 35 Ill. Adm. Code 722.125.
 - 2) Exports.
 - A) In the case of exports other than those subject to Subpart H of 35 Ill. Adm. Code 722, a transporter may not accept such waste from a primary exporter or other person if the transporter knows that the shipment does not conform to the USEPA Acknowledgement of Consent; and unless, in addition to a manifest signed by the generator in accordance with this Section, the transporter must also be provided with a USEPA Acknowledgement of Consent that, except for shipment by rail, is attached to the manifest (or shipping paper for exports by water (bulk shipment)).
 - B) For exports of hazardous waste subject to Subpart H of 35 Ill. Adm. Code 722, a transporter may not accept hazardous waste

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without a tracking document that includes all information required by 35 Ill. Adm. Code 722.184.

- 3) This subsection (a)(3) corresponds with 40 CFR 263.20(a)(3), an applicability statement that became obsolete for the purposes of the Illinois rules on September 6, 2006. This statement maintains structural parity with the corresponding federal regulations.
- 4) Use of e-Manifest – legal equivalence to paper forms for participating transporters. E-Manifests that are obtained, completed, and transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance with this Section in lieu of USEPA Forms 8700-22 and 8700-22A, are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in these regulations to obtain, complete, sign, carry, provide, give, use, or retain a manifest.
 - A) Any requirement in 35 Ill. Adm. Code 720 through 728 to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 35 Ill. Adm. Code 722.125.
 - B) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide, send, forward, or return to another person a copy of the manifest is satisfied when a copy of an e-Manifest is transmitted to the other person by submission to the e-Manifest System.
 - C) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an e-Manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the waste shipment, except that, to the extent that the hazardous materials regulation on shipping papers for carriage by public highway requires transporters of hazardous materials to carry a paper document to comply with 49 CFR 177.817, incorporated by reference in 35 Ill. Adm. Code 720.111, a hazardous waste transporter must carry one printed copy of the e-Manifest on the transport vehicle.

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- D) Any requirement in 35 Ill. Adm. Code 720 through 728 for a transporter to keep or retain a copy of a manifest is satisfied by the retention of an e-Manifest in the transporter's account on the e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or authorized state inspector.
- E) No transporter may be held liable for the inability to produce an e-Manifest for inspection under this Section if that transporter can demonstrate that the inability to produce the e-Manifest is exclusively due to a technical difficulty with the USEPA e-Manifest System for which the transporter bears no responsibility.

BOARD NOTE: The Board has rendered the language "any requirement in these regulations" in corresponding 40 CFR 723.20(a)(4)(A) through (a)(4)(D) as "any requirement in any provision of 35 Ill. Adm. Code 720 through 728" in the appropriate segments of this subsection (a)(4).

- 5) A transporter may participate in the e-Manifest System either by accessing the e-Manifest System from the transporter's own electronic equipment, or by accessing the e-Manifest System from the equipment provided by a participating generator, by another transporter, or by a designated facility.
- 6) Special procedures when e-Manifest is not available. If after a manifest has been originated electronically and signed electronically by the initial transporter, and the e-Manifest System should become unavailable for any reason, then the following requirements apply:
- A) The transporter in possession of the hazardous waste when the e-Manifest becomes unavailable must reproduce sufficient copies of the printed manifest that is carried on the transport vehicle pursuant to subsection (a)(4)(C)(i) ~~of this Section~~, or obtain and complete another paper manifest for this purpose. The transporter must reproduce sufficient copies to provide the transporter and all subsequent waste handlers with a copy for their files, plus two additional copies that will be delivered to the designated facility with the hazardous waste.

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- B) On each printed copy, the transporter must include a notation in the Special Handling and Additional Description space (Item 14) that the paper manifest is a replacement manifest for a manifest originated in the e-Manifest System, must include (if not pre-printed on the replacement manifest) the manifest tracking number of the e-Manifest that is replaced by the paper manifest, and must also include a brief explanation why the e-Manifest was not available for completing the tracking of the shipment electronically.
- C) A transporter signing a replacement manifest to acknowledge receipt of the hazardous waste must ensure that each paper copy is individually signed and that a legible handwritten signature appears on each copy.
- D) From the point at which the e-Manifest is no longer available for tracking the waste shipment, the paper replacement manifest copies must be carried, signed, retained as records, and given to a subsequent transporter or to the designated facility, following the instructions, procedures, and requirements that apply to the use of all other paper manifests.
- 7) Special procedures for electronic signature methods undergoing tests. If a transporter using an e-Manifest signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, then the transporter must sign the e-Manifest electronically and also sign with an ink signature the transporter acknowledgement of receipt of materials on the printed copy of the manifest that is carried on the vehicle in accordance with subsection (a)(4)(C)(i) ~~of this Section~~. This printed copy bearing the generator's and transporter's ink signatures must also be presented by the transporter to the designated facility to sign in ink to indicate the receipt of the waste materials or to indicate discrepancies. After the owner or operator of the designated facility has signed this printed manifest copy with its ink signature, the printed manifest copy must be delivered to the designated facility with the waste materials.

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- 8) This subsection (a)(8) corresponds with 40 CFR 263.20(a)(8), which USEPA has removed and marked "reserved". This statement maintains consistency with the corresponding federal rules. Imposition of user fee for e-Manifest use. A transporter that is a user of the e-Manifest System may be assessed a user fee by USEPA for the origination or processing of each e-Manifest. USEPA has stated that it will maintain and update from time to time the current schedule of e-Manifest user fees, which must be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System. USEPA has stated that it will publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.
- 9) Post-Receipt Manifest Data Corrections. After a facility has certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (e.g., waste handler) named on the manifest. A transporter may participate electronically in the post-receipt data corrections process by following the process described in 35 Ill. Adm. Code 724.171(l), which applies to corrections made to either paper or electronic manifest records.
- b) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property.
- c) The transporter must ensure that the manifest accompanies the hazardous waste. In the case of exports, the transporter must ensure that a copy of the USEPA Acknowledgement of Consent also accompanies the hazardous waste.
- d) A transporter that delivers a hazardous waste to another transporter or to the designated facility must do the following:
- 1) It must obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest;
 - 2) It must retain one copy of the manifest in accordance with Section 723.122; and

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- 3) It must give the remaining copies of the manifest to the accepting transporter or designated facility.
- e) Subsections (c), (d), and (f) do not apply to water (bulk shipment) transporters if all of the following are true:
- 1) The hazardous waste is delivered by water (bulk shipment) to the designated facility;
 - 2) A shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification and signatures) accompanies the hazardous waste and, for exports, a USEPA Acknowledgement of Consent accompanies the hazardous waste;
 - 3) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator designated facility on either the manifest or the shipping paper;
 - 4) The person delivering the hazardous waste to the initial water (bulk shipment) transporter obtains the date of delivery and signature of the water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and
 - 5) A copy of the shipping paper or manifest is retained by each water (bulk shipment) transporter in accordance with Section 723.122.
- f) For shipments involving rail transportation, the following requirements apply instead of subsections (c), (d), and (e), which do not apply:
- 1) When accepting hazardous waste from a non-rail transporter, the initial rail transporter must do the following:
 - A) It must sign and date the manifest acknowledging acceptance of the hazardous waste;
 - B) It must return a signed copy of the manifest to the non-rail transporter;

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- C) It must forward at least three copies of the manifest to the following entities:
 - i) The next non-rail transporter, if any;
 - ii) The designated facility, if the shipment is delivered to that facility by rail; or
 - iii) The last rail transporter designated to handle the waste in the United States;
 - D) It must retain one copy of the manifest and rail shipping paper in accordance with Section 723.122.
- 2) Rail transporters must ensure that a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification and signatures) and, for exports, a USEPA Acknowledgement of Consent accompanies the hazardous waste at all times.

BOARD NOTE: Intermediate rail transporters are not required to sign either the manifest or shipping paper.

- 3) When delivering hazardous waste to the designated facility, a rail transporter must do the following:
- A) It must obtain the date of delivery and handwritten signature of the owner or operator of the designated facility on the manifest or the shipping paper (if the manifest has not been received by the facility); and
 - B) It must retain a copy of the manifest or signed shipping paper in accordance with Section 723.122.
- 4) When delivering hazardous waste to a non-rail transporter a rail transporter must do the following:
- A) It must obtain the date of delivery and the handwritten signature of the next non-rail transporter on the manifest; and

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- B) It must retain a copy of the manifest in accordance with Section 723.122.
- 5) Before accepting hazardous waste from a rail transporter, a non-rail transporter must sign and date the manifest and provide a copy to the rail transporter.
- g) Transporters that transport hazardous waste out of the United States must do the following:
- 1) Sign and date the manifest in the International Shipments block to indicate the date that the hazardous waste left the United States;
 - 2) Retain one copy in accordance with Section 723.122(d);
 - 3) Return a signed copy of the manifest to the generator; and
 - 4) Give a copy of the manifest to a U.S. Customs official at the point of departure from the United States.
- h) A transporter transporting hazardous waste from a generator that generates greater than 100 ~~kg (220 lbs)~~kilograms but less than 1,000 ~~kg (2,200 lbs)~~kilograms of hazardous waste in a calendar month need not comply with this Section or Section 723.122 provided that:
- 1) The waste is being transported pursuant to a reclamation agreement provided for in 35 Ill. Adm. Code 722.120(e);
 - 2) The transporter records, on a log or shipping paper, the following information for each shipment:
 - A) The name, address and USEPA Identification Number (35 Ill. Adm. Code 722.112) of the generator of the waste;
 - B) The quantity of waste accepted;
 - C) All shipping information required by the United States Department of Transportation;

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- D) The date the waste is accepted; and
- 3) The transporter carries this record when transporting waste to the reclamation facility; and
- 4) The transporter retains these records for a period of at least three years after termination or expiration of the agreement.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 723.121 Compliance with the Manifest

- a) Except as provided in subsection (b), theThe transporter must deliver the entire quantity of hazardous waste which ithe has accepted from a generator or a transporter to:
 - 1) The designated facility listed on the manifest; or
 - 2) The alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery; or
 - 3) The next designated transporter; or
 - 4) The place outside the United States designated by the generator.
- b) Non-Delivery of the Hazardous Waste~~Non-delivery of the hazardous waste.~~
 - 1) Emergency Condition. If the hazardous waste cannot be delivered in accordance with subsection (a)~~(1), (a)(2), or (a)(4) of this Section~~ because of an emergency condition other than rejection of the waste by the designated facility or alternate designated facility, then the transporter must contact the generator for further instructions~~directions~~ and must revise the manifest according to the generator's instructions.
 - 2) Transporters Without Generator-Agency Authority. If the hazardous waste is not delivered to the next designated transporter in accordance with subsection (a)(3), and the current transporter is without contractual

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authorization from the generator to act as the generator's agent with respect to transporter additions or substitutions, then the current transporter must contact the generator for further instructions prior to making any revisions to the transporter designations on the manifest. The current transporter may thereafter make such revisions if the conditions of either subsections (b)(2)(A) and (b)(2)(C) or subsections (b)(2)(B) and (b)(2)(C) are true:

A) The hazardous waste is not delivered in accordance with subsection (a)(3) because of an emergency condition; or

B) The current transporter proposes to change the transporters designated on the manifest by the generator, or to add a new transporter during transportation, to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety; and

C) The generator authorizes the revision.

3) Transporters with Generator-Agency Authority. If the hazardous waste is not delivered to the next designated transporter in accordance with subsection (a)(3), and the current transporter has authorization from the generator to act as the generator's agent, then the current transporter may change the transporters designated on the manifest, or add a new transporter, during transportation without the generator's prior, explicit approval, provided that all of the following conditions are true:

A) The current transporter is authorized by a contractual provision that provides explicit agency authority for the transporter to make such transporter changes on behalf of the generator;

B) The transporter enters, in Item 14 of each manifest for which such a change is made, the following statement of its generator-agency authority: "Contract retained by generator confers agency authority on initial transporter to add or substitute additional transporters on generator's behalf"; and

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- C) The change in designated transporters is necessary to respond to an emergency, or for purposes of transportation efficiency, convenience, or safety.
- 4) Generator Liability. The grant by a generator of authority to a transporter to act as the agent of the generator with respect to changes to transporter designations under subsection (b)(3) does not affect the generator's liability or responsibility for complying with any applicable requirement under 35 Ill. Adm. Code, or grant any additional authority to the transporter to act on behalf of the generator.
- c2) If hazardous waste is rejected by the designated facility while the transporter is on the premises of the designated facility, then the transporter must obtain the following, as appropriate:
- 1A) For a partial load rejection or for regulated quantities of container residues: a copy of the original manifest that includes the facility's date and signature, the manifest tracking number of the new manifest that will accompany the shipment, and a description of the partial rejection or container residue in the discrepancy block of the original manifest. The transporter must retain a copy of this manifest in accordance with Section 723.122 and give the remaining copies of the original manifest to the rejecting designated facility. If the transporter is forwarding the rejected part of the shipment or a regulated container residue to an alternate facility or returning it to the generator, the transporter must obtain a new manifest to accompany the shipment, and the new manifest must include all of the information required in 35 Ill. Adm. Code 724.172(e)(1) through (e)(6) or (f)(1) through (f)(6) or 725.172(e)(1) through (e)(6) or (f)(1) through (f)(6).
- 2B) For a full load rejection that will be taken back by the transporter: a copy of the original manifest that includes the rejecting facility's signature and date attesting to the rejection, the description of the rejection in the discrepancy block of the manifest, and the name, address, phone number, and USEPA identification number for the alternate facility or generator to whom the shipment must be delivered. The transporter must retain a copy of the manifest in accordance with Section 723.122, and give a copy of the manifest containing this information to the rejecting designated facility. If the original manifest is not used, then the transporter must obtain a new

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manifest for the shipment and comply with 35 Ill. Adm. Code
724.172(e)(1) through (e)(6) or (f)(1) through (f)(6) or 725.172(e)(1)
through (e)(6) or (f)(1) through (f)(6).

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
- 2) Code Citation: 35 Ill. Adm. Code 724
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
724.171	Amendment
724.986	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Part 724 are a single segment of the docket R19-3 rulemaking that also affects 35 Ill. Adm. Code 721 through 723 and 725. The R19-3 rulemaking updates the Illinois hazardous waste rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during the first half of 2018: January 1, 2018 through June 30, 2018. To save space, a more detailed description of the subjects and issues involved in the docket R19-3 rulemaking appears in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of July 26, 2018, proposing amendments in docket R19-3, which opinion and order is available from the address below.

R19-3 further includes limited corrections and non-substantive stylistic revisions that the Board finds necessary. Some of these were included in the pending consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking, which appeared in the following issues of the *Illinois Register* as indicated in the answer to question 10 below.

Specifically, the amendments to Part 724 incorporate elements of the federal e-Manifest System user fees provisions and changes in the general hazardous waste manifest requirements. The Board makes several needed corrections in the text of the rules.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to docket R19-3. The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in docket R19-3.

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

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does 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? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
724.101	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.103	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.110	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.112	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.113	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.114	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.115	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.116	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.117	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.118	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.119	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.132	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.133	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.156	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.171	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.172	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.173	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.175	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.176	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.190	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.191	Amendment	42 Ill. Reg. 11594; June 29, 2018

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724.193	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.196	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.197	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.198	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.199	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.200	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.201	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.213	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.216	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.217	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.218	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.219	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.241	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.242	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.243	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.245	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.247	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.270	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.274	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.275	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.279	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.290	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.291	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.292	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.293	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.295	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.296	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.297	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.298	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.300	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.321	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.323	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.327	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.328	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.332	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.350	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.351	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.353	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.358	Amendment	42 Ill. Reg. 11594; June 29, 2018

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724.372	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.373	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.376	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.378	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.380	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.382	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.401	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.404	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.410	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.412	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.413	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.414	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.416	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.440	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.443	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.444	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.445	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.650	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.651	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.652	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.653	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.654	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.655	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.670	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.671	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.673	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.675	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.701	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.930	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.931	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.932	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.933	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.934	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.935	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.950	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.951	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.952	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.953	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.954	Amendment	42 Ill. Reg. 11594; June 29, 2018

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724.955	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.956	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.957	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.958	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.960	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.961	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.962	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.963	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.964	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.980	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.983	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.984	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.985	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.986	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.987	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.988	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.989	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.990	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.1101	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.1102	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.1201	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.1202	Amendment	42 Ill. Reg. 11594; June 29, 2018
724.Appendix I	Amendment	42 Ill. Reg. 11594; June 29, 2018

- 11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R19-3 and be addressed to:

Don A. Brown, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago IL 60601

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Please direct inquiries to the following person and reference docket R19-3:

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

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

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

14) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTSPART 724
STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE
TREATMENT, STORAGE, AND DISPOSAL FACILITIES

SUBPART A: GENERAL PROVISIONS

Section	
724.101	Purpose, Scope, and Applicability
724.103	Relationship to Interim Status Standards
724.104	Electronic Reporting

SUBPART B: GENERAL FACILITY STANDARDS

Section	
724.110	Applicability
724.111	USEPA Identification Number
724.112	Required Notices
724.113	General Waste Analysis
724.114	Security
724.115	General Inspection Requirements
724.116	Personnel Training
724.117	General Requirements for Ignitable, Reactive, or Incompatible Wastes
724.118	Location Standards
724.119	Construction Quality Assurance Program

SUBPART C: PREPAREDNESS AND PREVENTION

Section	
724.130	Applicability
724.131	Design and Operation of Facility
724.132	Required Equipment
724.133	Testing and Maintenance of Equipment
724.134	Access to Communications or Alarm System
724.135	Required Aisle Space

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724.137 Arrangements with Local Authorities

SUBPART D: CONTINGENCY PLAN AND EMERGENCY PROCEDURES

Section

724.150 Applicability
724.151 Purpose and Implementation of Contingency Plan
724.152 Content of Contingency Plan
724.153 Copies of Contingency Plan
724.154 Amendment of Contingency Plan
724.155 Emergency Coordinator
724.156 Emergency Procedures

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Section

724.170 Applicability
724.171 Use of Manifest System
724.172 Manifest Discrepancies
724.173 Operating Record
724.174 Availability, Retention, and Disposition of Records
724.175 Annual Facility Activities Report
724.176 Unmanifested Waste Report
724.177 Additional Reports

SUBPART F: RELEASES FROM SOLID WASTE MANAGEMENT UNITS

Section

724.190 Applicability
724.191 Required Programs
724.192 Groundwater Protection Standard
724.193 Hazardous Constituents
724.194 Concentration Limits
724.195 Point of Compliance
724.196 Compliance Period
724.197 General Groundwater Monitoring Requirements
724.198 Detection Monitoring Program
724.199 Compliance Monitoring Program
724.200 Corrective Action Program

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724.201 Corrective Action for Solid Waste Management Units

SUBPART G: CLOSURE AND POST-CLOSURE CARE

Section

724.210 Applicability
724.211 Closure Performance Standard
724.212 Closure Plan; Amendment of Plan
724.213 Closure; Time Allowed For Closure
724.214 Disposal or Decontamination of Equipment, Structures, and Soils
724.215 Certification of Closure
724.216 Survey Plat
724.217 Post-Closure Care and Use of Property
724.218 Post-Closure Care Plan; Amendment of Plan
724.219 Post-Closure Notices
724.220 Certification of Completion of Post-Closure Care

SUBPART H: FINANCIAL REQUIREMENTS

Section

724.240 Applicability
724.241 Definitions of Terms as Used in This Subpart
724.242 Cost Estimate for Closure
724.243 Financial Assurance for Closure
724.244 Cost Estimate for Post-Closure Care
724.245 Financial Assurance for Post-Closure Care
724.246 Use of a Mechanism for Financial Assurance of Both Closure and Post-Closure Care
724.247 Liability Requirements
724.248 Incapacity of Owners or Operators, Guarantors, or Financial Institutions
724.251 Wording of the Instruments

SUBPART I: USE AND MANAGEMENT OF CONTAINERS

Section

724.270 Applicability
724.271 Condition of Containers
724.272 Compatibility of Waste with Container
724.273 Management of Containers

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724.274	Inspections
724.275	Containment
724.276	Special Requirements for Ignitable or Reactive Waste
724.277	Special Requirements for Incompatible Wastes
724.278	Closure
724.279	Air Emission Standards

SUBPART J: TANK SYSTEMS

Section	
724.290	Applicability
724.291	Assessment of Existing Tank System Integrity
724.292	Design and Installation of New Tank Systems or Components
724.293	Containment and Detection of Releases
724.294	General Operating Requirements
724.295	Inspections
724.296	Response to Leaks or Spills and Disposition of Leaking or Unfit-for-Use Tank Systems
724.297	Closure and Post-Closure Care
724.298	Special Requirements for Ignitable or Reactive Waste
724.299	Special Requirements for Incompatible Wastes
724.300	Air Emission Standards

SUBPART K: SURFACE IMPOUNDMENTS

Section	
724.320	Applicability
724.321	Design and Operating Requirements
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AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

SOURCE: Adopted in R82-19 at 7 Ill. Reg. 14059, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11964, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1136, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14119, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6138, effective March 24, 1987; amended in R86-28 at 11 Ill. Reg. 8684, effective April 21, 1987; amended in R86-46 at 11 Ill. Reg. 13577, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19397, effective November 12, 1987; amended in R87-39 at 12 Ill. Reg. 13135, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 458, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18527, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14511, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16658, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9654, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14572, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9833, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17702, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5806, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20830, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6973, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12487, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17601, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9951, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11244, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 636, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7638, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17972, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 2186, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9437, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1146, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9833, effective June 20, 2000; expedited correction at 25 Ill. Reg. 5115, effective June 20, 2000; amended in R02-1/R02-12/R02-17 at 26 Ill. Reg. 6635, effective April 22, 2002; amended in R03-7 at 27 Ill. Reg. 3725, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6009, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6365, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3196, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 893, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12365, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 1106, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18873, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 17965, effective October 14, 2011; amended in R13-15 at 37 Ill. Reg. 17773, effective October 24, 2013; amended in R15-1 at 39 Ill. Reg. 1724, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11726, effective August 9, 2016; amended in R19-2 at 42 Ill. Reg. _____, effective _____.

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SUBPART E: MANIFEST SYSTEM, RECORDKEEPING AND REPORTING

Section 724.171 Use of Manifest System

- a) Receipt of Manifested Hazardous Waste.
- 1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator, or its agent must sign and date the manifest, as indicated in subsection (a)(2), to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.
 - 2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or its agent must do the following:
 - A) The owner, operator, or agent must sign and date, ~~by hand~~, each copy of the manifest;
 - B) The owner, operator, or agent must note any discrepancies (as defined in Section 724.172) on each copy of the manifest;
 - C) The owner, operator, or agent must immediately give the transporter at least one copy of the manifest;
 - D) The owner, operator, or agent must send a copy (Page 3) of the manifest to the generator within 30 days after delivery;
 - E) Paper manifest submission requirements are the following:
 - i) ~~The~~ Within 30 days after delivery, the owner, operator, or agent must send the top copy (Page 1) of any paper ~~the~~ manifest and any paper continuation sheet to the e-Manifest System for purposes of data entry and processing, or in- ~~In~~ lieu of submitting the ~~mailing this~~ paper copy to the e-Manifest System operator, the owner or operator may transmit to the e-Manifest System operator an image file of Page 1 of the manifest and any continuation sheet, or both a data string file and the image file corresponding to Page 1

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of the manifest and any continuation sheet, within 30 days after the date of delivery. Submissions of copies to the e-Manifest System must be made at the mailing address or electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, USEPA will not accept mailed paper manifests from facilities for processing in the e-Manifest System. Any data or image files transmitted to USEPA under this subsection (a) must be submitted in data file and image file formats that are acceptable to USEPA and that are supported by USEPA's electronic reporting requirements and by the e-Manifest System; and

ii) Options for Compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to submit the top copy (Page 1) of the paper manifest and any paper continuation sheet to the e-Manifest System for purposes of data entry and processing may be met by the owner or operator only by transmitting to the USEPA system an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the USEPA system both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days after the date of delivery. Submissions of copies to the e-Manifest System shall be made to the electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, USEPA will not accept mailed paper manifests from facilities for processing in e-Manifest; and

F) The owner, operator, or agent must retain at the facility a copy of each manifest for at least three years after the date of delivery.

3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming USEPA's consent to the import of hazardous waste to the following address within 30 days after delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International

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Compliance Assurance Division (2254A), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460.

- b) If a facility receives, from a rail or water (bulk shipment) transporter, hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator's certification, and signatures), the owner or operator, or the owner or operator's agent, must do the following:
- 1) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;
 - 2) It must note any significant discrepancies (as defined in Section 724.172(a)) in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;

BOARD NOTE: The Board does not intend that the owner or operator of a facility whose procedures under Section 724.113(c) include waste analysis must perform that analysis before signing the shipping paper and giving it to the transporter. Section 724.172(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.

- 3) It must immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);
- 4) The owner or operator must send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator within 30 days after the delivery; and

BOARD NOTE: Section 722.123(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).

- 5) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.

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- c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of 35 Ill. Adm. Code 722.

BOARD NOTE: The provisions of 35 Ill. Adm. Code 722.134 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of Section 722.134 only apply to owners or operators that are shipping hazardous waste that they generated at that facility.

- d) Within three working days after the receipt of a shipment subject to Subpart H of 35 Ill. Adm. Code 722, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the exporter; to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; to the Bureau of Land, Division of Land Pollution Control, Illinois Environmental Protection Agency, P.O. Box 19276, Springfield, IL 62794-9276; and to competent authorities of all other concerned countries. The original copy of the movement document must be maintained at the facility for at least three years from the date of signature.
- e) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under its state hazardous waste program. A facility must also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to that state.
- f) Legal Equivalence to Paper Manifests. E-Manifests that are obtained, completed, transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance with this Section in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in 35 Ill. Adm. Code 720 through 728 to obtain, complete, sign, provide, use, or retain a manifest.
- 1) Any requirement in 35 Ill. Adm. Code 720 through 728 for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or

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obtaining a valid and enforceable electronic signature within the meaning of 35 Ill. Adm. Code 722.125.

- 2) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an e-Manifest is transmitted to the other person.
 - 3) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an e-Manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the hazardous waste shipment.
 - 4) Any requirement in 35 Ill. Adm. Code 720 through 728 for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's e-Manifest copies in its account on the e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or Agency inspector.
 - 5) No owner or operator may be held liable for the inability to produce an e-Manifest for inspection under this Section if the owner or operator can demonstrate that the inability to produce the e-Manifest is due exclusively to a technical difficulty with the e-Manifest System for which the owner or operator bears no responsibility.
- g) An owner or operator may participate in the e-Manifest System either by accessing the e-Manifest System from the owner's or operator's electronic equipment, or by accessing the e-Manifest System from portable equipment brought to the owner's or operator's site by the transporter that delivers the waste shipment to the facility.
- h) Special Procedures Applicable to Replacement Manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:
- 1) Upon delivery of the hazardous waste to the designated facility, the owner or operator must sign and date each copy of the paper replacement manifest by hand in Item 20 (Designated Facility Certification of Receipt)

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and note any discrepancies in Item 18 (Discrepancy Indication Space) of the paper replacement manifest;

- 2) The owner or operator of the facility must give back to the final transporter one copy of the paper replacement manifest;
 - 3) Within 30 days after delivery of the hazardous waste to the designated facility, the owner or operator of the facility must send one signed and dated copy of the paper replacement manifest to the generator and send an additional signed and dated copy of the paper replacement manifest to the e-Manifest System; and
 - 4) The owner or operator of the facility must retain at the facility one copy of the paper replacement manifest for at least three years after the date of delivery.
- i) Special procedures applicable to electronic signature methods undergoing tests. If an owner or operator using an e-Manifest signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, the owner or operator must also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator must retain this original copy among its records for at least three years after the date of delivery of the waste.
- j) Imposition of User Fee for Electronic Manifest Submission~~se-Manifest use~~.
- 1) As prescribed in 40 CFR 264.1311, incorporated by reference in 35 Ill. Adm. Code 720.111, and determined in 40 CFR 264.1312, incorporated by reference in 35 Ill. Adm. Code 720.111, an~~An~~ owner or operator that is a user of the e-Manifest System must~~may~~ be assessed a user fee by USEPA for the submission and origination~~or~~ processing of each e-Manifest and paper manifest. ~~An owner or operator may also be assessed a user fee by USEPA for the collection and processing of paper manifest copies that owners or operators must submit to the e-Manifest System operator under subsection (a)(2)(E).~~ USEPA has stated that it would maintain and update from time to time the current schedule of e-Manifest System user fees and publish them to the user community, as provided in

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~~40 CFR 264.1313, incorporated by reference in 35 Ill. Adm. Code 720.111 which will be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System. USEPA has said that it would publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.~~

- 2) An owner or operator subject to user fees under this Section must make user fee payments in accordance with the requirements of 40 CFR 264.1314, incorporated by reference in 35 Ill. Adm. Code 720.111, subject to the informal fee dispute resolution process of 40 CFR 264.1316, incorporated by reference in 35 Ill. Adm. Code 720.111, and subject to the sanctions for delinquent payments under 40 CFR 264.1315, incorporated by reference in 35 Ill. Adm. Code 720.111.
- k) E-Manifest Signatures. E-Manifest signatures must meet the criteria described in 35 Ill. Adm. Code 722.125.
- l) Post-Receipt Manifest Data Corrections. After a facility has certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (i.e., any waste handler shown on the manifest or the Agency).
 - 1) An interested person must make all corrections to manifest data by electronic submission, either by directly entering corrected data to the web based service provided in the e-Manifest System for such corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.
 - 2) Each correction submission must include the following information:
 - A) The Manifest Tracking Number and date of receipt by the facility of the original manifests for which data are being corrected;
 - B) The item numbers of the original manifest that is the subject of the submitted corrections; and
 - C) For each item number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.

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- 3) Each correction submission shall include a statement that the person submitting the corrections certifies that, to the best of his or her knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete:
 - A) The person must execute the certification statement with a valid electronic signature; and
 - B) The person may submit a batch upload of data corrections under one certification statement.
- 4) Upon receipt by the e-Manifest System of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.
- 5) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the e-Manifest System, certified by the respondent as specified in subsection (1)(3), and with notice of the corrections to other interested persons shown on the manifest.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS,
SURFACE IMPOUNDMENTS, AND CONTAINERS

Section 724.986 Standards: Containers

- a) The provisions of this Section apply to the control of air pollutant emissions from containers for which Section 724.982(b) references the use of this Section for such air emission control.
- b) General Requirements.
 - 1) The owner or operator must control air pollutant emissions from each container subject to this Section in accordance with the following requirements, as applicable to the container, except when the special

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provisions for waste stabilization processes specified in subsection (b)(2) apply to the container.

- A) For a container having a design capacity greater than 0.1 m³ (26 gal) and less than or equal to 0.46 m³ (120 gal), the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in subsection (c).
 - B) For a container having a design capacity greater than 0.46 m³ (120 gal) that is not in light material service, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in subsection (c).
 - C) For a container having a design capacity greater than 0.46 m³ (120 gal) that is in light material service, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 2 standards specified in subsection (d).
- 2) When a container having a design capacity greater than 0.1 m³ (26 gal) is used for treatment of a hazardous waste by a waste stabilization process, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 3 standards specified in subsection (e) ~~of this Section~~ at those times during the waste stabilization process when the hazardous waste in the container is exposed to the atmosphere.
- c) Container Level 1 standards.
- 1) A container using Container Level 1 controls is one of the following:
 - A) A container that meets the applicable USDOT regulations on packaging hazardous materials for transportation, as specified in subsection (f).
 - B) A container equipped with a cover and closure devices that form a continuous barrier over the container openings so that when the cover and closure devices are secured in the closed position there are no visible holes, gaps, or other open spaces into the interior of

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the container. The cover may be a separate cover installed on the container (e.g., a lid on a drum or a suitably secured tarp on a roll-off box) or may be an integral part of the container structural design (e.g., a "portable tank" or bulk cargo container equipped with a screw-type cap).

- C) An open-top container in which an organic-vapor suppressing barrier is placed on or over the hazardous waste in the container so that no hazardous waste is exposed to the atmosphere. One example of such a barrier is application of a suitable organic-vapor suppressing foam.
- 2) A container used to meet the requirements of subsection (c)(1)(B) or (c)(1)(C) must be equipped with covers and closure devices, as applicable to the container, that are composed of suitable materials to minimize exposure of the hazardous waste to the atmosphere and to maintain the equipment integrity for as long as it is in service. Factors to be considered in selecting the materials of construction and designing the cover and closure devices must include the following: the organic vapor permeability; the effects of contact with the hazardous waste or its vapor managed in the container; the effects of outdoor exposure of the closure device or cover material to wind, moisture, and sunlight; and the operating practices for which the container is intended to be used.
 - 3) Whenever a hazardous waste is in a container using Container Level 1 controls, the owner or operator must install all covers and closure devices for the container, as applicable to the container, and secure and maintain each closure device in the closed position, except as follows:
 - A) Opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container, as follows:
 - i) If the container is filled to the intended final level in one continuous operation, the owner or operator must promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation.

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- ii) If discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level; the completion of a batch loading after which no additional material will be added to the container within 15 minutes; the person performing the loading operation leaving the immediate vicinity of the container; or the shutdown of the process generating the material being added to the container, whichever condition occurs first.
- B) Opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container, as follows:
- i) For the purpose of meeting the requirements of this Section, an empty container, as defined in 35 Ill. Adm. Code 721.107(b), may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container).
 - ii) If discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container, as defined in 35 Ill. Adm. Code 721.107(b), the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first.
- C) Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container, or when a worker

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needs to open a manhole hatch to access equipment inside the container. Following completion of the activity, the owner or operator must promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container.

- D) Opening of a spring-loaded pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device must be designed to operate with no detectable organic emissions when the device is secured in the closed position. The settings at which the device opens must be established so that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations.
 - E) Opening of a safety device, as defined in 35 Ill. Adm. Code 725.981, is allowed at any time conditions require doing so to avoid an unsafe condition.
- 4) The owner or operator of containers using Container Level 1 controls must inspect the containers and their covers and closure devices, as follows:
- A) If a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not meet the conditions for an empty container, as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the

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container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection must be conducted on or before the date on which the container is accepted at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest, ~~as set forth in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (EPA Forms 8700-22 and 8700-22A and Their Instructions)), incorporated by reference in 35 Ill. Adm. Code 720.111(b) (USEPA Form Forms 8700-22 and 8700-22A), incorporated by reference in 35 Ill. Adm. Code 720.111~~, as required under Section 724.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (c)(4)(C).

- B) If a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator must visually inspect the container and its cover and closure devices initially and thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (c)(4)(C).
 - C) When a defect is detected for the container, cover, or closure devices, the owner or operator must make first efforts at repair of the defect no later than 24 hours after detection and repair must be completed as soon as possible but no later than five calendar days after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste must be removed from the container and the container must not be used to manage hazardous waste until the defect is repaired.
- 5) The owner or operator must maintain at the facility a copy of the

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procedure used to determine that containers with capacity of 0.46 m³ (120 gal) or greater that do not meet applicable USDOT regulations, as specified in subsection (f), are not managing hazardous waste in light material service.

- d) Container Level 2 Standards.
 - 1) A container using Container Level 2 controls is one of the following:
 - A) A container that meets the applicable USDOT regulations on packaging hazardous materials for transportation, as specified in subsection (f).
 - B) A container that operates with no detectable organic emissions, as defined in 35 Ill. Adm. Code 725.981, and determined in accordance with the procedure specified in subsection (g).
 - C) A container that has been demonstrated within the preceding 12 months to be vapor-tight by using Reference Method 27 (Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b), in accordance with the procedure specified in subsection (h).
 - 2) Transfer of hazardous waste in or out of a container using Container Level 2 controls must be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical, considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that the USEPA considers to meet the requirements of this subsection (d)(2) include using any one of the following: a submerged-fill pipe or other submerged-fill method to load liquids into the container; a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.

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- 3) Whenever a hazardous waste is in a container using Container Level 2 controls, the owner or operator must install all covers and closure devices for the container, and secure and maintain each closure device in the closed position, except as follows:
 - A) Opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container, as follows:
 - i) If the container is filled to the intended final level in one continuous operation, the owner or operator must promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation.
 - ii) If discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon whichever of the following conditions occurs first: the container, being filled to the intended final level; the completion of a batch loading after which no additional material will be added to the container within 15 minutes; the person performing the loading operation leaving the immediate vicinity of the container; or the shutdown of the process generating the material being added to the container.
 - B) Opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container, as follows:
 - i) For the purpose of meeting the requirements of this Section, an empty container, as defined in 35 Ill. Adm. Code 721.107(b), may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container).
 - ii) If discrete quantities or batches of material are removed

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from the container but the container does not meet the conditions to be an empty container, as defined in 35 Ill. Adm. Code 721.107(b), the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first.

- C) Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container, or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity, the owner or operator must promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container.

- D) Opening of a spring-loaded, pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device must be designed to operate with no detectable organic emission when the device is secured in the closed position. The settings at which the device opens must be established so that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for

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the container as a result of loading operations or diurnal ambient temperature fluctuations.

- E) Opening of a safety device, as defined in 35 Ill. Adm. Code 725.981, is allowed at any time conditions require doing so to avoid an unsafe condition.
- 4) The owner or operator of containers using Container Level 2 controls must inspect the containers and their covers and closure devices, as follows:
- A) In the case when a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not meet the conditions for an empty container as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection must be conducted on or before the date on which the container is accepted at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest, ~~in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (USEPA FormForms 8700-22 and 8700-22A and Their Instructions))~~, incorporated by reference in 35 Ill. Adm. Code 722.111, as required under Section 724.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (d)(4)(C).
- B) If a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator must visually inspect the container and its cover and closure devices initially and thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are

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secured in the closed position. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (d)(4)(C).

- C) When a defect is detected for the container, cover, or closure devices, the owner or operator must make first efforts at repair of the defect no later than 24 hours after detection, and repair must be completed as soon as possible but no later than five calendar days after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste must be removed from the container and the container must not be used to manage hazardous waste until the defect is repaired.
- e) Container Level 3 Standards.
- 1) A container using Container Level 3 controls is one of the following:
 - A) A container that is vented directly through a closed-vent system to a control device in accordance with the requirements of subsection (e)(2)(B).
 - B) A container that is vented inside an enclosure that is exhausted through a closed-vent system to a control device in accordance with the requirements of subsections (e)(2)(A) and (e)(2)(B).
 - 2) The owner or operator must meet the following requirements, as applicable to the type of air emission control equipment selected by the owner or operator:
 - A) The container enclosure must be designed and operated in accordance with the criteria for a permanent total enclosure, as specified in "Procedure T – Criteria for and Verification of a Permanent or Temporary Total Enclosure" under appendix B to 40 CFR 52.741 (VOM Measurement Techniques for Capture Efficiency), incorporated by reference in 35 Ill. Adm. Code 720.111(b). The enclosure may have permanent or temporary openings to allow worker access; passage of containers through the enclosure by conveyor or other mechanical means; entry of permanent mechanical or electrical equipment; or direct airflow

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into the enclosure. The owner or operator must perform the verification procedure for the enclosure, as specified in Section 5.0 to "Procedure T – Criteria for and Verification of a Permanent or Temporary Total Enclosure" initially when the enclosure is first installed and, thereafter, annually.

- B) The closed-vent system and control device must be designed and operated in accordance with the requirements of Section 724.987.
- 3) Safety devices, as defined in 35 Ill. Adm. Code 725.981, may be installed and operated as necessary on any container, enclosure, closed-vent system, or control device used to comply with the requirements of subsection (e)(1).
- 4) Owners and operators using Container Level 3 controls in accordance with the provisions of this Subpart CC must inspect and monitor the closed-vent systems and control devices, as specified in Section 724.987.
- 5) Owners and operators that use Container Level 3 controls in accordance with the provisions of this Subpart CC must prepare and maintain the records specified in Section 724.989(d).
- 6) The transfer of hazardous waste into or out of a container using Container Level 3 controls must be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that USEPA considers to meet the requirements of this subsection (e)(6) include using any one of the following: the use of a submerged-fill pipe or other submerged-fill method to load liquids into the container; the use of a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or the use of a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.
- f) For the purpose of compliance with subsection (c)(1)(A) or (d)(1)(A), containers must be used that meet the applicable USDOT regulations on packaging

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hazardous materials for transportation, as follows:

- 1) The container meets the applicable requirements specified by USDOT in 49 CFR 178 (Specifications for Packaging), or 49 CFR 179 (Specifications for Tank Cars), each incorporated by reference in 35 Ill. Adm. Code 720.111(b).
 - 2) Hazardous waste is managed in the container in accordance with the applicable requirements specified by USDOT in subpart B of 49 CFR 107 (Exemptions), 49 CFR 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 49 CFR 173 (Shippers – General Requirements for Shipments and Packages), and 49 CFR 180 (Continuing Qualification and Maintenance of Packagings), each incorporated by reference in 35 Ill. Adm. Code 720.111(b).
 - 3) For the purpose of complying with this Subpart CC, no exceptions to the 49 CFR 178 or 179 regulations are allowed, except as provided for in subsection (f)(4).
 - 4) For a lab pack that is managed in accordance with the USDOT requirements of 49 CFR 178 (Specifications for Packagings), for the purpose of complying with this Subpart CC, an owner or operator may comply with the exceptions for combination packagings specified by USDOT in 49 CFR 173.12(b) (Exceptions for Shipments of Waste Materials), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- g) To determine compliance with the no detectable organic emissions requirement of subsection (d)(1)(B), the procedure specified in Section 724.983(d) must be used.
- 1) Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the container, its cover, and associated closure devices, as applicable to the container, must be checked. Potential leak interfaces that are associated with containers include, but are not limited to, the following: the interface of the cover rim and the container wall; the periphery of any opening on the container or container cover and its associated closure device; and the sealing seat interface on a spring-loaded pressure-relief valve.

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- 2) The test must be performed when the container is filled with a material having a volatile organic concentration representative of the range of volatile organic concentrations for the hazardous wastes expected to be managed in this type of container. During the test, the container cover and closure devices must be secured in the closed position.
- h) Procedure for determining a container to be vapor-tight using Reference Method 27 for the purpose of complying with subsection (d)(1)(C).
- 1) The test must be performed in accordance with Reference Method 27.
 - 2) A pressure measurement device must be used that has a precision of ± 2.5 mm (0.098 in) water and that is capable of measuring above the pressure at which the container is to be tested for vapor tightness.
 - 3) If the test results determined by Reference Method 27 indicate that the container sustains a pressure change less than or equal to 0.75 kPa (0.11 psig) within five minutes after it is pressurized to a minimum of 4.5 kPa (0.65 psig), then the container is determined to be vapor-tight.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities
- 2) Code Citation: 35 Ill. Adm. Code 725
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
725.171	Amendment
725.987	Amendment
- 4) Statutory Authority: 415 ILCS 5/7.2, 22.4, and 27
- 5) A Complete Description of the Subjects and Issues Involved: The amendments to Part 725 are a single segment of the docket R19-3 rulemaking that also affects 35 Ill. Adm. Code 720 through 724. The R19-3 rulemaking updates the Illinois hazardous waste rules to incorporate amendments adopted by the United States Environmental Protection Agency (USEPA) during the first half of 2018: January 1, 2018 through June 30, 2018. To save space, a more detailed description of the subjects and issues involved in the docket R19-3 rulemaking appears in this issue of the *Illinois Register* only in the answer to question 5 in the Notice of Adopted Amendments for 35 Ill. Adm. Code 720. A comprehensive description is contained in the Board's opinion and order of July 26, 2018, proposing amendments in docket R19-3, which opinion and order is available from the address below.

R19-3 further includes limited corrections and non-substantive stylistic revisions that the Board finds necessary. Some of these were included in the pending consolidated docket R17-14/R17-15/R18-11/R18-31 rulemaking, which appeared in the following issues of the *Illinois Register* as indicated in the answer to question 10 below.

Specifically, the amendments to Part 725 incorporate elements of the federal e-Manifest System user fees provisions and changes in the general hazardous waste manifest requirements. The Board makes several needed corrections in the text of the rules.

Tables appear in a document entitled "Identical-in-Substance Rulemaking Addendum (Proposed)" that the Board added to docket R19-3. The tables list the deviations from the literal text of the federal amendments and the several necessary corrections and stylistic revisions not directly derived from USEPA actions. Persons interested in the details of those deviations from the literal text should refer to the Identical-in-Substance Rulemaking Addendum (Proposed) in docket R19-3.

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

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Does 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? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citation:</u>
725.101	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.104	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.112	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.113	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.114	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.116	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.119	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.171	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.172	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.173	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.175	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.176	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.177	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.190	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.192	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.193	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.210	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.212	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.213	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.217	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.218	Amendment	42 Ill. Reg. 12003; June 29, 2018

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725.219	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.221	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.240	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.241	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.242	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.243	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.244	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.245	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.247	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.274	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.290	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.291	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.292	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.293	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.295	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.296	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.297	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.298	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.301	Repealed	42 Ill. Reg. 12003; June 29, 2018
725.302	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.321	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.322	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.324	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.325	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.326	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.328	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.350	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.353	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.354	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.355	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.358	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.359	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.376	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.378	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.380	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.401	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.402	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.403	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.404	Amendment	42 Ill. Reg. 12003; June 29, 2018

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725.410	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.412	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.414	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.416	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.440	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.470	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.500	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.530	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.540	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.541	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.543	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.930	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.931	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.932	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.933	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.934	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.935	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.950	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.951	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.953	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.954	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.955	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.956	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.957	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.958	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.960	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.961	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.962	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.963	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.964	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.980	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.981	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.982	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.983	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.984	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.986	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.988	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.989	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.990	Amendment	42 Ill. Reg. 12003; June 29, 2018

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724.1101	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.1102	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.1200	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.1201	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.1202	Amendment	42 Ill. Reg. 12003; June 29, 2018
725.Appendix F	Amendment	42 Ill. Reg. 12003; June 29, 2018

- 11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: The Board will accept written public comment on this proposal for a period of 45 days after the date of this publication. Comments should reference docket R19-3 and be addressed to:

Don A. Brown, Clerk
Illinois Pollution Control Board
State of Illinois Center, Suite 11-500
100 W. Randolph St.
Chicago IL 60601

Please direct inquiries to the following person and reference docket R19-3:

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

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

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

- 13) Initial Regulatory Flexibility Analysis:

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- A) Types of small businesses, small municipalities, and not-for-profit corporations affected: This rulemaking may affect those small businesses, small municipalities, and not-for-profit corporations disposing of industrial wastewaters into the sewage collection system of a publicly owned treatment works. These proposed amendments do not create or enlarge a state mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- B) Reporting, bookkeeping or other procedures required for compliance: The existing rules and proposed amendments require extensive reporting, bookkeeping and other procedures, including the preparation of manifests and annual reports, waste analyses and maintenance of operating records. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- C) Types of professional skills necessary for compliance: Compliance with the existing rules and proposed amendments may require the services of an attorney, certified public accountant, chemist and registered professional engineer. These proposed amendments do not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

14) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: HAZARDOUS WASTE OPERATING REQUIREMENTS

PART 725

INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS
WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

SUBPART A: GENERAL PROVISIONS

Section	
725.101	Purpose, Scope, and Applicability
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AUTHORITY: Implementing Sections 7.2 and 22.4 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/7.2, 22.4, and 27].

SOURCE: Adopted in R81-22 at 5 Ill. Reg. 9781, effective May 17, 1982; amended and codified in R81-22 at 6 Ill. Reg. 4828, effective May 17, 1982; amended in R82-18 at 7 Ill. Reg.

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2518, effective February 22, 1983; amended in R82-19 at 7 Ill. Reg. 14034, effective October 12, 1983; amended in R84-9 at 9 Ill. Reg. 11869, effective July 24, 1985; amended in R85-22 at 10 Ill. Reg. 1085, effective January 2, 1986; amended in R86-1 at 10 Ill. Reg. 14069, effective August 12, 1986; amended in R86-28 at 11 Ill. Reg. 6044, effective March 24, 1987; amended in R86-46 at 11 Ill. Reg. 13489, effective August 4, 1987; amended in R87-5 at 11 Ill. Reg. 19338, effective November 10, 1987; amended in R87-26 at 12 Ill. Reg. 2485, effective January 15, 1988; amended in R87-39 at 12 Ill. Reg. 13027, effective July 29, 1988; amended in R88-16 at 13 Ill. Reg. 437, effective December 28, 1988; amended in R89-1 at 13 Ill. Reg. 18354, effective November 13, 1989; amended in R90-2 at 14 Ill. Reg. 14447, effective August 22, 1990; amended in R90-10 at 14 Ill. Reg. 16498, effective September 25, 1990; amended in R90-11 at 15 Ill. Reg. 9398, effective June 17, 1991; amended in R91-1 at 15 Ill. Reg. 14534, effective October 1, 1991; amended in R91-13 at 16 Ill. Reg. 9578, effective June 9, 1992; amended in R92-1 at 16 Ill. Reg. 17672, effective November 6, 1992; amended in R92-10 at 17 Ill. Reg. 5681, effective March 26, 1993; amended in R93-4 at 17 Ill. Reg. 20620, effective November 22, 1993; amended in R93-16 at 18 Ill. Reg. 6771, effective April 26, 1994; amended in R94-7 at 18 Ill. Reg. 12190, effective July 29, 1994; amended in R94-17 at 18 Ill. Reg. 17548, effective November 23, 1994; amended in R95-6 at 19 Ill. Reg. 9566, effective June 27, 1995; amended in R95-20 at 20 Ill. Reg. 11078, effective August 1, 1996; amended in R96-10/R97-3/R97-5 at 22 Ill. Reg. 369, effective December 16, 1997; amended in R98-12 at 22 Ill. Reg. 7620, effective April 15, 1998; amended in R97-21/R98-3/R98-5 at 22 Ill. Reg. 17620, effective September 28, 1998; amended in R98-21/R99-2/R99-7 at 23 Ill. Reg. 1850, effective January 19, 1999; amended in R99-15 at 23 Ill. Reg. 9168, effective July 26, 1999; amended in R00-5 at 24 Ill. Reg. 1076, effective January 6, 2000; amended in R00-13 at 24 Ill. Reg. 9575, effective June 20, 2000; amended in R03-7 at 27 Ill. Reg. 4187, effective February 14, 2003; amended in R05-8 at 29 Ill. Reg. 6028, effective April 13, 2005; amended in R05-2 at 29 Ill. Reg. 6389, effective April 22, 2005; amended in R06-5/R06-6/R06-7 at 30 Ill. Reg. 3460, effective February 23, 2006; amended in R06-16/R06-17/R06-18 at 31 Ill. Reg. 1031, effective December 20, 2006; amended in R07-5/R07-14 at 32 Ill. Reg. 12566, effective July 14, 2008; amended in R09-3 at 33 Ill. Reg. 1155, effective December 30, 2008; amended in R09-16/R10-4 at 34 Ill. Reg. 18890, effective November 12, 2010; amended in R11-2/R11-16 at 35 Ill. Reg. 18052, effective October 14, 2011; amended in R13-15 at 37 Ill. Reg. 17811, effective October 24, 2013; amended in R15-1 at 39 Ill. Reg. 1746, effective January 12, 2015; amended in R16-7 at 40 Ill. Reg. 11830, effective August 9, 2016; amended in R19-2 at 42 Ill. Reg. _____, effective _____.

SUBPART E: MANIFEST SYSTEM, RECORDKEEPING, AND REPORTING

Section 725.171 Use of Manifest System

- a) Receipt of manifested hazardous waste.

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- 1) If a facility receives hazardous waste accompanied by a manifest, the owner, operator, or its agent must sign and date the manifest, as indicated in subsection (a)(2) ~~of this Section~~, to certify that the hazardous waste covered by the manifest was received, that the hazardous waste was received except as noted in the discrepancy space of the manifest, or that the hazardous waste was rejected as noted in the manifest discrepancy space.
- 2) If a facility receives a hazardous waste shipment accompanied by a manifest, the owner, operator, or its agent must do the following:
 - A) The owner, operator, or agent must sign and date, by hand, each copy of the manifest;
 - B) The owner, operator, or agent must note any discrepancies (as defined in 35 Ill. Adm. Code 724.172) on each copy of the manifest;
 - C) The owner, operator, or agent must immediately give the transporter at least one copy of the manifest;
 - D) The owner, operator, or agent must send a copy (Page 3) of the manifest to the generator within 30 days after delivery;
 - E) Paper manifest submission requirements are the following:
 - i) The ~~Within 30 days after delivery, the~~ owner, operator, or agent must send the top copy (Page 1) of any paper ~~the~~ manifest and any paper continuation sheet to the e-Manifest System for purposes of data entry and processing, or in ~~in~~ lieu of submitting the ~~mailing this~~ paper copy to the e-Manifest System operator, the owner or operator may transmit to the e-Manifest System operator an image file of Page 1 of the manifest and any continuation sheet, or both a data string file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days after the date of delivery. Submissions of copies to the e-Manifest System must be made at the mailing address or

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electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, USEPA will not accept mailed paper manifests from facilities for processing in the e-Manifest System. Any data or image files transmitted to the e-Manifest System operator under this subsection (a) must be submitted in data file and image file formats that are acceptable to USEPA and that are supported by USEPA's electronic reporting requirements and by the e-Manifest System; and

- ii) Options for Compliance on June 30, 2021. Beginning on June 30, 2021, the requirement to submit the top copy (Page 1) of the paper manifest and any paper continuation sheet to the e-Manifest System for purposes of data entry and processing may be met by the owner or operator only by transmitting to the USEPA system an image file of Page 1 of the manifest and any continuation sheet, or by transmitting to the USEPA system both a data file and the image file corresponding to Page 1 of the manifest and any continuation sheet, within 30 days after the date of delivery. Submissions of copies to the e-Manifest System shall be made to the electronic mail/submission address specified at the e-Manifest program website's directory of services. Beginning on June 30, 2021, USEPA will not accept mailed paper manifests from facilities for processing in e-Manifest; and

F) The owner, operator, or agent must retain at the facility a copy of each manifest for at least three years after the date of delivery.

- 3) If a facility receives hazardous waste imported from a foreign source, the receiving facility must mail a copy of the manifest and documentation confirming USEPA's consent to the import of hazardous waste to the following address within 30 days after delivery: Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, Washington, DC 20460.

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- b) If a facility receives from a rail or water (bulk shipment) transporter hazardous waste that is accompanied by a shipping paper containing all the information required on the manifest (excluding the USEPA identification numbers, generator certification, and signatures), the owner or operator or its agent must do each of the following:
- 1) It must sign and date each copy of the manifest or shipping paper (if the manifest has not been received) to certify that the hazardous waste covered by the manifest or shipping paper was received;
 - 2) It must note any significant discrepancies, as defined in Section 725.172(a), in the manifest or shipping paper (if the manifest has not been received) on each copy of the manifest or shipping paper;
- BOARD NOTE: The owner or operator of a facility whose procedures under Section 725.113(c) include waste analysis need not perform that analysis before signing the shipping paper and giving it to the transporter. Section 725.172(b), however, requires reporting an unreconciled discrepancy discovered during later analysis.
- 3) It must immediately give the rail or water (bulk shipment) transporter at least one copy of the manifest or shipping paper (if the manifest has not been received);
 - 4) The owner or operator must send a copy of the signed and dated manifest or a signed and dated copy of the shipping paper (if the manifest has not been received within 30 days after delivery) to the generator within 30 days after the delivery; and
- BOARD NOTE: 35 Ill. Adm. Code 722.123(c) requires the generator to send three copies of the manifest to the facility when hazardous waste is sent by rail or water (bulk shipment).
- 5) Retain at the facility a copy of the manifest and shipping paper (if signed in lieu of the manifest at the time of delivery) for at least three years from the date of delivery.
- c) Whenever a shipment of hazardous waste is initiated from a facility, the owner or operator of that facility must comply with the requirements of 35 Ill. Adm. Code

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BOARD NOTE: The provisions of 35 Ill. Adm. Code 722.134 are applicable to the on-site accumulation of hazardous wastes by generators. Therefore, the provisions of 35 Ill. Adm. Code 722.134 apply only to owners or operators that are shipping hazardous waste which they generated at that facility.

- d) Within three working days of the receipt of a shipment subject to Subpart H of 35 Ill. Adm. Code 722, the owner or operator of a facility must provide a copy of the movement document bearing all required signatures to the exporter; to the Office of Enforcement and Compliance Assurance, Office of Federal Activities, International Compliance Assurance Division (2254A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington, DC 20460; to the Bureau of Land, Division of Land Pollution Control, Illinois Environmental Protection Agency, P.O. Box 19276, Springfield, IL 62794-9276; and to competent authorities of all other countries concerned. The original copy of the tracking document must be maintained at the facility for at least three years from the date of signature.
- e) A facility must determine whether the consignment state for a shipment regulates any additional wastes (beyond those regulated federally) as hazardous wastes under its state hazardous waste program. A facility must also determine whether the consignment state or generator state requires the facility to submit any copies of the manifest to that state.
- f) Legal equivalence to paper manifests. E-Manifests that are obtained, completed, transmitted in accordance with 35 Ill. Adm. Code 722.120(a)(3), and used in accordance with this Section in lieu of the paper manifest form are the legal equivalent of paper manifest forms bearing handwritten signatures, and satisfy for all purposes any requirement in 35 Ill. Adm. Code 720 through 728 to obtain, complete, sign, provide, use, or retain a manifest.
 - 1) Any requirement in 35 Ill. Adm. Code 720 through 728 for the owner or operator of a facility to sign a manifest or manifest certification by hand, or to obtain a handwritten signature, is satisfied by signing with or obtaining a valid and enforceable electronic signature within the meaning of 35 Ill. Adm. Code 722.125.

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- 2) Any requirement in 35 Ill. Adm. Code 720 through 728 to give, provide, send, forward, or to return to another person a copy of the manifest is satisfied when a copy of an e-Manifest is transmitted to the other person.
 - 3) Any requirement in 35 Ill. Adm. Code 720 through 728 for a manifest to accompany a hazardous waste shipment is satisfied when a copy of an e-Manifest is accessible during transportation and forwarded to the person or persons who are scheduled to receive delivery of the hazardous waste shipment.
 - 4) Any requirement in 35 Ill. Adm. Code 720 through 728 for an owner or operator to keep or retain a copy of each manifest is satisfied by the retention of the facility's e-Manifest copies in its account on the e-Manifest System, provided that such copies are readily available for viewing and production if requested by any USEPA or Agency inspector.
 - 5) No owner or operator may be held liable for the inability to produce an e-Manifest for inspection under this Section if the owner or operator can demonstrate that the inability to produce the e-Manifest is due exclusively to a technical difficulty with the e-Manifest System for which the owner or operator bears no responsibility.
- g) An owner or operator may participate in the e-Manifest System either by accessing the e-Manifest System from the owner's or operator's electronic equipment, or by accessing the e-Manifest System from portable equipment brought to the owner's or operator's site by the transporter that delivers the waste shipment to the facility.
- h) Special procedures applicable to replacement manifests. If a facility receives hazardous waste that is accompanied by a paper replacement manifest for a manifest that was originated electronically, the following procedures apply to the delivery of the hazardous waste by the final transporter:
- 1) Upon delivery of the hazardous waste to the designated facility, the owner or operator must sign and date each copy of the paper replacement manifest by hand in Item 20 (Designated Facility Certification of Receipt) and note any discrepancies in Item 18 (Discrepancy Indication Space) of the paper replacement manifest;

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- 2) The owner or operator of the facility must give back to the final transporter one copy of the paper replacement manifest;
 - 3) Within 30 days after delivery of the hazardous waste to the designated facility, the owner or operator of the facility must send one signed and dated copy of the paper replacement manifest to the generator and send an additional signed and dated copy of the paper replacement manifest to the e-Manifest System; and
 - 4) The owner or operator of the facility must retain at the facility one copy of the paper replacement manifest for at least three years after the date of delivery.
- i) Special procedures applicable to electronic signature methods undergoing tests. If an owner or operator using an e-Manifest signs this manifest electronically using an electronic signature method that is undergoing pilot or demonstration tests aimed at demonstrating the practicality or legal dependability of the signature method, the owner or operator must also sign with an ink signature the facility's certification of receipt or discrepancies on the printed copy of the manifest provided by the transporter. Upon executing its ink signature on this printed copy, the owner or operator must retain this original copy among its records for at least three years after the date of delivery of the waste.
- j) Imposition of User Fee~~user fee~~ for e-Manifest Use~~use~~.
- 1) As prescribed in 40 CFR 265.1311, incorporated by reference in 35 Ill. Adm. Code 720.111, and determined in 40 CFR 265.1312, incorporated by reference in 35 Ill. Adm. Code 720.111, an~~An~~ owner or operator that is a user of the e-Manifest System must~~may~~ be assessed a user fee by USEPA for the submission and origination~~or~~ processing of each e-Manifest and paper manifest. ~~An owner or operator may also be assessed a user fee by USEPA for the collection and processing of paper manifest copies that owners or operators must submit to the e-Manifest System operator under subsection 725.171(a)(2)(E).~~ USEPA has stated that it would ~~maintain and update from time to time the current~~ schedule of e-Manifest System user fees and publish them to the user community, as provided in 40 CFR 265.1313, incorporated by reference in 35 Ill. Adm. Code 720.111~~which will be determined based on current and projected e-Manifest System costs and level of use of the e-Manifest System.~~ USEPA

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~~has said that it would publish the current schedule of e-Manifest user fees as an appendix to 40 CFR 262.~~

- 2) An owner or operator subject to user fees under this Section must make user fee payments in accordance with the requirements of 40 CFR 265.1314, incorporated by reference in 35 Ill. Adm. Code 720.111, subject to the informal fee dispute resolution process of 40 CFR 265.1316, incorporated by reference in 35 Ill. Adm. Code 720.111, and subject to the sanctions for delinquent payments under 40 CFR 265.1315, incorporated by reference in 35 Ill. Adm. Code 720.111.
- k) E-Manifest signatures. E-Manifest signatures must meet the criteria described in 35 Ill. Adm. Code 722.125.
- l) Post-Receipt Manifest Data Corrections. After a facility has certified to the receipt of hazardous wastes by signing Item 20 of the manifest, any post-receipt data corrections may be submitted at any time by any interested person (i.e., any waste handler shown on the manifest or the Agency).
 - 1) An interested person must make all corrections to manifest data by electronic submission, either by directly entering corrected data to the web based service provided in the e-Manifest System for such corrections, or by an upload of a data file containing data corrections relating to one or more previously submitted manifests.
 - 2) Each correction submission must include the following information:
 - A) The Manifest Tracking Number and date of receipt by the facility of the original manifests for which data are being corrected;
 - B) The item numbers of the original manifest that is the subject of the submitted corrections; and
 - C) For each item number with corrected data, the data previously entered and the corresponding data as corrected by the correction submission.
 - 3) Each correction submission shall include a statement that the person submitting the corrections certifies that, to the best of his or her

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knowledge or belief, the corrections that are included in the submission will cause the information reported about the previously received hazardous wastes to be true, accurate, and complete:

- A) The person must execute the certification statement with a valid electronic signature; and
 - B) The person may submit a batch upload of data corrections under one certification statement.
- 4) Upon receipt by the e-Manifest System of any correction submission, other interested persons shown on the manifest will be provided electronic notice of the submitter's corrections.
- 5) Other interested persons shown on the manifest may respond to the submitter's corrections with comments to the submitter, or by submitting another correction to the e-Manifest System, certified by the respondent as specified in subsection (1)(3), and with notice of the corrections to other interested persons shown on the manifest.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART CC: AIR EMISSION STANDARDS FOR TANKS, SURFACE
IMPOUNDMENTS, AND CONTAINERS

Section 725.987 Standards: Containers

- a) The provisions of this Section apply to the control of air pollutant emissions from containers for which Section 725.983(b) references the use of this Section for air emission control.
- b) General Requirements.
 - 1) The owner or operator must control air pollutant emissions from each container subject to this Section in accordance with the following requirements, as applicable to the container, except when the following special provisions for waste stabilization processes specified in subsection (b)(2) apply to the container:

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- A) For a container having a design capacity greater than 0.1 m³ (26 gal) and less than or equal to 0.46 m³ (120 gal), the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in subsection (c);
 - B) For a container having a design capacity greater than 0.46 m³ (120 gal) that is not in light material service, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 1 standards specified in subsection (c); and
 - C) For a container having a design capacity greater than 0.46 m³ (120 gal) that is in light material service, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 2 standards specified in subsection (d).
- 2) When a container having a design capacity greater than 0.1 m³ (26 gal) is used for treatment of a hazardous waste by a waste stabilization process, the owner or operator must control air pollutant emissions from the container in accordance with the Container Level 3 standards specified in subsection (e) at those times during the waste stabilization process when the hazardous waste in the container is exposed to the atmosphere.
- c) Container Level 1 Standards.
- 1) A container using Container Level 1 controls is one of the following:
 - A) A container that meets the applicable USDOT regulations on packaging hazardous materials for transportation, as specified in subsection (f);
 - B) A container equipped with a cover and closure devices that form a continuous barrier over the container openings so that when the cover and closure devices are secured in the closed position there are no visible holes, gaps, or other open spaces into the interior of the container. The cover may be a separate cover installed on the container (e.g., a lid on a drum or a suitably secured tarp on a roll-off box) or may be an integral part of the container structural

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design (e.g., a "portable tank" or bulk cargo container equipped with a screw-type cap); and

- C) An open-top container in which an organic-vapor suppressing barrier is placed on or over the hazardous waste in the container so that no hazardous waste is exposed to the atmosphere. One example of such a barrier is application of a suitable organic-vapor suppressing foam.
- 2) A container used to meet the requirements of subsection (c)(1)(B) or (c)(1)(C) must be equipped with covers and closure devices, as applicable to the container, that are composed of suitable materials to minimize exposure of the hazardous waste to the atmosphere and to maintain the equipment integrity for as long as it is in service. Factors to be considered in selecting the materials of construction and designing the cover and closure devices must include the following: the organic vapor permeability; the effects of contact with the hazardous waste or its vapor managed in the container; the effects of outdoor exposure of the closure device or cover material to wind, moisture, and sunlight; and the operating practices for which the container is intended to be used.
 - 3) Whenever a hazardous waste is in a container using Container Level 1 controls, the owner or operator must install all covers and closure devices for the container, as applicable to the container, and secure and maintain each closure device in the closed position except as follows:
 - A) Opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container, as follows:
 - i) If the container is filled to the intended final level in one continuous operation, the owner or operator must promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation; and
 - ii) If ~~when~~ discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator must promptly secure the

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closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level; the completion of a batch loading after which no additional material will be added to the container within 15 minutes; the person performing the loading operation leaving the immediate vicinity of the container; or the shutdown of the process generating the material being added to the container, whichever condition occurs first;

- B) Opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container as follows:
- i) For the purpose of meeting the requirements of this Section, an empty container, as defined in 35 Ill. Adm. Code 721.107(b), may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container); and
 - ii) If discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container, as defined in 35 Ill. Adm. Code 721.107(b), the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first;
- C) Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container, or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity, the owner or operator must promptly secure the closure device in the closed

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position or reinstall the cover, as applicable to the container;

- D) Opening of a spring-loaded, pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the container internal pressure in accordance with the design specifications of the container. The device must be designed to operate with no detectable organic emissions when the device is secured in the closed position. The settings at which the device opens must be established so that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations; and
 - E) Opening of a safety device, as defined in Section 725.981, is allowed at any time conditions require doing so to avoid an unsafe condition.
- 4) The owner or operator of containers using Container Level 1 controls must inspect the containers and their covers and closure devices as follows:
- A) If a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not meet the conditions for an empty container as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the

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closed position. The container visual inspection must be conducted on or before the date on which the container is accepted at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest, ~~as set forth in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (USEPA Form EPA Forms 8700-22 and 8700-22A and Their Instructions))~~, incorporated by reference in 35 Ill. Adm. Code 720.111(b), as required under Section 725.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (c)(4)(C);

- B) If a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator must visually inspect the container and its cover and closure devices initially and thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (c)(4)(C); and
- C) When a defect is detected in the container, cover, or closure devices, the owner or operator must make first efforts at repair of the defect no later than 24 hours after detection, and repair must be completed as soon as possible but no later than five calendar days after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste must be removed from the container and the container must not be used to manage hazardous waste until the defect is repaired.
- 5) The owner or operator must maintain at the facility a copy of the procedure used to determine that containers with capacity of 0.46 m³ (120 gal) or greater which do not meet applicable USDOT regulations, as specified in subsection (f), are not managing hazardous waste in light material service.

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- d) Container Level 2 Standards.
- 1) A container using Container Level 2 controls is one of the following:
 - A) A container that meets the applicable USDOT regulations on packaging hazardous materials for transportation as specified in subsection (f);
 - B) A container that operates with no detectable organic emissions, as defined in Section 725.981, and determined in accordance with the procedure specified in subsection (g); and
 - C) A container that has been demonstrated within the preceding 12 months to be vapor-tight by using Reference Method 27 (Determination of Vapor Tightness of Gasoline Delivery Tank Using Pressure-Vacuum Test) in appendix A to 40 CFR 60 (Test Methods), incorporated by reference in 35 Ill. Adm. Code 720.111(b), in accordance with the procedure specified in subsection (h).
 - 2) Transfer of hazardous waste into or out of a container using Container Level 2 controls must be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical, considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive or other hazardous materials. Examples of container loading procedures that the USEPA considers to meet the requirements of this subsection (d)(2) include using any one of the following: a submerged-fill pipe or other submerged-fill method to load liquids into the container; a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.
 - 3) Whenever a hazardous waste is in a container using Container Level 2 controls, the owner or operator must install all covers and closure devices for the container, and secure and maintain each closure device in the closed position, except as follows:

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- A) Opening of a closure device or cover is allowed for the purpose of adding hazardous waste or other material to the container, as follows:
- i) If the container is filled to the intended final level in one continuous operation, the owner or operator must promptly secure the closure devices in the closed position and install the covers, as applicable to the container, upon conclusion of the filling operation; and
 - ii) If discrete quantities or batches of material intermittently are added to the container over a period of time, the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon either the container being filled to the intended final level; the completion of a batch loading after which no additional material will be added to the container within 15 minutes; the person performing the loading operation leaving the immediate vicinity of the container; or the shutdown of the process generating the material being added to the container, whichever condition occurs first;
- B) Opening of a closure device or cover is allowed for the purpose of removing hazardous waste from the container as follows:
- i) For the purpose of meeting the requirements of this Section, an empty container as defined in 35 Ill. Adm. Code 721.107(b) may be open to the atmosphere at any time (i.e., covers and closure devices are not required to be secured in the closed position on an empty container); and
 - ii) If discrete quantities or batches of material are removed from the container but the container does not meet the conditions to be an empty container as defined in 35 Ill. Adm. Code 721.107(b), the owner or operator must promptly secure the closure devices in the closed position and install covers, as applicable to the container, upon the

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completion of a batch removal after which no additional material will be removed from the container within 15 minutes or the person performing the unloading operation leaves the immediate vicinity of the container, whichever condition occurs first;

- C) Opening of a closure device or cover is allowed when access inside the container is needed to perform routine activities other than transfer of hazardous waste. Examples of such activities include those times when a worker needs to open a port to measure the depth of or sample the material in the container, or when a worker needs to open a manhole hatch to access equipment inside the container. Following completion of the activity, the owner or operator must promptly secure the closure device in the closed position or reinstall the cover, as applicable to the container;
- D) Opening of a spring-loaded, pressure-vacuum relief valve, conservation vent, or similar type of pressure relief device that vents to the atmosphere is allowed during normal operations for the purpose of maintaining the internal pressure of the container in accordance with the container design specifications. The device must be designed to operate with no detectable organic emission when the device is secured in the closed position. The settings at which the device opens must be established so that the device remains in the closed position whenever the internal pressure of the container is within the internal pressure operating range determined by the owner or operator based on container manufacturer recommendations, applicable regulations, fire protection and prevention codes, standard engineering codes and practices, or other requirements for the safe handling of flammable, ignitable, explosive, reactive, or hazardous materials. Examples of normal operating conditions that may require these devices to open are during those times when the internal pressure of the container exceeds the internal pressure operating range for the container as a result of loading operations or diurnal ambient temperature fluctuations; and
- E) Opening of a safety device, as defined in Section 725.981, is allowed at any time conditions require doing so to avoid an unsafe

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condition.

- 4) The owner or operator of containers using Container Level 2 controls must inspect the containers and their covers and closure devices as follows:
 - A) If a hazardous waste already is in the container at the time the owner or operator first accepts possession of the container at the facility and the container is not emptied within 24 hours after the container is accepted at the facility (i.e., it does not meet the conditions for an empty container as specified in 35 Ill. Adm. Code 721.107(b)), the owner or operator must visually inspect the container and its cover and closure devices to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. The container visual inspection must be conducted on or before the date on which the container is accepted at the facility (i.e., the date when the container becomes subject to the Subpart CC container standards). For the purposes of this requirement, the date of acceptance is the date of signature that the facility owner or operator enters on Item 20 of the Uniform Hazardous Waste Manifest, in the appendix to 40 CFR 262 (Uniform Hazardous Waste Manifest and Instructions (USEPA Forms 8700-22 and 8700-22A and Their Instructions)), as required under Section 725.171. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (d)(4)(C);
 - B) If a container used for managing hazardous waste remains at the facility for a period of one year or more, the owner or operator must visually inspect the container and its cover and closure devices initially and thereafter, at least once every 12 months, to check for visible cracks, holes, gaps, or other open spaces into the interior of the container when the cover and closure devices are secured in the closed position. If a defect is detected, the owner or operator must repair the defect in accordance with the requirements of subsection (d)(4)(C); and
 - C) When a defect is detected in the container, cover, or closure devices, the owner or operator must make first efforts at repair of

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the defect no later than 24 hours after detection, and repair must be completed as soon as possible but no later than five calendar days after detection. If repair of a defect cannot be completed within five calendar days, then the hazardous waste must be removed from the container and the container must not be used to manage hazardous waste until the defect is repaired.

- e) Container Level 3 Standards.
- 1) A container using Container Level 3 controls is one of the following:
 - A) A container that is vented directly through a closed-vent system to a control device in accordance with the requirements of subsection (e)(2)(B); or
 - B) A container that is vented inside an enclosure that is exhausted through a closed-vent system to a control device in accordance with the requirements of subsections (e)(2)(A) and (e)(2)(B).
 - 2) The owner or operator must meet the following requirements, as applicable to the type of air emission control equipment selected by the owner or operator:
 - A) The container enclosure must be designed and operated in accordance with the criteria for a permanent total enclosure, as specified in "Procedure T – Criteria for and Verification of a Permanent or Temporary Total Enclosure" under appendix B to 40 CFR 52.741 (VOM Measurement Techniques for Capture Efficiency), incorporated by reference in 35 Ill. Adm. Code 720.111(b). The enclosure may have permanent or temporary openings to allow worker access; passage of containers through the enclosure by conveyor or other mechanical means; entry of permanent mechanical or electrical equipment; or direct airflow into the enclosure. The owner or operator must perform the verification procedure for the enclosure, as specified in Section 5.0 of "Procedure T – Criteria for and Verification of a Permanent or Temporary Total Enclosure" initially when the enclosure is first installed and, thereafter, annually; and

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- B) The closed-vent system and control device must be designed and operated in accordance with the requirements of Section 725.988.
- 3) Safety devices, as defined in Section 725.981, may be installed and operated as necessary on any container, enclosure, closed-vent system, or control device used to comply with the requirements of subsection (e)(1).
- 4) Owners and operators using Container Level 3 controls in accordance with the provisions of this Subpart CC must inspect and monitor the closed-vent systems and control devices, as specified in Section 725.988.
- 5) Owners and operators that use Container Level 3 controls in accordance with the provisions of this Subpart CC must prepare and maintain the records specified in Section 725.990(d).
- 6) The transfer of hazardous waste into or out of a container using Container Level 3 controls must be conducted in such a manner as to minimize exposure of the hazardous waste to the atmosphere, to the extent practical considering the physical properties of the hazardous waste and good engineering and safety practices for handling flammable, ignitable, explosive, reactive, or other hazardous materials. Examples of container loading procedures that USEPA considers to meet the requirements of this subsection (e)(6) include using any one of the following: the use of a submerged-fill pipe or other submerged-fill method to load liquids into the container; the use of a vapor-balancing system or a vapor-recovery system to collect and control the vapors displaced from the container during filling operations; or the use of a fitted opening in the top of a container through which the hazardous waste is filled and subsequently purging the transfer line before removing it from the container opening.
- f) For the purpose of compliance with subsection (c)(1)(A) or (d)(1)(A), containers must be used that meet the applicable USDOT regulations on packaging hazardous materials for transportation as follows:
- 1) The container meets the applicable requirements specified by USDOT in 49 CFR 178 (Specifications for Packaging), or 49 CFR 179 (Specifications for Tank Cars), each incorporated by reference in 35 Ill. Adm. Code 720.111(b);

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- 2) Hazardous waste is managed in the container in accordance with the applicable requirements specified by USDOT in subpart B of 49 CFR 107 (Exemptions), 49 CFR 172 (Hazardous Materials Table, Special Provisions, Hazardous Materials Communications, Emergency Response Information, and Training Requirements), 49 CFR 173(Shippers – General Requirements for Shipments and Packages), and 49 CFR 180 (Continuing Qualification and Maintenance of Packagings), each incorporated by reference in 35 Ill. Adm. Code 720.111(b);
 - 3) For the purpose of complying with this Subpart CC, no exceptions to the federal 49 CFR 178 or 179 regulations are allowed, except as provided for in subsection (f)(4); and
 - 4) For a lab pack that is managed in accordance with the USDOT requirements of 49 CFR 178 (Specifications for Packagings) for the purpose of complying with this Subpart CC, an owner or operator may comply with the exceptions for combination packagings specified by USDOT in 49 CFR 173.12(b) (Exceptions for Shipments of Waste Materials), incorporated by reference in 35 Ill. Adm. Code 720.111(b).
- g) To determine compliance with the no detectable organic emissions requirements of subsection (d)(1)(B), the procedure specified in Section 725.984(d) must be used.
- 1) Each potential leak interface (i.e., a location where organic vapor leakage could occur) on the container, its cover, and associated closure devices, as applicable to the container, must be checked. Potential leak interfaces that are associated with containers include, but are not limited to: the interface of the cover rim and the container wall; the periphery of any opening on the container or container cover and its associated closure device; and the sealing seat interface on a spring-loaded pressure-relief valve.
 - 2) The test must be performed when the container is filled with a material having a volatile organic concentration representative of the range of volatile organic concentrations for the hazardous wastes expected to be managed in this type of container. During the test, the container cover and closure devices must be secured in the closed position.
- h) The procedure for determining a container to be vapor-tight using Reference

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Method 27 for the purpose of complying with subsection (d)(1)(C) is as follows:

- 1) The test must be performed in accordance with Reference Method 27;
- 2) A pressure measurement device must be used that has a precision of ± 2.5 mm (0.10 inch) water and that is capable of measuring above the pressure at which the container is to be tested for vapor tightness; and
- 3) If the test results determined by Reference Method 27 indicate that the container sustains a pressure change less than or equal to 0.75 kPa (0.11 psig) within five minutes after it is pressurized to a minimum of 4.5 kPa (0.65 psig), then the container is determined to be vapor-tight.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Lead Poisoning Prevention Code
- 2) Code Citation: 77 Ill. Adm. Code 845
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
845.10	Repealed
845.15	Amendment
845.20	Amendment
845.25	Amendment
845.55	Amendment
845.60	Amendment
845.65	Amendment
845.70	Amendment
845.75	Amendment
845.80	Amendment
845.85	Amendment
845.100	Amendment
845.105	Amendment
845.110	Amendment
845.115	Amendment
845.120	Amendment
845.125	Amendment
845.130	Amendment
845.135	Amendment
845.140	Amendment
845.150	Amendment
845.155	Amendment
845.160	Amendment
845.165	Amendment
845.170	Amendment
845.175	Amendment
845.200	Amendment
845.205	Amendment
845.210	Amendment
845.215	Amendment
845.220	Repealed
845.225	Amendment
845.230	Amendment
845.250	Amendment

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845.255	Amendment
845.260	Amendment
845.265	Amendment
845.270	Amendment
845.275	Amendment
845.280	Amendment
845.285	Amendment
845.290	Amendment
845.295	Amendment
845.300	Amendment
845.350	Amendment
845.355	Amendment
845.360	Amendment
845.365	Amendment
845.APPENDIX A	Repealed
845.EXHIBIT A	Repealed
845.EXHIBIT B	Repealed
845.APPENDIX B	Repealed

- 4) Statutory Authority: Illinois Lead Poisoning Prevention Act [410 ILCS 45]
- 5) A Complete Description of the Subjects and Issues Involved: The purpose of the proposed rulemaking is to implement PA 98-690 while introducing language to provide clarity to existing processes utilized by the Department. This rulemaking reduces the blood lead poisoning level from ten to five micrograms per deciliter.

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: Illinois Lead Program Annual Surveillance Reports
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

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- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Interested persons should present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:
- Erin Conley
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th floor
Springfield IL 62761
- 217/782-2043
email: dph.rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: It is anticipated that the proposed changes may have substantial impact on the regulated industry.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: Lead abatement contractor, lead abatement supervisor, lead abatement worker, lead risk assessor and lead inspector licenses
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2018

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

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER p: HAZARDOUS AND POISONOUS SUBSTANCESPART 845
LEAD POISONING PREVENTION CODE

SUBPART A: GENERAL PROVISIONS

Section	
845.10	Applicability (Repealed)
845.15	Incorporated and Referenced Materials
845.20	Definitions
845.25	Disclosure Requirements

SUBPART B: DEPARTMENT AND DELEGATE AGENCY ACTIVITIES

Section	
845.50	Approval of Units of Local Government or Health Departments as Delegate Agencies to Administer and Enforce the Act
845.55	Lead Testing Screening
845.60	Reporting
845.65	Provision of Data
845.70	Laboratory Fees for Blood Lead Testing Screening
845.75	Requirements for Licensing of Department and Delegate Agency Personnel
845.80	Surveillance and Case Management
845.85	Environmental Follow-Up

SUBPART C: TRAINING COURSE APPROVAL AND
LICENSING OF INDIVIDUALS AND FIRMS

Section	
845.100	Approval of Lead Training Program Providers
845.105	Lead Training Course Approval Requirements
845.110	Lead Training Course Notification Requirements
845.115	Application Fees for Approval and Renewal of Lead Training Courses
845.120	Lead Training Program Provider Record Keeping Requirements
845.125	Individual Licensing Requirements for Lead Activities
845.130	Requirements for Lead Abatement Contractor Licensing

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- 845.135 Third Party Examination Requirements
845.140 Reciprocity Requirements

SUBPART D: RESPONSIBILITIES OF LICENSED INDIVIDUALS,
CONTRACTORS AND APPROVED TRAINING PROGRAM PROVIDERS

Section

- 845.150 Lead [Abatement](#) Worker Responsibilities
845.155 Lead [Abatement](#) Supervisor Responsibilities
845.160 Lead Inspector Responsibilities
845.165 Lead Risk Assessor Responsibilities
845.170 Lead Abatement Contractor Responsibilities
845.175 Lead Training Program Provider Responsibilities

SUBPART E: STANDARDS FOR CONDUCTING
ENVIRONMENTAL INVESTIGATIONS FOR LEAD

Section

- 845.200 Environmental Lead Sampling Protocol
845.205 Regulatory Limits of Lead
845.210 Procedures for Lead Inspections in Regulated Facilities
845.215 Procedures for Lead Risk Assessments in Regulated Facilities
845.220 Procedures for Lead Hazard Screens in Regulated Facilities ([Repealed](#))
845.225 [Final Clearance Evaluations](#) ~~[Compliance Investigation](#)~~ in Regulated Facilities
845.230 Record Keeping Requirements for Environmental Investigations for Lead

SUBPART F: STANDARDS FOR LEAD MITIGATION
AND LEAD ABATEMENT

Section

- 845.250 Submissions and Notices
845.255 Work Practice and Occupant Protection Program
845.260 Personnel Protection Program
845.265 [Lead](#) Work Area Isolation, Preparation and Containment
845.270 Prohibited Work Practices
845.275 Safe Work Practices
845.280 ~~[Guidelines for](#)~~ Abatement and Mitigation of Lead-Contaminated Soil
845.285 ~~[Cleanup](#)~~ ~~[Clean-Up](#)~~ Procedures
845.290 Disposal Procedures

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- 845.295 ~~Re-occupation~~Reoccupat~~ion~~ of the Lead Work Area
845.300 Record Keeping Requirements for Lead Mitigation and Lead Abatement Activities

SUBPART G: FINES, PENALTIES AND ADMINISTRATIVE HEARINGS

Section

- 845.350 Denial, Suspension and Revocation of Lead Training Course Approval
845.355 Denial, Suspension and Revocation of Licenses
845.360 Fines and Penalties
845.365 ~~Emergency~~ Stop Work Orders for Regulated Facilities
845.370 Administrative Hearings
- 845.APPENDIX A Instructions for Childhood Blood Lead Poisoning Reporting System
(Repealed)
- 845.EXHIBIT A Instructions for Completing the Laboratory-Based Report of Childhood Lead Poisoning (Repealed)
- 845.EXHIBIT B Instructions for Submitting Follow-Up Data for Children With Blood Lead Levels ≥ 15 mcg/dL (Repealed)
- 845.APPENDIX B Information Agreement (Repealed)

AUTHORITY: Implementing and authorized by the Lead Poisoning Prevention Act [410 ILCS 45].

SOURCE: Adopted July 15, 1976; amended at 2 Ill. Reg. 43, effective October 23, 1978; rules repealed; new rules adopted and codified at 6 Ill. Reg. 14849, effective November 24, 1982; amended at 7 Ill. Reg. 7652, effective June 14, 1983; amended at 8 Ill. Reg. 8242, effective May 25, 1984; amended at 10 Ill. Reg. 5138, effective April 1, 1986; amended at 17 Ill. Reg. 1884, effective February 1, 1993; amended at 19 Ill. Reg. 238, effective December 31, 1994; amended at 21 Ill. Reg. 7444, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 14680, effective October 31, 1997, for a maximum of 150 days; emergency amendment modified in response to JCAR objection at 22 Ill. Reg. 6252; amended at 22 Ill. Reg. 16000, effective August 20, 1998; amended at 24 Ill. Reg. 11974, effective July 26, 2000; old Part repealed at 32 Ill. Reg. 19019, and new Part adopted at 32 Ill. Reg. 19023, effective November 25, 2008; amended at 42 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 845.10 Applicability (Repealed)

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- a) ~~Subpart A of this Part contains incorporated and referenced materials and definitions. This Subpart applies to all activities conducted in accordance with the Lead Poisoning Prevention Act (Act) and Lead Poisoning Prevention Code (Code).~~
- b) ~~Subpart B of this Part contains information that pertains only to activities conducted by the Illinois Department of Public Health or its delegate agency for cases in which a child has been identified with an elevated blood lead level.~~
- c) ~~Subpart C of this Part contains requirements for licensure of individuals and firms, approval of training program providers and requirements for the Department's third party examination.~~
- d) ~~Subpart D of this Part contains the responsibilities for licensed individuals, firms and approved training program providers.~~
- e) ~~Subpart E of this Part contains standards and requirements to be used by licensed individuals for conducting lead investigation services in regulated facilities. This Subpart also outlines the specific record keeping requirements for these activities.~~
- f) ~~Subpart F of this Part contains the standards and requirements for conducting lead mitigation and lead abatement activities in regulated facilities. This Subpart also outlines the specific record keeping requirements for these activities.~~
- g) ~~Subpart G of this Part contains provisions for administrative enforcement, including the issuance of fines and penalties and procedures governing administrative hearings for violations of applicable laws or this Part for any lead services conducted in regulated facilities.~~

(Source: Repealed at 42 Ill. Reg. _____, effective _____)

Section 845.15 Incorporated and Referenced Materials

- a) The following materials are incorporated in this Part.
 - 1) Federal Regulations:

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- A) Lead Standard: 29 CFR 1910.1025 and 29 CFR 1926.62, Occupational Safety and Health Administration (OSHA) (~~2011+993~~)
- B) Respiratory Protection Standard: 29 CFR 1910.134, OSHA (~~2012+998~~)
- C) Lead-Based Paint Poisoning Prevention in Certain Residential Structures: 40 CFR 745, subparts D, F and L, United States Environmental Protection Agency (USEPA) (2011)~~Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupational Facilities: 40 CFR 745, United States Environmental Protection Agency (USEPA) (1996)~~
- ~~D) Requirements for Hazard Education Before Renovation of Target Housing: 40 CFR 745, USEPA (1998)~~
- ~~E) Identification of Dangerous Levels of Lead: 40 CFR 745, USEPA (2001)~~
- ~~DF) Protection of Identity – Research Subjects: 42 CFR 2a 4, Department of Health and Human Services (2004+2000)~~
- EG) Lead and Copper Rule: 40 CFR 141, subpart I, as amended by the Lead and Copper Rule: 56 FR 26460 through 26564, USEPA (2007; June 7, 1991)
- FH) Lead-Safe Housing Rule: 24 CFR 35, Department of Housing and Urban Development (HUD) (2004)
- G) State or Indian Tribal Lead-based Paint Compliance and Enforcement Programs; Flexible Remedies: 40 CFR 745, subpart Q, part 327(b)(3), USEPA (2011)
- ~~I) Lead; Requirements for Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards in Housing: 40 CFR 745, USEPA and HUD (1996)~~
- 2) Federal Guidelines:

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- A) Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, Department of Housing and Urban Development (HUD) (~~2012 June 1995~~); ~~Chapter Seven of the HUD Guidelines, Lead-Based Paint Inspection, 1997~~
Available from: Office of Healthy Homes and Lead Hazard Control, Lead-Based Paint Abatement and Poisoning Prevention
HUD, Room ~~8236B-133~~, 451 Seventh Street, SW, Washington DC 20410
Also available online at: https://www.hud.gov/program_offices/healthy_homes/lbp/hudguidelines~~http://www.hud.gov/officeslead/guidelines/index.efm~~
- B) ~~A Field Test of Lead-Based Paint Testing Technologies (USEPA report # EPA 747-R-96-001) (March 1997)~~
~~Available from: Technical Programs Branch Chemical Management Division, Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460~~
~~Also available online at:~~
~~http://www.hud.gov/offices/lead/reports/DAT_files/LBPTTech/R96-001.pdf~~
- BC) Residential Sampling for Lead: Protocols for Dust and Soil Sampling (USEPA report # EPA 747-R-95-001) (1995)
Available from: Technical Programs Branch Chemical Management Division, Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460
Also available online at: <http://www.epa.gov/sites/production/files/2014-03/documents/2002quz.pdf>
<http://www.hud.gov/offices/lead/reports/R95-001.pdf>
- CD) USEPA Methodology for XRF Performance Characteristic Sheets (USEPA report # EPA 747-R-95-008) (1997)
Available from: Technical Programs Branch Chemical Management Division, Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460

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Also available online at: <http://www.epa.gov/sites/production/files/documents/r95-008.pdf>~~http://www.epa.gov/lead/pub/r95-008.pdf~~

- ~~D~~E) Laboratory Accreditation Guidelines; Measurement of Lead in Paint, Dust, and Soil (USEPA report # EPA 747-R-92-001) (March 1992)

Available from: Exposure Evaluation Division, TS-798, Office of Pollution Prevention and Toxics, U.S. Environmental Protection Agency, 401 M Street, SW, Washington DC 20460

Also available online at: <http://www.epa.gov/sites/production/files/documents/92-001.pdf>

<http://www.hud.gov/offices/lead/labs/nllap.cfm>

- E) American Water Works Association Illinois Section: A Guidance Document for Drinking Water Testing (2017)

Available from: American Water Works Association Illinois Section, 545 S. Randall Road, St. Charles IL 60174

Also available online at: http://c.ymcdn.com/sites/www.isawwa.org/resource/collection/EFBDCA3F-9F6-4EA1-8A75-C74E82CA020D/Sampling_Drinking_Water_Guidance-rev2.pdf

- b) All incorporation by reference of federal regulations or guidelines refer to the regulation or guideline on the date specified and do not include any subsequent editions or amendments.
- c) The following State statutes and rules are referenced in this Part:
- 1) Lead Poisoning Prevention Act [410 ILCS 45]
 - 2) Code of Civil Procedure [735 ILCS 5]
 - 3) Communicable Disease Report Act [745 ILCS 45]
 - 4) Illinois Clinical Laboratory and Blood Bank Act [210 ILCS 25]
 - 5) Freedom of Information Act [5 ILCS 140]
 - 6) State Records Act [5 ILCS 160]

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- 76) Medical Studies Act [735 ILCS 5/Art. VIII, Part 21]
- 8) Administrative Review Law [735 ILCS 5/Art. III]
- 97) Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
- 108) Child and Student Health Examination and Immunization Environmental Code (77 Ill. Adm. Code 665)
- 11) Laboratory Service Fees (77 Ill. Adm. Code 475)
- 12) Illinois Plumbing Code (77 Ill. Adm. Code 890)

d) The following federal statute is referenced in this Part:

Toxic Substance Control Act (TSCA) (15 USC 2685 405(b)), Standards for Environment Sampling Laboratories

e) The following laboratory accreditation program Department of Public Health form is referenced in this Part: The National Lead Laboratory Accreditation Program (NLLP), also available on line at: <https://www.epa.gov/lead/national-lead-laboratory-accreditation-program-nllap>. Childhood Lead Risk Assessment Questionnaire www.idph.state.il.us/envhealth/pdf/Lead_LRAQ_6_07.pdf.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.20 Definitions

For purposes of this Part, the following terms have the meanings ascribed in this Section.

"Act" means the Lead Poisoning Prevention Act [410 ILCS 45].

"Blood Lead Test" means a blood lead testing by venous or capillary methodology. ~~The terms "blood lead test" and "screen" are used interchangeably.~~

"Case Management" means any activity that involves coordinating, providing and overseeing the services required to reduce blood levels.

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"Child" means a person under the age of 16.

"Child Care Facility" means any structure used by a child care provider required to be licensed by the Department of Children and Family Services or public or private school structure frequented by children ~~under~~ 6 years of age or younger. (Section 2 of the Act)

~~"Childhood Lead Risk Assessment" means administration of the risk assessment questionnaire to the parent.~~

"Childhood Lead Risk Questionnaire" means the questionnaire developed by the Department for use by physicians and other health care providers to determine risk factors for children 6 years of age or younger residing in areas designated as low risk for lead exposure. (Section 2 of the Act)

"Common Area" means a portion of a regulated facility that is generally accessible to all occupants, including, but not limited to, hallways, stairways, laundry rooms, playgrounds, garages, and boundary fences.

"Complete Address" means an address that states the full street name, street number, unit number, city, state and zip code. A post office box number with city, state and zip code does not constitute a "complete address".

~~"Compliance Investigation" means the activity of performing a visual assessment and collecting dust wipe samples for the purpose of determining compliance with the Department's standard for lead dust levels.~~

"Confirmed Blood Lead Level" means ~~that an elevated~~ blood lead level resulting from a single is confirmed by a venous blood lead test. Elevated capillary blood test results shall be confirmed by a venous test.

"Defective Surface" means ~~peeling, flaking, chalking, sealing or chipping paint; paint over crumbling, cracking or falling plaster or plaster with holes in it; paint over a defective or deteriorating substrate; or paint that is damaged or worn down in any manner such that a child can get paint from the damaged area.~~

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"Delegate Agency" means a unit of local government or health department approved by the Department in accordance with Section 845.50 of this Part to carry out the provisions of the Act. (Section 2 of the Act)

"Department" means the Department of Public Health of the State of Illinois. (Section 2 of the Act)

"Director" means the Director of ~~the Department of Public Health of the State of Illinois.~~ (Section 2 of the Act)

~~"Dwelling" means any structure all or part of which is designed or used for human habitation. (Section 2 of the Act)~~

"Dwelling Unit" means an individual unit within a residential building used or intended to be used as living quarters for one household. (Section 2 of the Act)

"Elevated Blood Lead Level" or "EBL" means a blood lead level greater than or equal to 5 micrograms per deciliter ($\mu\text{g}/\text{dL}$) of whole blood.

"EBL Inspection" means an on-site inspection and any necessary follow-up in a regulated facility where a child or pregnant person is reported to have a confirmed blood lead level greater than or equal to 10 $\mu\text{g}/\text{dL}$ has frequented. EBL inspections shall only be performed by the Department or delegate agency personnel licensed as a lead risk assessor.

~~"Elevated Results" means a blood lead test result of 10 micrograms/deciliter or higher.~~

~~"Encapsulant" means a substance that forms a barrier between a lead-bearing substance and the environment using a liquid-applied coating or an adhesively bonded covering material.~~

"Final Clearance Evaluation" means the activity of performing a visual assessment and collecting dust wipe samples following a lead abatement or lead mitigation for the purpose of determining compliance with the Department's standard for lead dust levels.

"Health Care Provider" means any person providing health care services to children, who is authorized pursuant to the Illinois Clinical Laboratory and Blood

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Bank Act [210 ILCS 25] to request the testing of specimens, ~~but does not include dentists.~~

"HEPA" means a high efficiency particulate air filter capable of trapping and retaining 99.97 percent of particles greater than 0.3 micrometers in mass median aerodynamic equivalent diameter.

"Intact Surface" means a surface with no loose, peeling, chipping or flaking paint. ~~Intact surfaces that are painted must be free from crumbling, cracking or deterioration.~~ Intact surfaces must not be damaged or worn down in any way that would make paint or debris ~~from the damaged area~~ accessible to children.

"Lead Abatement" means any approved work practices found in Subpart F activity that will permanently eliminate lead exposure or remove the ~~lead-bearing~~ lead-bearing substances in a regulated facility. (Section 2 of the Act)

"Lead Abatement Contractor" means any person or entity licensed by the Department to perform lead abatement ~~and~~ mitigation. (Section 2 of the Act)

"Lead Abatement Supervisor" means any person employed by a lead abatement contractor and licensed by the Department to perform lead abatement and lead mitigation and to supervise lead workers who perform lead abatement and lead mitigation. (Section 2 of the Act)

"Lead Abatement Worker" means any person employed by a lead abatement contractor and licensed by the Department to perform lead abatement and mitigation. (Section 2 of the Act)

"Lead Activities" means the conduct of any lead services, including lead inspection, lead risk assessment, lead mitigation, or lead abatement work or supervision in a regulated facility. (Section 2 of the Act)

"Lead Bearing Substance" means any item or part of an item containing or coated with lead such that the lead content is more than 0.06% lead by total weight; or any dust on surfaces or in furniture or other nonpermanent elements of the regulated facility with lead content in excess of the limits specified in Section 845.205(c) dwelling; or any accessible or bare soil containing lead in excess of the limits specified in Section 845.205(b); or any paint or other surface coating material containing more than 0.5% lead by total weight (calculated as lead

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metal) in the total non-volatile content of liquid paint; or ~~lead-bearing~~~~lead bearing~~ substances containing greater than one milligram per square centimeter or any lower standard for lead content in residential paint as may be established by federal law or ~~rule~~~~regulation~~; or more than 1 milligram per square centimeter in the dried film of paint or previously applied substance; or item or dust on item containing lead in excess of the amount specified in this Part or a lower standard for lead content as may be established by federal law or ~~rule~~~~regulation~~. "~~Lead-bearing~~~~Lead bearing~~ substance" does not include firearm ammunition or components as defined by the Firearm Owners Identification Card Act. (Section 2 of the Act)

"Lead Hazard" means a ~~lead-bearing~~~~lead bearing~~ substance that poses an immediate health hazard to humans. (Section 2 of the Act)

"Lead Hazard Screen" means a lead risk assessment that involves limited dust and paint sampling for ~~lead-bearing~~~~lead bearing~~ substances and lead hazards. This service is used as a screening tool designed to determine if further lead investigative services are required for the regulated facility. ([Section 2 of the Act](#))

"Lead Inspection" means a surface-by-surface investigation to determine the presence of lead-based paint. ([Section 2 of the Act](#)) ~~Lead inspection includes sampling or investigation for lead associated with a lead inspection as defined in this Section and outlined in Section 845.210, and all lead sampling associated with compliance investigations defined in this Section and outlined in Section 845.225.~~

"Lead Inspector" means an individual who has been trained by a Department-approved training program and is licensed by the Department to conduct lead inspections; to sample for the presence of lead in paint, dust, soil, and water; and to conduct [final clearance evaluations and compliance investigations](#). ([Section 2 of the Act](#))

"Lead Mitigation" means the remediation of a lead hazard so that a ~~lead-bearing~~~~lead bearing~~ substance does not pose an immediate health hazard to humans. ([Section 2 of the Act](#))

"Lead Poisoning" means the condition of having ~~an EBL~~~~blood lead levels in excess of those considered safe under this Part (see the definition of "permissible limits") and federal rules and regulations~~. (Section 2 of the Act)

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"Lead Risk Assessment" means an on-site investigation to determine the existence, nature, severity and location of lead hazards. Lead risk assessment includes any lead sampling and visual assessment associated with conducting a lead risk assessment and lead hazard screen and all lead sampling associated with final clearance evaluations as defined in this Section and outlined in Sections 845.215 and 845.220, and all lead sampling associated with compliance investigations defined in this Section and outlined in Section 845.225. (Section 2 of the Act)

"Lead Risk Assessor" means an individual who has been trained by a Department-approved training program and is licensed by the Department to conduct lead risk assessments, lead ~~inspections~~inspection, and lead hazard screens; to sample for the presence of lead in paint, dust, soil and water; and to conduct compliance investigations and final clearance evaluations. (Section 2 of the Act)

~~"Lead Supervisor" means any person employed by a lead abatement contractor and licensed by the Department to perform lead abatement and mitigation, and to supervise lead workers who perform lead abatement and mitigation. ("Lead Abatement Supervisor" was formerly called "Lead Abatement Contractor/Supervisor".)~~

"Lead Training Program Provider" means any person providing Department-approved lead training in Illinois to individuals seeking licensure in accordance with the Act and this Part. (Section 2 of the Act)

~~"Lead Worker" means any person employed by a licensed lead abatement contractor and licensed by the Department to perform lead abatement and mitigation. (Section 2 of the Act)~~

"Local Health Department" means the health department or board of health, as recognized by the Department, that has jurisdiction over the particular geographical area in which the person lives.

~~"Negative Blood Lead Test Result" means a blood lead test with a blood lead level of less than 10 micrograms/deciliter (mcg/dL) or less of whole blood in a child under age 16 years.~~

"Owner" means any person who alone, jointly, or severally with others:

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Has legal title to any ~~regulated facility~~ ~~dwelling or residential building~~, with or without ~~accompanying~~ actual possession of the regulated facility; ~~dwelling or residential building~~, or

Has charge, care, or control of the regulated facility ~~dwelling or residential building~~ as owner or agent of the owner, or as executor, administrator, trustee, or guardian of the estate of the owner. (Section 2 of the Act)

"Permissible Limits", for reporting purposes, means a confirmed blood lead level of less than 10 micrograms/deciliter (mcg/dL) of whole blood in a child under age 16 years, less than 10 mcg/dL for a pregnant or breast-feeding woman, and less than 25 mcg/dL for all other persons.

"Person" means any individual, 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 assignee or more natural persons, legal entities, governmental bodies, or any combination. (Section 2 of the Act)

"Positive Blood Lead Test Result" means a blood lead level test with a blood lead level of 10 micrograms/deciliter (mcg/dL) or higher of whole blood in a child under age 16 years.

"Regulated Facility" means a residential building or child care facility ~~dwelling, residential building, child care facility, or any other structure as defined in the Act or this Part.~~ (Section 2 of the Act)

"Regulatory Investigation" means the activities of the Department or delegate agency to determine compliance with the Act and this Part, including, but not limited to, records review of licensed lead risk assessor or lead inspector reports, visual inspection and records review of a lead abatement contractor's work practices at a lead abatement or lead mitigation project, and assessment of penalties for non-compliance when warranted.

"Renovation" means the modification of any existing structure, or portion thereof, of a regulated facility that results in the disturbance of painted surfaces.

"Renovator" means any person who conducts renovation in a regulated facility for compensation, including barter.

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"Residential Building" means any room, group of rooms, or other interior areas of a structure designed or used for human habitation; common areas accessible by inhabitants; and the surrounding property or structures. (Section 2 of the Act)

"Room Equivalent" means an identifiable part of a regulated facility~~residence~~, such as a room, a house exterior, a foyer, a staircase, a hallway or an exterior area.

~~"STELLAR" means the Systematic Tracking of Elevated Lead Levels and Remediation software developed and provided by the Centers for Disease Control and Prevention for local agencies to use in tracking lead poisoning cases.~~

"Testing Combination" means a unique combination of room equivalent, building component type, and substrate.

"Training Hour" means at least 50 minutes of actual teaching, including time devoted to lecture, learning activities, small group activities, demonstrations, evaluations, ~~and~~/or hands-on experience.

"USEPA" means the United States Environmental Protection Agency.

"Window Stool" means the lower part of the window's shelf-like portion of the frame, inside the house, that is flat and extends inward from the bottom rail of a sash (sometimes called a "window sill").

"Work Area" means the interior and exterior areas where lead mitigation or lead abatement ~~activities~~ are conducted. ~~These areas may include any room or rooms undergoing lead mitigation or lead abatement activities in a regulated facility, including any common area of these facilities.~~

"XRF" means X-ray fluorescence analyzer. ~~XRF instruments are typically~~ used to measure lead in soil, dust and paint samples.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.25 Disclosure Requirements

- a) An owner of a regulated facility who has received a mitigation notice under Section 9 of the Act shall, before entering into a lease or purchase agreement for

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the regulated facility for which the mitigation notice was issued, provide prospective lessees or purchasers of that unit with written notice that a lead hazard has previously been identified in the regulated facility. An owner may satisfy this notice requirement by providing the prospective lessee or purchaser with a copy of the inspection report, mitigation notice and subsequent certificate of compliance prepared pursuant to Section 9 of the Act.

- b) Before entering into a residential lease or purchase agreement, all owners of regulated facilities built before 1978 shall ~~inform~~give prospective lessees or purchasers ~~of information on~~ the potential health hazards posed by lead ~~in residential dwellings~~ by providing the prospective lessee or purchaser with a copy of an informational brochure on lead poisoning. The disclosure and informational brochure shall be consistent with the requirements set forth in 40 CFR 745, subpart F (Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards Upon Sale or Lease of Residential Property) ~~"Lead; Requirements for Disclosure of Known Lead-Based Paint and/or Lead-Based Paint Hazards in Housing"~~.
- c) No more than 60 days before beginning lead mitigation or lead abatement~~renovation activities~~ in any regulated facility, a lead abatement contractor~~renovator~~ shall, at a minimum:
- 1) Provide the owner ~~of the unit~~ with the pamphlet as required in subsection (b) of this Section, and comply with one of the following:
 - A) Obtain from the owner a written acknowledgment that the owner has received the pamphlet; or
 - B) Obtain a certificate of mailing from the United States Postal Service (USPS) at least ~~7~~seven days prior to beginning the lead mitigation or lead abatement~~renovation~~; and
 - 2) Provide the tenant with the pamphlet required in subsection (b) of this Section and comply with subsections (c)(1)(A) and (B) of this Section, or:
 - A) Obtain from the tenant a written acknowledgment that the tenant has received the pamphlet. If the lead abatement contractor~~renovator~~ cannot get written acknowledgment from the tenant, the lead abatement contractor~~renovator~~ shall document the

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attempts and the reason why the acknowledgment was not obtained (i.e., tenant refused, no tenant available); or

- B) Obtain a certificate of mailing from the USPS at least ~~7~~^{seven} days prior to beginning the ~~lead mitigation or lead abatement~~^{renovation}.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART B: DEPARTMENT AND DELEGATE AGENCY ACTIVITIES

Section 845.55 Lead ~~Testing~~^{Screening}

- a) ~~Any~~^{Every} physician licensed to practice medicine in all its branches or health care provider ~~who sees or treats~~^{shall screen} children ~~6 months through~~⁶ years of age ~~or younger shall test those children for lead poisoning when those children who are determined to~~ reside in an area defined as high risk by the Department. ~~Children residing in areas defined as low risk by the Department shall be evaluated for risk by the Childhood Lead Risk Questionnaire developed by the Department, or tested if indicated.~~ (Section 6.2 of the Act) Medicaid enrolled children ~~shall receive a blood test~~^{must be tested} as required in the Healthy ~~Kids~~^{Kids} Early and Periodic Screening, Diagnosis and Treatment Program (89 Ill. Adm. Code 140). ~~Children residing in areas defined as low risk by the Department shall be assessed for their risk for lead exposure by providing the information contained in the Childhood Lead Risk Assessment Questionnaire provided by the Department.~~
- 1) Children determined to be at high risk based upon ~~the~~^a Childhood Lead Risk Questionnaire ~~Assessment~~ shall ~~receive~~^{have} a blood lead ~~test~~^{measurement}.
 - 2) Children who have elevated ~~capillary results of 5 µg/dL or greater shall be confirmed by a venous sample~~^{screening results shall have follow-up testing}.
 - 3) ~~Elevated capillary results 10 mcg/dL and above shall be confirmed by a venous sample.~~

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- b) *Each licensed, registered, or approved health care facility serving children ~~from 6 months through~~ 6 years of age or younger, including, but not limited to, health departments, hospitals, clinics, and health maintenance organizations approved, registered or licensed by the Department, shall take the appropriate steps (referral of children with identified risk factors as defined in the Department-provided Childhood Lead Risk ~~Assessment~~ Questionnaire to a physician or health care provider) to ensure that children 6 years of age or younger be evaluated for risk or tested for lead poisoning or both~~the patients receive lead poisoning screening, where medically indicated or appropriate, consistent with the risk factors in the Childhood Lead Risk Lead Assessment Questionnaire provided by the Department.~~ (Section 6.2 of the Act) ~~Patients are those children receiving complete health care provided by the approved health care facility.~~*
- c) Physicians and health care providers may ~~evaluate~~assess children 7 years of age and older, and pregnant persons, in accordance with the Childhood Lead Risk ~~Assessment~~ Questionnaire provided by the Department.
- d) *Each day care center, day care home, preschool, nursery school, kindergarten, or other ~~child care~~child care facility, licensed or approved by the State, including programs operated by a public school district, shall include a requirement that each parent or legal guardian of a child between one and 7~~the ages of 6 months through 6~~ years of age provide a statement from a physician or health care provider that the child has been screened ~~or assessed~~ for risk of lead poisoning, or tested, or both. This statement shall be provided prior to admission and subsequently in conjunction with physical examinations required by 77 Ill. Adm. Code 665.140 of the Department's rules titled Child and Student Health Examination and Immunization Code. (Section 7.1 of the Act)*
- e) *~~Nothing in this Part shall be construed to require any child to undergo a lead blood level screening or test whose parent or guardian objects to such screening on the grounds that the screening or test conflicts with his or her religious beliefs. (Section 7.1 of the Act)~~*

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.60 Reporting

- a) Every physician who diagnoses, or health care provider, nurse, hospital administrator, public health officer or director of a clinical laboratory who has

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verified information of the existence of a blood lead test result for any child or pregnant person, shall report the result to the Department. (Section 7 of the Act)

If the analysis has been performed at the Department laboratory, or the provider has ascertained that the clinical laboratory where specimens are processed electronically reports all blood lead level results to the Department, then duplicate reporting is not required. Any blood lead test results of 5µg/dL or greater shall be reported to the Department within 48 hours after analysis. All other verified blood lead test results shall be reported to the Department no later than 30 days following the last day of the month in which the test results were analyzed. The information included in the laboratory report on all blood lead test results shall include the blood lead level, the child's or pregnant person's name, date of birth, sex and race, complete address (including street, apartment number, city, state and ZIP code), date of test, test type, date of report, physician or clinic address, Medicaid identification number (if applicable), and the reporting agency. All reports submitted shall identify blood lead test results quantitatively. These requirements shall be the same for all health care providers, hospital administrators and public health officers conducting a blood lead test by venous or capillary blood draw. The Department requires the following persons and facilities to report all blood levels to the Department:

- 1) *Every physician who diagnoses, or health care provider, nurse, hospital administrator, or public health officer who has verified information of any person who has a level of lead in the blood in excess of the permissible limits, as defined in Section 845.20, is required to report pursuant to this Section, starting with a confirmed lead level of 10 mcg/dL. (Section 7 of the Act)* ~~If the analysis has been performed at the State laboratory, or the provider has ascertained that the clinical laboratory where specimens are processed electronically reports all blood lead level results to the Department, then duplicate reporting of elevated levels is not required. Upon the request of a provider, the Department may generate a list of individual patients treated by that provider according to the claims records and the patients' lead test results. (Section 6.3(b) of the Act)~~
- 2) ~~Directors of clinical laboratories who have verified information of any positive blood lead test results, as defined in Section 845.20, are required to report the results to the Department within 48 hours after receipt of verification. Negative blood lead test results shall be reported to the Department no later than 30 days following the last day of the month in which the test results are obtained by the laboratory. The information~~

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~~included in the clinical laboratory report on positive and negative blood lead test results shall include the blood lead level; the child's name, address, date of birth, sex and race; date of test; test type; date of report; physician and/or clinic, with address; Medicaid identification number (if applicable); and the reporting agency. Verification and test information on positive blood lead test results shall be submitted as a distinct report separate from the cumulated negative blood lead test information. All reports submitted shall identify the report content as either negative or positive blood lead test results.~~

- b) Reports ~~required pursuant to this Section~~ shall be made to the Department, and all reported information, including the source of ~~the such~~ information, received by the Department shall be considered confidential in nature. Any information submitted to a laboratory at the request of the Department and in accordance with this Part shall be treated as confidential by the laboratory that receives the information on behalf of and as required by the Department. ~~All~~The reports ~~and information~~ provided under this Section shall be confidential and subject to the provisions of the Medical Studies Act and the Communicable Disease Report Act, and shall not be disclosed. It is the right, however, of any patient to obtain his or her own data.
- c) Reports ~~required pursuant to this Section~~ shall be submitted in a format approved by the Department within 48 hours after receipt of verification. ~~Methods of submission can include written or electronic reporting as detailed in Appendix A.~~
- d) ~~Reports of blood lead levels shall be on the form specified in Appendix A.~~

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.65 Provision of Data

- a) ~~Only~~All reports issued by the Department, which are aggregated medical data from which to make it is impossible to identify any patient, reporting entity, or primary caregiver, shall be made available via an annual lead poisoning surveillance report drafted by the Department to the public pursuant to the Freedom of Information Act.
- b) All requests by ~~medical or epidemiologic~~ researchers for confidential data shall be submitted in writing to the Department. The request shall include a study

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protocol that contains: objectives of the research; rationale for the research, including scientific literature justifying the current proposal; overall study methods, including copies of forms, questionnaires, and consent forms used to contact facilities, physicians or study subjects; methods for documenting compliance with Department of Health and Human Services – Protection of Identity – Research Subjects; 42 CFR 2a.4(a) through (j), 2a.6(a) and (b), 2a.7(a) and (b)(1); methods for processing data; storage and security measures taken to ensure confidentiality of patient identifying information; time frame of the study; a description of the funding source of the study (e.g., federal contract); the curriculum vitae of the principal investigator; and a list of collaborators. In addition, the research request must specify what patient identifying information is needed and how the information will be used. Identifying information concerning the reporting entity will not be made available by the Department. Identifying information is defined as any information, collection, or groups of data from which the identity of the patient or reporting entity to which it relates may be discerned, e.g., name, address or ID number.

- e) ~~All requests to conduct research and modifications to approved research proposals involving the use of data that includes patient identifying information shall be subject to a review to determine compliance with the following conditions:~~
- ~~1) The request for patient identifying information contains stated goals or objectives;~~
 - ~~2) The request documents the feasibility of the study design in achieving the stated goals and objectives;~~
 - ~~3) The request documents the need for the requested data to achieve the stated goals and objectives;~~
 - ~~4) The requested data can be provided within the time frame set forth in the request;~~
 - ~~5) The request documents that the researcher has qualifications relevant to the type of research being conducted;~~
 - ~~6) The research will not duplicate other research already underway using the same data when both require the contact of a patient involved in the previously approved concurrent research; and~~

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- ~~7) Other conditions relevant to the need for the patient identifying information and the patient's confidentiality rights. (The Department will release only the patient identifying information that is necessary for research.)~~
- d) ~~The Director or designee will review the request and approve or deny the request. The Information Agreement (Appendix B) shall contain the signatures of the Director and the applicant before data can be provided. Reasons for denial may include the following:~~
- ~~1) Confidentiality, privacy and/or security measures are unsatisfactory in the opinion of the Department;~~
 - ~~2) Data requested are unavailable or unreliable in the opinion of the Department;~~
 - ~~3) The stated purpose does not meet the Department's mission statement;~~
 - ~~4) The Department is unable to provide the data in the requested format;~~
 - ~~5) The applicant is not an accredited or licensed research institution, a government agency, legislative commission, or other organization with the ability to conduct research, such as a university research center or private research firm; or~~
 - ~~6) The information cannot be provided by the requested date.~~
- e) ~~Denied requests may be revised and resubmitted.~~
- f) ~~Information Agreements~~
- ~~1) The Department will enter into information agreements for all approved research requests. These agreements shall specify the information that is being released and how it can be used in accordance with subsection (c) of this Section. In addition, the researcher shall include an assurance that:~~
 - ~~A) Use of data is restricted to the specifications of the protocol;~~

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- ~~B) All data that may lead to the identity of any patient, research subject, physician, other person, or hospital are strictly privileged and confidential, and the researcher agrees to keep all such data strictly confidential at all times;~~
- ~~C) All officers, agents and employees will keep all such data strictly confidential. The researcher will communicate the requirements of this Section to all officers, agents and employees, will discipline all persons who may violate the requirements of this Section, and will notify the Department in writing within 48 hours after any violation of this Section, including full details of the violation and corrective actions to be taken;~~
- ~~D) All data provided by the Department pursuant to the agreement may be used only for the purposes named in the agreement and any other or additional use of the data may result in immediate termination of the agreement by the Department; and~~
- ~~E) All data provided by the Department pursuant to the agreement are the sole property of the Department and may not be copied or reproduced in any form or manner, except for research use by the researcher, and that all data, copies and reproductions of the data made for the researcher's internal use shall be returned to the Department upon termination of the agreement.~~
- 2) ~~Any departures from the approved protocol shall be submitted in writing and approved by the Director or designee in accordance with subsections (c) and (d) of this Section prior to initiation. A researcher shall not release identifying information to a third party.~~
- cg) Upon request, the Department shall disclose individual patient or reporting entity information to the reporting entity that originally supplied that information to the Department.
- dh) By written reciprocating agreement, the Department may disclose individual patient information concerning residents of another state to the Childhood Lead Poisoning Prevention Program in the individual's state of residence only if the recipient of the information is legally required to hold the information in

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confidence and provides protection from disclosure of patient identifying information equivalent to the protection afforded by the Medical Studies Act.

- e) The identity of any person (or any group of facts that tends to lead to the identity of any person) whose blood test result is submitted to the Illinois Childhood Lead Poisoning Prevention Program is confidential and shall not be open to public inspection or dissemination. ~~This Such~~ information shall not be available for disclosure, inspection or copying under the Freedom of Information Act or the State Records Act. All information for specific research purposes may be released in accordance with procedures established by the Department in this Section.
- f) The patient identifying information submitted to the Department by those entities required to submit information under the Act and this Part is to be used in the course of medical study under the Medical Studies Act and is privileged from disclosure by the Medical Studies Act.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.70 Laboratory Fees for Blood Lead ~~Testing~~Screening

- a) The fee schedule for a sample of blood submitted to the Department for blood lead analysis and necessary follow-up by the Department shall be in accordance with the Laboratory Service Fees\$25.75. The fee shall be assessed to the provider who submits the sample. Statements of fee assessment shall be mailed to the submitter of the specimens on a monthly basis. Payment and/or appropriate information as required in subsections (b) and (c) ~~of this Section~~ shall be submitted to the Department upon receipt of the monthly statement.
- b) The Medicaid Recipient Identification Number may be provided for Medicaid eligible recipients in lieu of payment.
- c) Medically indigent recipients shall be those recipients with family incomes under 185% of the federal poverty guidelines, not eligible for Medicaid, and screened by local health departments, Rural Health Clinics, Federally Qualified Health Centers and facilities designated by the Department of Health and Human Services as look-alike Federally Qualified Health Centers. No fee shall be charged for these recipients.

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- d) Fees collected from the Department's testing service will be placed in ~~a special fund in the State Treasury known as~~ the Lead Poisoning Screening, Prevention and Abatement Fund.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.75 Requirements for Licensing of Department and Delegate Agency Personnel

- a) Any Department or delegate agency personnel who conduct lead inspections, lead risk assessments, ~~lead hazard screens~~, ~~regulatory compliance~~ investigations, ~~final clearance evaluations~~, or any combination of these services in a regulated facility ~~in which a child with an elevated blood lead level has been identified~~ shall comply with the following:
- 1) Complete the required training outlined in Subpart C of this Part ~~to conduct lead investigation services; and~~
 - 2) Complete and pass the appropriate third party examination as required in Subpart C. ~~Be licensed in accordance with Subpart C of this Part to conduct lead investigation services; and~~
 - 3) ~~Complete the appropriate third party examination as required in Subpart C of this Part.~~
- b) Employees of the Department, a delegate agency, or a local health department shall be exempt from licensure fees and third party examination fees required by Subpart C ~~of this Part~~ when those employees' licenses are used only for purposes related to employment at the above-mentioned agencies.
- 1) Licenses issued pursuant to this Section shall be specifically noted as Health Department Employee (HDE) licenses.
 - 2) The HDE license shall not allow the licensed individual to provide private lead inspection, lead risk assessment, or final clearance evaluation ~~investigation~~ services for personal profit.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.80 ~~Surveillance and~~ Case Management

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- a) Case management services shall be provided by the Department or a delegate agency when a confirmed EBL is indicated.~~Surveillance and Case Management~~
- 1) Interviews shall be conducted with the parent or guardian or with attending physicians as needed to assure the accuracy and completeness of reports and to perform the activities of case follow-up for confirmed EBL~~elevated blood lead levels above 15 mcg/dL.~~
 - 2) The following activities shall be conducted and documented concerning patient or case follow-up:
 - A) ~~Track/Trace~~ the case using the Department's surveillance database;
 - B) Counsel the pregnant person, parent or guardian of the case;
 - C) Educate the pregnant person, parent or guardian of the case;
 - D) Conduct a home visit to interview~~Interview~~ the pregnant person, parent or guardian of the case for purposes of collecting, verifying ~~and/or~~ completing the Prenatal Risk Evaluation for Lead Exposure form provided by the Department~~information identified in Appendix A, Exhibit A and Appendix A, Exhibit B of this Part~~;
 - E) Refer the pregnant person, parent or guardian of the case for medical treatment, early intervention services, or early childhood special education, when appropriate; and
 - F) Submit completed reports to the Department as specified in the agreement between the delegate agency and the Department.
- b) *Any delegate agency may establish fees, according to a reasonable fee structure, to be determined by the delegate agency, to cover the costs of drawing blood for blood lead testing and evaluation~~screening~~ and any necessary follow-up.* (Section 7.2 of the Act) Necessary follow-up includes individual case management and environmental inspection~~management~~. In accordance with federal regulations, fees may not be charged to Medicaid recipients.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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Section 845.85 Environmental Follow-Up

- a) Upon notification that a child or pregnant person who is an occupant or frequent visitor of a regulated facility is reported to have a confirmed blood lead level greater than or equal to 10 µg/dL, an EBL inspection shall be conducted.~~Environmental Investigation of Regulated Facilities – Child Confirmed With Elevated Blood Lead Level~~
- 1) ~~Upon notification that a child who is an occupant or frequent inhabitant of a regulated facility is reported to have a confirmed blood lead level that would necessitate an environmental investigation,~~ a representative of the Department or a delegate agency is authorized to inspect any regulated facility for the purpose of determining the source of lead poisoning. In the following cases, an EBL inspection~~environmental investigation and follow-up~~ shall be conducted by the Department or delegate agency:
- A) If a child or pregnant person has a confirmed blood lead level greater than or equal to 10 µg/dL~~at or above 20 mcg/dL; or~~
- B) *If a regulated facility is occupied by a child of less than 3 years of age with an elevated blood lead level greater than or equal to 10 µg/dL, the Department, in addition to all other requirements of the Act, must inspect the dwelling unit of the child and common area of the regulated facility. (Section 8 of the Act)*~~If a child has three successive confirmed blood lead levels of 15–19 mcg/dL with no time requirement between tests;~~
- C) ~~If a child has a single confirmed blood lead level at or above 10 mcg/dL and the child's physician requests an investigation to determine whether the child should be removed from the regulated facility because of the lead hazard;~~
- D) ~~If a child less than three years of age has a single confirmed blood lead level at or above 10 mcg/dL; or~~
- E) ~~If mitigation notices are issued for two or more dwelling units in a building within a five year time period, the Department may inspect common areas in the building and shall inspect units where~~

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~~children under the age of 6 reside, at the request of a parent or guardian of the child, or a pregnant woman resides, at the pregnant woman's request.~~

- 2) An ~~EBL inspection~~investigation of a regulated facility to determine the source of lead poisoning as required by this Section shall be conducted ~~using procedures and guidance outlined in this Section and the documented methodologies specified in Section 845.15,~~ and shall consist of at least the following:
- A) An interview with the owner or occupant about ~~regulated dwelling~~or facility use patterns and potential lead hazards, including inquiries ~~such as~~regarding:
- i) ~~Glazed~~Improperly glazed pottery;
 - ii) Ethnic or folk medicines;
 - iii) Hobbies and occupation;
 - iv) Other regulated facilities visited by the child or pregnant person~~dwellings~~;
 - v) International travel; ~~and~~
 - vi) Recent renovations; and
 - vii) Products recalled for containing lead or other products that may contain lead, such as imported jewelry, toys and candies;
- B) A visual assessment of the condition of the building, appurtenant structures and painted surfaces; and
- C) Environmental sampling in accordance with~~of deteriorated paint and dust based upon~~ subsection (a)(~~34~~)of this Section.
- 3) Sampling shall be conducted by at least one of the following methods or a combination of these methods~~thereof~~:

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- A) ~~XRF Testing~~~~X-Ray fluorescence (XRF) testing~~. XRF equipment shall be operated in accordance with work practice standards incorporated in Section 845.15 and the manufacturer's operational manual. Surfaces sampled with XRF readings equal to or greater than the levels specified in Section 845.205 are considered to be ~~lead-bearing~~~~lead-bearing~~ substances.
- B) Dust ~~Wipe Sampling~~~~wipe sampling~~. Dust wipe samples shall be collected in accordance with documented methodologies ~~incorporated~~~~specified~~ in Section 845.15. Dust samples collected with laboratory analysis reported as equal to or greater than the levels ~~referenced~~~~specified~~ in Section 845.205 are considered ~~elevated and are considered~~ lead hazards.
- C) Paint ~~Chip Sampling~~~~chip sampling~~. Paint chip samples shall be collected in accordance with documented methodologies ~~incorporated~~~~specified~~ in Section 845.15. Surfaces where paint chip samples are collected with analysis reported as equal to or greater than the levels ~~referenced~~~~specified~~ in Section 845.205 are considered to be ~~lead-bearing~~ substances.
- D) Soil ~~Sampling~~~~sampling~~. Soil samples ~~shall be collected where bare, accessible soil is identified~~~~are discretionary based on the visual assessment~~. If collected, soil samples shall be collected in accordance with documented methodologies ~~incorporated~~~~specified~~ in Section 845.15. Soil samples with laboratory analysis reported as equal to or greater than the levels ~~referenced~~~~specified~~ in Section 845.205 are considered ~~lead hazard~~~~elevated~~.
- E) Water ~~Sampling~~~~sampling~~. Water samples ~~are discretionary. If collected, water samples~~ shall be collected in accordance with documented methodologies ~~incorporated~~~~specified~~ in Section 845.15. Water samples with laboratory analysis reported as equal to or greater than the levels ~~referenced~~~~specified~~ in Section 845.205 are considered ~~lead hazard~~~~elevated~~.
- 4) All environmental samples, excluding XRF sampling, shall be submitted to and analyzed by ~~an accredited~~ laboratory ~~accredited by the National~~

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Lead Laboratory Accreditation Program (NLLAP), as defined in Section 845.20.

- 5) Following ~~the EBL inspection~~*an investigation*, the Department or its delegate agency shall:
- A) Prepare an ~~inspection~~*investigation* report that shall:
- i) ~~State the address of the dwelling unit or~~*State the address of the* regulated facility;
 - ii) Describe the scope of the ~~inspection~~*investigation*, the ~~inspection~~*investigation* procedures used, and the method of ascertaining the existence of a ~~lead-bearing~~*lead-bearing* substance in the ~~dwelling unit or~~ regulated facility;
 - iii) State whether any ~~lead-bearing~~*lead-bearing* substances were found in the ~~dwelling unit or~~ regulated facility;
 - iv) Describe the nature, extent, and location of any ~~lead-bearing~~*lead-bearing* substance that is found;
 - v) State either that a lead hazard does exist or that a lead hazard does not exist. ~~If a lead hazard does exist~~*If a determination is made that a lead hazard does exist*, the report shall describe the source, nature and location of the lead hazard. The existence of intact lead paint does not alone constitute a lead hazard for the purposes of this Section; and
 - vi) Give the name of the person who conducted the ~~inspection~~*investigation* and the person to contact for further information regarding the ~~inspection~~*investigation* and the requirements of ~~the Act and this Part~~*and the Act. (Section 8(1) of the Act)*
- B) Provide a copy of the ~~inspection~~*investigation* report to the property owner and to the occupants ~~of the dwelling unit or~~*of the* regulated facility. If a ~~lead-bearing~~*lead-bearing* substance is

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found, at the time of providing a copy of the inspection report, the Department or its delegate agency shall attach a brochure containing information on lead abatement and lead mitigation to the copy of the inspection~~investigation~~ report provided to the property owner and the occupants of the regulated facility. (Section 8(2) of the Act)

- C) *If the inspection~~investigation~~ report identifies a lead hazard, the Department or delegate agency shall serve a mitigation notice on the property owner ~~stating that the owner is required to mitigate the lead hazard and.~~ The mitigation notice shall indicate the time period specified in the Act in which the owner must complete the mitigation. The notice shall include information as required by this Section, and shall include information describing mitigation activities that meet the requirements of the Act and this Part~~and the Act.~~ (Section 9(1) of the Act) ~~Whenever a mitigation notice is issued pursuant to Section 9 or Section 9.2 of the Act, the Department shall make the owner aware of any financial assistance programs that may be available for lead mitigation through the federal, State or local government or a not for profit organization. (Section 9.3 of the Act)~~*
- D) *If the source of the lead hazard identified in the inspection~~investigation~~ report is lead-based~~lead~~ paint or any other lead-bearing substance~~leaded surface coating~~, the lead hazard shall be deemed to have been mitigated if:*
- i) *The surface identified as the source of the lead hazard is no longer in a condition that produces a hazardous level of lead~~leaded~~ chips, flakes, dust or any other form of lead-bearing~~leaded~~ substance that can be ingested or inhaled by humans; ~~or~~*
 - ii) *The surface identified as the source of the lead hazard is no longer accessible to children and could not reasonably be chewed on by children; ~~or, the surface coating is either removed or covered, or the access to the leaded surface by children is otherwise prevented as prescribed by the Department in this Part.~~*

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- iii) The surface coating identified as the source of the lead hazard is either removed or covered (enclosed or encapsulated), or child access to the lead-bearing surface is otherwise prevented as prescribed by the Department. (Section 9(2) of the Act)
- E) When a mitigation notice is issued for a ~~dwelling unit or regulated facility~~ ~~regulated facility~~ inspected as a result of an elevated blood lead level in a pregnant ~~person~~ ~~woman~~ or a child, or if the dwelling unit or regulated facility is occupied by a child ~~under~~ 6 years of age or younger or a pregnant ~~person~~ ~~woman~~, the owner shall mitigate the hazard within 30 days after receiving the notice. When no such child or pregnant person occupies the dwelling unit or regulated facility ~~otherwise~~, the owner shall complete the mitigation within 90 days. (Section 9(5) of the Act)
- F) An owner may apply to the Department or its delegate agency for an extension of the deadline for mitigation. If the Department or its delegate agency determines that the owner is making substantial progress toward mitigation, or that the failure to meet the deadline is the result of a shortage of licensed lead abatement contractors, or that the failure to meet the deadline is because the owner is awaiting the review and approval of a mitigation plan, the Department or delegate agency may grant an extension of the deadline. (Section 9(6) of the Act)
- G) The Department or its delegate agency may, after the deadline set for completion of mitigation, conduct a follow-up inspection of any ~~dwelling unit or regulated facility~~ ~~regulated facility~~ for which a mitigation notice was issued for the purpose of determining whether the mitigation actions required have been completed and whether the activities have sufficiently mitigated the lead hazard. The Department or its delegate agency may conduct a follow-up inspection upon the request of an owner or resident. If, upon completing the follow-up inspection, the Department or its delegate agency finds that the lead hazard for which the mitigation notice was issued is not mitigated, the Department or its delegate agency shall serve the owner with notice of the deficiency and a

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mitigation order. The order shall indicate the specific actions the owner must take to comply with the mitigation requirements of the Act, which may include lead abatement if lead abatement is the sole means by which the lead hazard can be mitigated. The order shall also include the date by which the mitigation shall be completed. If, upon completing the follow-up inspection, the Department or delegate agency finds that the mitigation requirements of the Act have been satisfied, the Department or delegate agency shall provide the owner with a certificate of compliance stating that the required mitigation has been accomplished. (Section 9(7) of the Act)

- b) ~~Mitigation or Abatement of Lead Hazards in Regulated Facilities.~~ Lead mitigation or lead abatement activities in regulated facilities shall not result in lead contamination of areas outside of the lead mitigation or lead abatement work area. The removal of ~~lead-bearing~~lead-bearing substances from regulated facilities shall be conducted in a manner that will not endanger the health or well-being of occupants and will result in the safe removal of ~~lead-bearing~~lead-bearing substances from the work area and the safe disposal of flakes, chips, debris, dust, and other ~~lead-bearing~~lead-bearing substances. Lead mitigation or lead abatement~~hazard repairs~~ shall be completed within the time specified after receipt of written notification. Lead mitigation or lead abatement activities required by this Section may be conducted using any or all of the procedures outlined in Subpart F, ~~or as prescribed by the Department or its delegate agency.~~
- 1) ~~All loose paint shall be moistened and carefully scraped from defective surfaces. These areas shall then be covered with contact paper, cloth, canvas, or other material that will create an intact surface for the purpose of preventing the paint chips from falling on the floor. All debris shall be collected and sealed in plastic bags for proper disposal.~~
- 2) ~~Any surfaces that have collected dust shall be cleaned by damp mopping with a detergent and water solution or a phosphate free, lead dissolving detergent.~~
- 13) A mitigation plan shall be submitted by the owner or its agent to the Department or delegate agency, specifying the method or methods by which surfaces that will be managed in place are to be maintained in an intact condition. The plan shall include an inspection schedule that

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includes inspection by the owner or its agent at least annually, and a maintenance schedule. Any surfaces that are not intact, as determined through an inspection, shall be repaired using the mitigation techniques specified in this Section until deemed to be intact surfaces by the lead risk assessor.

24) Alternative Procedures

- A) The Department or delegate agency may allow an alternative procedure for lead abatement, lead mitigation, containment or cleanup of a lead paint hazard, provided that the owner submits to the Department or delegate agency a written description of the alternative procedure that demonstrates to the satisfaction of the Department or delegate agency that the proposed alternative procedure provides a level of abatement and safety at least equivalent to the requirements of this Section.
- B) In all cases in which the Department or delegate agency allows the use of an alternative procedure, the owner and occupant shall, for a one-year period after completion of the lead abatement or lead mitigation project, permit the Department or delegate agency to enter and inspect the area of abatement for the purpose of determining the effectiveness and durability of the allowed alternative procedure.
- c) ~~Regulated Facilities Not Requiring Abatement or Mitigation.~~ Notwithstanding any other provision of this Part, lead abatement or lead mitigation is not required when the property owner enters into a stipulation with the Department that will protect children and pregnant persons from exposure to ~~lead-bearing~~ lead-bearing substances. The stipulation shall be by written agreement, and shall provide that any violation of the agreement shall cause the immediate issuance of a mitigation ~~or abatement~~ order. Examples of conditions that may be included in a stipulation entered into by the property owners and the Department are as follows:
- 1) The property shall be demolished; or
 - 2) The property shall be vacated.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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SUBPART C: TRAINING COURSE APPROVAL AND
LICENSING OF INDIVIDUALS AND FIRMS**Section 845.100 Approval of Lead Training Program Providers**

- a) Any firm providing lead training in Illinois to individuals seeking certification and licensure in accordance with the Act and this Part, and requirements outlined in USEPA regulations (40 CFR 745), is required to be approved in accordance with the Act and this Part.
 - 1) A person seeking approval as a lead training program provider shall submit a completed written application to the Department containing the following information:
 - A) The lead training program provider's name, address, fax number, e-mail address, website, social media site and telephone number;
 - B) A list of courses for which approval is sought, including the requirements for each course as specified in Section 845.105;
 - C) A statement signed by the program training manager certifying that the lead training program meets all of the requirements established in this Section;
 - D) A copy of the student and instructor manuals to be used for each course;
 - E) A copy of the agenda for each course;
 - F) A description of the facilities and equipment to be used for lecture and hands-on training;
 - G) A description of the examination for each discipline indicating the percentage of examination questions relating to each course objective;

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- H) The final examination for each course, the answer key for the examination and the criteria for pass/fail (at least 70% correct to pass);
- I) An example of the certificate of course completion, which shall include:
- i) Student name;
 - ii) An identification number unique to each student;
 - iii) The course name;
 - iv) Dates of the course;
 - v) Exam date;
 - vi) Name, address and telephone number of the lead training program provider;
 - vii) A statement that the course is approved by the Department, including the lead training program provider number designated by the Department;
 - viii) A statement that the student has completed the course and passed the course examination; ~~and~~
 - ix) Signature of the training manager; and
 - x) Training certificate expiration date;
- J) A description of the activities and procedures that will be used for conducting and assessing hands-on skills requirements;
- K) A quality control plan, which shall include:
- i) Procedures for periodic revision of training materials and the course examination to reflect innovations in the lead industry;

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- ii) Procedures for the training manager's annual review of principal instructors' and guest instructors' competencies;
 - iii) Procedures and protocols for re-administration of course exam in case of student failure; and
 - iv) An instructor-to-student ratio no greater than 1:30 for lecture portions and 1:15 for hands-on portions;
- L) The name of the training manager employed by the lead training program provider, with supporting qualifications as required by subsection (b) this Section, including the completed Training Manager Qualifications form provided by the Department; and
- M) The name of the principal instructor employed by the lead training program provider for each discipline, with supporting qualifications as required by subsection (c) this Section, including the Principle Instructor Qualifications form provided by the Department.
- b) The lead training program provider shall employ a training manager with the following minimum requirements and responsibilities.
- 1) Requirements
 - A) A resume or letters of reference documenting at least two years of experience, education, or training in teaching adults; and
 - B) Education and/or work experience equivalent to the following:
 - i) A bachelor's degree or higher degree in building construction technology, engineering, industrial hygiene, safety, public health, education, business administration or program management or a related field; or
 - ii) A resume or letters of reference documenting at least two years of experience in managing a training program specializing in environmental hazards; and experience,

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education or training in lead or asbestos abatement, construction, painting, carpentry, renovation, remodeling, occupational safety and health, or industrial hygiene.

- 2) Responsibilities
 - A) Ensuring that the lead training program provider complies at all times with the requirements of this Part;
 - B) All formal correspondence, such as training course certificates, approval requests and renewal applications;
 - C) Maintaining lead training program provider records and making those records available to the Department, as specified in this Section;
 - D) Designating a qualified principal instructor for each discipline, as required by subsection (c) ~~of this Section~~; and
 - E) Designating guest instructors as needed to provide instruction specific to the lecture, hands-on activities, or work practice components of a course.
- c) The lead training program provider shall employ a principal instructor for each discipline, with the following minimum requirements and responsibilities:
 - 1) A resume or letters of reference documenting at least ~~two~~ years of demonstrated experience, education or training in teaching workers or adults; and
 - 2) A current Department-approved training course certificate for the lead disciplines for which he or she/he/she is designated as principal instructor. A current lead abatement supervisor certificate meets the requirement for instruction of all lead abatement supervisor and lead abatement worker courses. A current lead risk assessor certificate meets the requirement for instruction of all lead risk assessor and lead inspector courses.
- d) The principal instructor shall be responsible for the organization of the course and oversight of the teaching of all course material.

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(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.105 Lead Training Course Approval Requirements

- a) ~~Requirements for Approval of Lead Inspector Training Courses.~~ To obtain approval for a lead inspector training course, a lead training program provider shall submit information to confirm that the program provides:
- 1) A minimum of 24 training hours, with a minimum of 8 hours devoted to hands-on activities. The course topic requirements shall include the following (requirements ending in an asterisk (*) require lecture and hands-on activities):
 - A) Role and responsibilities of a lead inspector;
 - B) Information on lead and the adverse health effects of lead exposure;
 - C) Information on federal, State and local ~~rules~~regulations and guidance pertaining to lead-based paint and lead-based paint activities;
 - D) Lead-based paint inspection methods, including selection of rooms and components for sampling or testing;*
 - E) Paint, dust, water and soil sampling methodologies;*
 - F) Final clearance evaluation~~Clearance~~ standards and testing, including random sampling;*
 - G) Preparation of the final lead inspection report;* and
 - H) Record keeping.
 - 2) The one-day (8-hour) lead inspector~~Lead Inspector~~ refresher course content shall be the same as the course content specified in subsection (a)(1) of this Section, and any current safety practices, new laws and rules~~regulations~~, and current technologies relating to lead-based paint

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activities. Requirements ending in an asterisk indicate areas that require refresher hands-on activities.

- b) ~~Requirements for Approval of Risk Assessor Training Courses.~~ To obtain approval for a lead risk assessor training course, a lead training program provider~~person~~ shall submit information to confirm that the course provides:
- 1) A minimum of 16 training hours, with a minimum of 4 hours devoted to hands-on activities. The course topic requirements shall include the following (requirements ending in an asterisk require lecture and hands-on activities):
 - A) Assurance to the Department that a lead inspector training course certificate of completion is required of each applicant as a prerequisite for lead risk assessor training course attendance;
 - B) Role and responsibilities of the lead risk assessor;
 - C) Collection of necessary building information required to perform a lead risk assessment;
 - D) Sources of environmental lead contamination (paint, surface dust and soil, water, air, packaging and food);
 - E) Visual inspection procedures for the purpose of identifying potential sources of lead-based paint hazards;*
 - F) Lead hazard screening protocol;
 - G) Sampling for sources of lead exposure;*
 - H) Interpretation of lead-based paint and other lead sampling results, including all applicable State and federal guidance pertaining to lead-based paint hazards (i.e., federal statutes and rules~~regulations~~);*
 - I) Development of lead hazard-control options, the role of interim controls, and operations and maintenance activities to reduce lead-based paint hazards; and

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- J) Preparation of a final lead risk assessment report.
- 2) The one-day (8-hour) lead risk assessor refresher course content shall be the same as the course content specified in subsection (b)(1) ~~of this Section~~, and any current safety practices, new laws and ~~rules~~ regulations, and current technologies relating to lead-based paint activities. Requirements ending in an asterisk indicate areas that require refresher hands-on activities.
- c) ~~Requirements for Approval of Lead Worker Training Courses.~~ To obtain approval for a lead abatement worker training course, a lead training program provider ~~person~~ shall submit information to confirm that the course provides:
- 1) A minimum of 24 training hours, with a minimum of 8 hours devoted to hands-on activities. The course topic requirements shall include the following (requirements ending in an asterisk require lecture and hands-on activities):
- A) Role and responsibilities of a lead abatement worker;
- B) Information on lead and the adverse health effects of lead exposure;
- C) Information on federal, State and local rules and guidance that pertain to lead-based paint abatement ~~regulations~~;
- D) Lead-based paint hazard recognition and control;*
- E) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices;*
- F) Interior dust abatement or cleanup methods ~~methods/cleanup~~;*
- G) Soil and exterior dust abatement methods;* and
- H) Respiratory protection, including review of the OSHA Lead Standard.

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- 2) The one-day (8-hour) lead abatement worker refresher course content shall be the same as the course content specified in subsection (c)(1) ~~of this Section~~, and any current safety practices, new laws and rulesregulations, and current technologies relating to lead-based paint activities. Requirements ending in an asterisk indicate areas that require refresher hands-on activities.

- d) ~~Requirements for Approval of Supervisor Training Courses.~~ To obtain approval for a lead abatement supervisor training course, a lead training program providerperson shall submit information to confirm that the course provides:
 - 1) A minimum of 32 training hours, with a minimum of 8 hours devoted to hands-on activities. The course topic requirements shall include the following (requirements ending in an asterisk require lecture and hands-on activities):
 - A) Role and responsibilities of a lead abatement supervisor;
 - B) Information on lead and ~~theirs~~ adverse health effects of lead exposure;
 - C) Information on federal, State and local rulesregulations and guidance that pertain to lead-based paint abatement;
 - D) Liability and insurance issues relating to lead-based paint abatement;
 - E) Lead risk assessment and lead inspection report interpretation;*
 - F) Development and implementation of an occupant protection plan and lead abatement report;
 - G) Lead-based paint hazard recognition and control;*
 - H) Lead-based paint abatement and lead-based paint hazard reduction methods, including restricted practices;*
 - I) Interior dust abatement or cleanup methods~~abatement/cleanup~~;*

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- J) Soil and exterior dust abatement methods;
 - K) Final clearance evaluation~~Clearance~~ standards and testing;
 - L) Cleanup and waste disposal;
 - M) Record keeping;
 - N) Integration of lead-based paint abatement methods with modernization and rehabilitation projects for large scale abatement projects; and
 - O) Respiratory protection, including review of the OSHA Lead Standard.
- 2) The one-day (8-hour) lead abatement supervisor refresher course content shall be the same as the course content specified in subsection (d)(1)-~~of this Section~~, and any current safety practices, new laws and rules~~regulations~~, and current technologies relating to lead-based paint activities. Requirements ending in an asterisk indicate areas that require refresher hands-on activities.
- e) The lead training program provider may seek approval~~Approval~~ of alternative training course schedules~~Lead Alternative Course Schedules~~.
- 1) An alternative training course schedule~~Alternative Course Schedule~~ is defined as:
 - A) Any training agenda that includes a training day of more than 8 hours, but fewer than 12 hours. Courses that consist of more than 12 hours of training per day will not be approved by the Department (Note: a training hour consists of 50 minutes of training time);
 - B) Any training agenda that includes a training day of fewer than 8 hours;
 - C) Any training agenda that includes more training days than required by this Part;

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- D) Any training agenda that includes fewer training days than required by this Part;
- E) Any altered training course that may be offered in addition to the standard lead training course (an example is a training course provider offering the standard 3-day (8 hours per day) lead abatement worker course and also a ~~4~~four-day lead abatement worker course); or
- F) Any combined lead training course that covers more than one lead training course discipline.
- 2) Application for alternative training course schedules~~Alternative Course Schedules~~ shall be made in accordance with the appropriate discipline requirements set forth in this Section.
- f) ~~The lead training program provider may seek approval~~Approval of foreign language courses~~Foreign Language Courses~~. The lead abatement worker training course discipline is the only discipline that will be approved to be offered in a foreign language. All other lead training course disciplines shall be offered in English. Foreign language lead abatement worker disciplines shall meet all of the requirements specified in subsection (c)~~of this Section~~. All foreign language course manuals, exams and other course material required by this Section shall be provided in both the language in which the course is to be offered and English.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.110 Lead Training Course Notification Requirements

- a) Notification of Course Schedules and Course Cancellations
- 1) Notification of upcoming lead training courses shall be made to the Department no ~~less~~later than 7 calendar days prior to the start of all Department-approved courses. The notification shall be made for all lead training courses offered in Illinois and all adjoining states. Prior notification is not required when courses are offered in states other than Illinois and adjoining states; however the following conditions shall apply separately and jointly:

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- A) Upon request by the Department, the lead training program provider shall provide the Department with a copy of the notification of upcoming or past lead training courses as submitted to the USEPA authorized lead program in the state ~~or tribal area~~ where the approved lead training course is offered.
- B) Upon request by the Department, the lead training program provider shall provide the Department with a copy of the class roster as required by this Section.
- C) The Department may verify that the notification was submitted to and received by a USEPA authorized lead program in accordance with the requirements established by ~~the such state or tribal~~ agency.
- 2) The Department provides a class notification form in the application package to all lead training program providers. This form shall be completed in its entirety and shall include the following minimum requirements:~~If the class notification form provided by the Department is not used, the following information shall be submitted to the Department to be used as the class notification:~~
- A) Name of training program provider;
- B) Location where the course is to be held, including street address, city and state;
- C) Which lead discipline is to be taught and in which language, including indication of initial or refresher course;
- D) Course start date and end date (days of course need not be consecutive, but no more than 10 calendar days shall lapse between the start date of the course and the completion of the course and/or course examination); and
- E) Course start time and end time.

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- 3) Notice of cancellation of courses shall be made to the Department no later than the day the course is scheduled to be conducted.
- b) Class rosters shall be submitted to the Department within 7 calendar days after completion of the course. The Department provides a class roster report form in the application package to all lead training program providers. This form shall be completed in its entirety and shall include the following minimum requirements:~~If the class roster form provided is not used, the following information shall be submitted to the Department to be used as the class roster:~~
- 1) Name of approved training program provider;
 - 2) Name of course (lead discipline);
 - 3) Type of course (initial or refresher);
 - 4) Language of course;
 - 5) Course location;
 - 6) Course hours;
 - 7) Start date;
 - 8) End date;
 - 9) Exam date;
 - 10) Instructors;
 - 11) Student names;
 - 12) Social Security number or unique identification number assigned by the training program provider to each student;
 - 13) Certificate number unique to each certificate issued; and
 - 14) Student percent score on course examination.

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(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.115 Application Fees for Approval and Renewal of Lead Training Courses

- a) All lead training course approvals expire on October 15 of each year, except that a first-time approval issued after July 15 and before October 15 shall expire October 15 of the following year.
- b) Non-refundable application ~~Application~~ fees for all lead training courses are as follows:
 - 1) Fees will be waived for any Illinois State agency~~state~~ or unit of local government seeking approval as a lead training program provider;
 - 2) Initial lead training course for each discipline: \$500 per course;
 - 3) Refresher lead training course for each discipline: \$250 per course; and
 - 4) Combination lead abatement worker and lead abatement supervisor initial lead training course: \$1,000~~Late fees for each discipline: \$50 per course.~~
- e) ~~Alternative course schedules:~~
 - 1) ~~If the only course being offered in a lead discipline is an alternative course schedule, then the fees outlined in subsections (b)(2) and (3) of this Section shall apply.~~
 - 2) ~~If the training program provider is approved to conduct the standard lead course for a specific discipline, the application fee for an alternative course schedule of that discipline shall be \$100.~~
- c~~d~~) Applications for renewal of all lead training course approvals must be received by September 15 of each year. If the renewal application is received after September 15, a \$50 late fee shall be charged per course.
 - 1) To renew a lead training course that has been expired for fewer than 3 years, the lead training program provider shall pay the current application fee, plus a reinstatement fee of \$100 for each year the course approval is expired.

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- 2) To renew a lead training course that has been expired for a period of 3 years or more, the lead training program provider shall re-submit the complete training course with the appropriate application and fees for review and approval as required by Section 845.105.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.120 Lead Training Program Provider Record Keeping Requirements

- a) Lead training~~Training~~ program provider records shall be made available to the Department for review as follows.
 - 1) The lead training program provider shall retain records at the address specified on the lead training program provider approval application (or as modified) for a minimum of 4 years.
 - 2) The lead training program provider shall notify the Department in writing before changing the address specified on its lead training program provider approval application or transferring records from that address to a new address.
 - 3) The Department shall have the authority to enter, inspect and audit training activities and training records to determine compliance with the Act and this Part.
 - 4) Training records that shall be maintained by the lead training program provider include the following:
 - A) All materials specified in Section 845.100 that have been submitted to the Department as part of the lead training program provider's program's approval;
 - B) Current curriculum/course materials and documents reflecting any changes made to these materials;
 - C) Results of the students' hands-on skills assessments and course examinations and a record of each student's course completion certificate;

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- D) Qualifications for each guest instructor designated by the training manager in accordance with Section 845.100, including: resume, letters of reference, documentation of work experience, certifications, professional licenses, etc.; and
- E) Approval letters from the Department for the training manager, principal instructors, each lead training course and course modifications.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.125 Individual Licensing Requirements for Lead Activities

- a) To conduct any lead services, including lead inspection, lead risk assessment, lead hazard screen, lead mitigation and lead abatement work and supervision, in a regulated facility in Illinois, an individual shall be licensed in accordance with the Act and this Section. To qualify for a license as a lead inspector, lead risk assessor, lead abatement supervisor or lead abatement worker, an applicant shall meet the following requirements:
 - 1) Be at least 18 years of age;
 - 2) Submit a current ~~the~~ Department-approved lead training course certificate.
 - A) A current lead abatement supervisor certificate meets the requirement for obtaining a lead abatement supervisor or lead abatement worker license. A current lead risk assessor certificate meets the requirement for obtaining a lead risk assessor or lead inspector license. The training course completed shall be for the discipline for which licensure is sought.
 - B) Lead training~~Training~~ course certificates are valid for 3 years from the date the applicant passed the approved lead training course examination.
 - C) Lead training~~Training~~ course certificates shall be renewed every 3 years by successfully completing a Department-approved refresher

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training course in the ~~appropriate~~ discipline for which the original training course was passed.

- D) If 4 years have passed since the applicant passed the approved lead training course examination, the lead training course certificate cannot be refreshed. An applicant is required to complete the initial lead training course as required by this Section;
- 3) Submit a recent 1" x 1" or high resolution digital photograph of the applicant for proper identification of the licensee. ~~Non-digital pictures~~The picture shall have the printed name and lead license number of applicant on the reverse side. The license will not be issued without an identification photograph;
- 4) Submit the appropriate completed application form provided by the Department;
- 5) Submit the required license application fee; and
- 6) For applicants seeking licensure as a lead inspector, lead risk assessor and lead abatement supervisor, the applicant must meet the third party examination requirements of subsection (e) ~~of this Section~~ and Section 845.135 ~~of this Part~~.
- b) Fees for Lead Licensure, Renewal, Late Renewals, Duplicate Licenses and Reinstatement of Expired Licenses
- 1) Applicants for an initial lead license or renewal of an existing lead license shall pay an annual non-refundable fee as specified below:
- A) Lead abatement worker license – \$50;
- B) Lead abatement supervisor license – \$100;
- C) Lead inspector license – \$100; and
- D) Lead risk assessor license – \$100.

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- 2) In addition to the annual renewal license fee, an applicant shall pay a non-refundable late fee of \$25:
 - A) If a renewal application for a lead inspector or lead risk assessor license is received on or after January 1, but before February 1; or
 - B) If a renewal application for a lead abatement worker or a lead abatement supervisor license is received on or after March 1, but before April 1.
 - 3) An applicant whose license has been expired for a period less than 3 years may apply to the Department for reinstatement of the license. The Department shall issue a reinstated license provided that:
 - A) The applicant pays to the Department the current license fee applicable to the discipline to be reinstated, in accordance with subsection (b)(1).
 - B) The applicant pays a non-refundable reinstatement fee based on the following:
 - i) Lead abatement workers: \$25 for each year that begins the day after the license has expired; and
 - ii) Lead abatement supervisors, lead inspectors and lead risk assessors: \$50 for each year that begins the day after the license has expired.
 - 4) A license that has been expired for more than 3 years may be restored only by submitting a new application in accordance with subsection (a) ~~of this Section~~.
 - 5) An applicant who wishes to receive a duplicate license shall pay a non-refundable fee of \$25 for each duplicate license requested.
 - 6) The non-refundable fee for a dishonored, negotiable instrument, including, but not limited to, returned checks or insufficient payment, shall be \$100.
- c) All lead licenses expire annually in accordance with the following:

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- 1) Lead inspector and lead risk assessor licenses expire January 31 of each year, except that a first-time license issued after October 31 and before January 31 shall expire the next following January 31; and
 - 2) Lead [abatement](#) worker and lead [abatement](#) supervisor licenses expire March 31 of each year, except that a first-time license issued after December 31 and before March 31 shall expire the next following March 31.
- d) Renewal of License. Any license issued pursuant to this Part may be renewed if the licensee submits:
- 1) The completed renewal application;
 - 2) The non-refundable license renewal fee outlined in subsection (b)(1);
 - 3) A recent 1" x 1" [or high resolution digital](#) photograph of the applicant for proper identification of the licensee. The picture shall have the printed name [and lead license number](#) of the applicant on the reverse side. The license ~~will shall~~ not be issued without an identification photograph; and
 - 4) A current certificate of completion from a Department-approved training course in accordance with subsection (a)(2)~~-of this Section~~.
- e) In addition to meeting the general requirements outlined in subsections (a) and (b) ~~of this Section~~, lead inspector, lead risk assessor and lead [abatement](#) supervisor disciplines have specific training course requirements, examination and education and experience requirements as specified in this subsection (e):
- 1) To qualify for a license as a lead risk assessor, a person shall:
 - A) Submit the training course completion certificates, including one of the 2 following combinations:
 - i) An initial lead inspector training course certificate and any subsequent refresher certificates required to maintain accreditation as outlined in subsection (a)~~-of this Section~~, and an initial lead risk assessor training course certificate

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and any subsequent refresher certificates required to maintain accreditation as outlined in subsection (a) ~~of this Section~~; or

- ii) An initial lead risk assessor training course certificate and any subsequent refresher certificates required to maintain accreditation as outlined in subsection (a) ~~of this Section~~, and a current Illinois lead inspector license;
- B) Possess one of the following combinations of education and experience:
- i) A bachelor of science degree in engineering, or an environmental or health-related field; ~~or~~
 - ii) A bachelor's degree in any discipline and one year of experience in a related field (e.g., lead, asbestos or environmental remediation work, or construction); ~~or~~
 - iii) An associate's degree in any discipline and 2 years of experience in a related field (e.g., lead, asbestos or environmental remediation work, or construction); ~~or~~
 - iv) A high school diploma (or equivalent) and at least 3 years of experience in a related field (e.g., lead, asbestos or environmental remediation work, or construction); or
 - v) Licensure as an industrial hygienist, professional engineer, architect or environmental health practitioner; and
- C) Pass the Department's third party examination for lead risk assessor, as required by Section 845.135.
- 2) To qualify for a license as a lead inspector, a person shall:
- A) Submit the training course completion certificates, including an initial lead inspector training course certificate and any subsequent refresher certificates required to maintain accreditation as outlined in subsection (a) ~~of this Section~~; and

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- B) Pass the Department's third party examination for lead inspector, as required by Section 845.135.
- 3) To qualify for a license as a lead abatement supervisor, a person shall:
 - A) Submit the training course completion certificates, including an initial lead abatement supervisor training course certificate and any subsequent refresher certificates required to maintain accreditation as outlined in subsection (a) ~~of this Section~~; and
 - B) Meet the experience requirements as follows:
 - i) One year of experience as a licensed lead~~certified lead-based paint~~ abatement worker; or
 - ii) Two years of experience in a related field (e.g., lead, asbestos or environmental remediation work) or in the building trades.
 - C) Pass the Department's third party examination for lead abatement supervisor, as required by Section 845.135.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.130 Requirements for Lead Abatement Contractor Licensing

- a) To conduct any lead mitigation or lead abatement activities in a regulated facility in Illinois, a person shall be licensed in accordance with the Act and this Section. To qualify for licensure as a lead abatement contractor, an applicant shall:
 - 1) Submit a completed application on a form provided by the Department;
 - 2) Submit a \$500 non-refundable licensure fee.
 - A) A \$250 non-refundable licensure fee, in lieu of the \$500 fee, may be submitted for initial license applications received and approved by the Department between December 1 and March 1 for licenses that will expire on May 31 of the current year;

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- B) A \$750 non-refundable licensure fee, in lieu of the \$500 fee, may be submitted for initial license applications received and approved by the Department between December 1 and March 1 for licenses that will expire May 31 of the following year;
- C) The non-refundable fee for a dishonored, negotiable instrument, including, but not limited to, returned checks or insufficient payment, shall be \$200;
- 3) Submit the name of the person with a valid Illinois lead [abatement](#) supervisor license who will act as the designated lead [abatement](#) supervisor for the lead abatement contractor. The license must be held by the [lead abatement](#) contractor or an employee of the [lead abatement](#) contractor;
- 4) Submit a written statement signed by the contractor specifying that only lead [abatement](#) workers licensed by the Department will be employed for lead abatement;
- 5) Submit a copy of the contractor's written standard operating procedures and employee protection plan, which shall include the following:
- A) A description of medical monitoring, respirator training and personal protective equipment programs required in Respiratory Protection Standard (OSHA); and
- B) A description of safe work practices to be used when conducting lead mitigation or lead abatement that ensure compliance with this Part. The [lead abatement](#) supervisor training curricula used for training of the designated licensed lead [abatement](#) supervisor provides guidance and direction on standard operating procedures for lead safe work practices and should be referred to when preparing the work practices manual; and
- 6) Submit a description of all legal proceedings, lawsuits or claims that have been filed or levied against the contractor or any of his/her past or present employees or companies in regard to construction-related activities. If

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there are no claims against the contractor, ~~then~~ a signed statement to that effect shall be submitted to the Department.

- b) Renewal of License. All lead abatement contractor licenses shall be renewed annually. All licenses shall expire on May 31 of each year.
- 1) If a renewal application is received on or after May 1, but before May 31~~April 30~~, the applicant shall pay a non-refundable late fee of \$100, in addition to the \$500 non-refundable renewal fee.
 - 2) An applicant whose license has expired for a period of less than 3 years ~~or less~~ may apply to the Department for reinstatement of the license. The license shall be reinstated if the applicant submits to the Department the current license fee and a non-refundable reinstatement fee of \$200~~\$100~~ for each year the license was expired.
 - 3) A license that has expired for more than 3 years is not eligible for renewal. In these ~~such~~ instances, the applicant shall submit an initial application and supporting documentation, as required by this Section.
 - 4) The non-refundable fee for a dishonored, negotiable instrument, including, but not limited to, returned checks or insufficient payment, shall be \$200.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.135 Third Party Examination Requirements

- a) Applicants for lead inspector, lead risk assessor and lead abatement supervisor licenses are required to pass the Department's third party examination.
- 1) To qualify to take the third party examination, an applicant shall:
 - A) Comply with the requirements of Section 845.125;
 - B) Submit a completed third party examination application form provided by the Department; and
 - C) Submit a \$50 non-refundable third party examination application fee for each separate discipline examination each time the

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examination is taken. The non-refundable fee for a dishonored, negotiable instrument, including, but not limited to, returned checks or insufficient payment, shall be \$100.

- 2) The Department shall provide, by mail, the following to applicants who qualify to take the third party examination:
 - A) Date, time and location for the applicant to take the third party examination;
 - B) A detailed information packet and; instructions for registration at the examination site, ~~and directions to the facility where the examination is being administered~~; and
 - C) Date the Department accepted the application.
- b) When an applicant receives a passing score on the third party examination, the Department shall issue the license to the applicant in the discipline for which the applicant qualifies, in accordance with Section 845.125.
- c) If the applicant does not pass the third party examination:
 - 1) The Department will notify the applicant in writing;
 - 2) The applicant may reapply to the Department to take the third party examination again. An applicant may take the third party examination no more than 3 times within the 6 months. If an applicant does not pass the third party examination within the 6 months, the applicant must retake the initial training course for that discipline from a Department-approved lead training program provider before reapplying for approval to take the third party examination.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.140 Reciprocity Requirements

- a) Each applicant for licensure who is licensed or certified by another USEPA authorized state or tribal lead program in any of the disciplines specified in Section 845.125 may request reciprocal licensure.

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- 1) The Department shall evaluate the requirements for licensure established by the other authorized state or tribal program and shall issue the license if the Department determines that the requirements for licensure by that program are as protective of health and the environment as the requirements for licensure in Illinois.
- 2) To be considered for reciprocal license, each applicant for licensure pursuant to this Section shall submit:
 - A) The appropriate application and application fee ~~as~~ required in Section 845.125;
 - B) Supporting documentation from the USEPA authorized state or tribal program for which reciprocity is being requested, including:
 - i) Copies of the initial training certificate and subsequent refresher certificates required to maintain accreditation as required by that authorized program; and
 - ii) Copies of the applicant's license issued by the authorized program, ~~if applicable; and~~
 - iii) ~~Copies of the results of the third party examination administered by the authorized program, if applicable.~~
- b) Applicants requesting ~~third party examination~~ reciprocity for licensure as a lead inspector, lead risk assessor or lead abatement supervisor of an examination offered by another authorized state or tribal program shall pass the Illinois Reciprocal Supplemental Examination (IRSE), as required by this Section. The IRSE is used to evaluate the applicant's understanding of Illinois' requirements.
 - 1) The Department shall provide, ~~by mail,~~ the following to applicants who are required to pass the IRSE:
 - A) The IRSE application;
 - B) The IRSE and answer form;

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- C) Copies of the Act and this Part; and
 - D) Date the Department accepted the reciprocal application.
- 2) The applicant shall:
- A) Complete and submit the IRSE application;
 - B) Submit the \$50 non-refundable IRSE fee; and
 - C) Submit the completed IRSE and answer form.
- 3) The applicant may use any resource material for completion of the IRSE form.
- 4) When an applicant receives a score of at least 70% on the IRSE, the Department will shall issue the reciprocal license to the applicant in the discipline for which the applicant qualifies, in accordance with this Section.
- 5) If the applicant does not pass the IRSE:
- A) The Department will notify the applicant in writing;
 - B) The applicant may reapply to the Department to complete the IRSE again. An applicant may attempt to pass the IRSE twice within 30 daysone month after the Department accepts the initial application for reciprocal licensure.
- c) If an applicant does not pass the IRSE within 30 daysone month after the Department accepts the reciprocal application for licensure, the applicant must take a Department-approved refresher training course for the discipline for which the applicant is seeking Illinois licensure.
- d) Reciprocal licenses shall expire in accordance with Section 845.125.
- e) Applicants for renewal of an existing reciprocal lead license shall pay an annual non-refundable fee and complete a Department-approved refresher training course within one year,as specified in accordance with Section 845.125.

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(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART D: RESPONSIBILITIES OF LICENSED INDIVIDUALS,
CONTRACTORS AND APPROVED TRAINING PROGRAM PROVIDERS

Section 845.150 Lead Abatement Worker Responsibilities

- a) Any individual conducting lead mitigation and lead abatement is required to be licensed as a lead abatement worker in accordance with the Act and Section 845.125. The licensed lead abatement worker is responsible for the following:
- 1) Compliance with the Act and this Part;
 - 2) Following the direction and guidance provided by a licensed lead abatement supervisor as outlined in the Work Practice and Occupant Protection Plan required by Section 845.255;
 - 3) Proper implementation of lead mitigation and lead abatement methods;
and
 - 4) Using work practices that:
 - A) Ensure the safety of the workers involved in the lead mitigation and lead abatement activities;
 - B) Ensure the safety of the occupants of the regulated facility; and
 - C) Control dust produced during mitigation or abatement of lead-bearing~~lead-bearing~~ surfaces or coatings.
- b) The lead abatement worker shall possess ~~at~~ the valid and current Department-issued license ~~issued by the Department while~~ on-site at any lead mitigation or lead abatement project.
- c) Licensed lead abatement workers ~~shall~~ conduct lead mitigation and lead abatement activities only while employed by~~with~~ a licensed lead abatement contractor and only while~~under the direct supervision of~~ a licensed lead abatement supervisor is on site.

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(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.155 Lead Abatement Supervisor Responsibilities

- a) Any individual supervising lead mitigation and lead abatement work practices is required to be licensed as a lead abatement supervisor in accordance with the Act and Section 845.125. The licensed lead abatement supervisor is responsible for the following:
- 1) Compliance with the Act and this Part;
 - 2) Development and implementation of the Work Practice and Occupant Protection Plan required by Section 845.255;
 - 3) Ensuring proper implementation of lead mitigation and lead abatement methods;
 - 4) Enforcing work practices that:
 - A) Ensure the safety of the workers involved in the lead mitigation and lead abatement activities;
 - B) Ensure the safety of the occupants of the regulated facility; and
 - C) Control dust produced during mitigation or abatement of lead-bearing~~lead-bearing~~ surfaces ~~or coatings~~;
 - 5) Assuring that all lead abatement workers conducting lead mitigation and lead abatement are licensed in accordance with Section 845.125.
 - A) The lead abatement supervisor shall maintain ~~on-site~~ copies of licenses on site for each of the lead abatement workers conducting lead mitigation and lead abatement; and
 - B) The lead abatement supervisor shall ensure that each lead abatement worker conducting lead mitigation and lead abatement possesses ~~at~~ the valid and current Department-issued license while on site~~issued by the Department on site~~;

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- 6) Being ~~on site~~ on-site and overseeing all lead mitigation and lead abatement ~~activities that are occurring; and~~
 - ~~7) Assuring that all lead mitigation and lead abatement work is conducted in accordance with the Act and Subpart F of this Part; and~~
 - ~~78) Providing a written document stating that all lead mitigation and lead abatement activities identified in the Work Practice and Occupant Protection Plan have been completed. The document shall be provided to the owner of the regulated facility and the licensed lead inspector or lead risk assessor conducting the final clearance evaluation ~~compliance investigation.~~~~
- b) A licensed lead abatement supervisor ~~shall~~ can conduct lead mitigation and lead abatement activities only while employed by ~~with~~ a licensed lead abatement contractor. The licensed lead abatement supervisor ~~may~~ can conduct lead mitigation and lead abatement without a lead abatement worker license.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.160 Lead Inspector Responsibilities

Any individual conducting lead inspections in regulated facilities in Illinois is required to be licensed as a lead inspector in accordance with the Act and Section 845.125. The licensed lead inspector is responsible for the following:

- a) Compliance with the Act and this Part;
- b) Conducting lead inspections in accordance with Section 845.210;
- c) Conducting final clearance evaluation ~~compliance investigations~~ in accordance with Section 845.225;
- d) Using procedures that:
 - 1) Ensure the safety of the occupants of the regulated facility; and
 - 2) Control dust and debris produced during lead inspections; and

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- e) Submitting quarterly reports to the Department identifying:
 - 1) The number of lead inspections conducted, including the addresses of the regulated facilities; and
 - 2) The number of final clearance evaluation~~compliance investigations~~ conducted for lead mitigation and lead abatement projects, including the addresses of the regulated facilities; and
- f) Maintaining records required by Section 845.230.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.165 Lead Risk Assessor Responsibilities

Any individual conducting lead risk assessment or lead inspection services in a regulated facility in Illinois is required to be licensed as a lead risk assessor in accordance with the Act and Section 845.125. The licensed lead risk assessor is responsible for the following:

- a) Compliance with the Act and this Part;
- b) Conducting lead risk assessments in accordance with Section 845.215;
- c) Conducting lead inspections in accordance with Section 845.210;
- ~~d) Conducting lead hazard screens in accordance with Section 845.220;~~
- de) Conducting final clearance evaluation~~compliance investigations~~ in accordance with Section 845.225;
- ef) Using procedures that:
 - 1) Ensure the safety of the occupants of the regulated facility; and
 - 2) Control dust and debris produced during lead risk assessment services;
- fg) Submitting quarterly reports to the Department identifying:

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- 1) The number of lead inspections conducted, including the addresses of the regulated facilities;
 - 2) The number of lead risk assessments conducted, including the addresses of the regulated facilities;
 - 3) The number of lead hazard screens conducted, including the addresses of the regulated facilities; and
 - 4) The number of ~~final clearance evaluation~~~~compliance investigations~~ conducted for lead mitigation and lead abatement projects, including the addresses of the regulated facilities; and
- gh) Maintaining records required by Section 845.230.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.170 Lead Abatement Contractor Responsibilities

Any person conducting lead mitigation and lead abatement work in a regulated facility ~~shall~~~~is required to~~ be licensed as a lead abatement contractor in accordance with the Act and Section 845.130. The licensed lead abatement contractor is responsible for the following:

- a) Compliance with the Act and this Part;
- b) Comprehensive knowledge about general ~~construction~~~~renovation~~ techniques, including ~~lead~~~~lead-based paint (LBP)~~ mitigation and ~~lead~~ abatement;
- c) Assuring that all lead ~~abatement~~ workers and lead ~~abatement~~ supervisors have received Department-approved lead training ~~by possessing a copy of the Department-approved lead training course certificate on engineering controls and good work practices relating to lead mitigation and lead abatement and on the importance of adherence to these controls and practices;~~
- d) Assuring that all lead ~~abatement~~ workers employed by the lead abatement contractor possess a current and valid ~~Department-issued~~ lead ~~abatement~~ worker license ~~issued by the Department;~~
- e) Employing a licensed lead ~~abatement~~ supervisor;

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- f) Assigning a licensed lead abatement supervisor to oversee all project activities for each lead mitigation and lead abatement project;
- g) Assuring the safety of workers by developing and preparing a personnel protection plan, as required by Section 845.260;
- ~~h) Assuring that all lead mitigation and lead abatement work is conducted in accordance with the Act and this Part;~~
- hi) Assuring that the Work Practice and Occupant Protection Plan required by Section 845.255 is developed and implemented for each lead mitigation and lead abatement project that is conducted;
- ij) Submitting the required notification outlined in Section 845.250 for any lead mitigation or lead abatement project; and
- jk) Maintaining records for licensure and records required for each lead mitigation or lead abatement project conducted in accordance with Section 845.300.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.175 Lead Training Program Provider Responsibilities

Any person providing lead training in Illinois ~~shall to individuals seeking licensure in accordance with the Act and this Part is required to~~ be approved in accordance with the Act and Section 845.100. The approved lead training program provider is responsible for the following:

- a) Compliance with the Act and this Part;
- b) Assuring that all lead training courses provided are approved and conducted in accordance with Subpart C ~~of this Part~~; and
- ~~e) Assuring that all lead training is provided in accordance with requirements set forth in Subpart C of this Part; and~~
- cd) Maintaining all records as required by Subpart C ~~of this Part~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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SUBPART E: STANDARDS FOR CONDUCTING
ENVIRONMENTAL INVESTIGATIONS FOR LEAD**Section 845.200 Environmental Lead Sampling Protocol**

- a) Only licensed lead inspectors and lead risk assessors~~individuals as specified in Section 845.125~~ shall perform the activities specified in this Section and shall do so in accordance with the appropriate methodologies referenced in this Section.
- b) Any sampling for lead in paint, dust or soil shall be collected using USEPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling and HUD Guidelines methodologies. All samples shall be analyzed by an accredited laboratory that has been recognized by the USEPA as capable of performing analyses for lead compounds in paint chip, dust, soil or water, as appropriate.
- c) All samples shall be analyzed by a laboratory currently recognized by the National Lead Laboratory Accreditation Program (NLLAP). Paint chip samples shall be collected using methodologies outlined in the USEPA Guidance on Residential Lead-Based Paint, Lead-Contaminated Dust and Lead-Contaminated Soil. Surfaces where paint chip samples are collected with analyses reported as equal to or greater than the levels outlined in Section 845.205 are considered to be lead bearing substances.
- d) XRF testing shall be performed using the USEPA Methodology for XRF Performance Characteristic Sheets and in accordance with the XRF manufacturer's instructions. Surfaces sampled with XRF readings equal to or greater than the levels outlined in Section 845.205 are considered to be lead bearing substances.
- e) Dust sampling shall be collected using methodologies outlined in the USEPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling. Composite dust sampling is not permitted. Dust samples collected with laboratory analyses reported as equal to or greater than the levels set forth in Section 845.205 are considered elevated.
- f) Soil sampling shall be collected using methodologies outlined in the USEPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling. Soil

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~~samples collected with laboratory analyses reported as equal to or greater than the levels outlined in Section 845.205 are considered to be elevated.~~

- ~~eg)~~ Water sampling shall be collected using procedures outlined in the American Water Association Illinois Section: A Guidance Document for Drinking Water Testing (2017)~~methodologies outlined in the Lead and Copper Rule of the USEPA Safe Drinking Water Act. Water samples collected with laboratory analyses reported as equal to or greater than the levels outlined in Section 845.205 are considered to be elevated.~~
- ~~fh)~~ Composite sampling, as outlined in the HUD Guidelines USEPA protocols, may be applied to soil sampling only. No other environmental samples shall be collected using a composite sample method.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.205 Regulatory Limits of Lead

- a) The regulatory limit of lead in any ~~lead-bearing~~lead bearing substance on an interior or exterior surface of a regulated facility shall be 0.5% lead by weight (calculated as lead metal) in the total non-volatile content of liquid paint, or ≥ 1.0 mg/cm² in the dried film of paint.
- b) The regulatory limit of lead in bare soil that is readily accessible to children shall be 400 ~~$\mu\text{g/g}$ (or parts per million or ppm)~~mcg/g. The regulatory limit of lead in other bare soil areas shall be 1000 ~~$\mu\text{g/g}$~~ mcg/g.
- c) The regulatory limit of lead in dust shall be:
- 1) ~~1040~~ 1040 ~~$\mu\text{gmcg}/\text{ft}^2$~~ on all interior ~~and exterior~~ floors and stair treads; ~~and~~
 - 2) ~~40200~~ 40200 ~~$\mu\text{gmcg}/\text{ft}^2$~~ on all ~~exterior porch floors~~other horizontal surfaces; ~~and~~
 - 3) 100 ~~$\mu\text{g}/\text{ft}^2$~~ on all horizontal surfaces.
- ~~d)~~ The regulatory limit of lead in dust for lead hazard screens shall be:
- 1) ~~25~~ 25 ~~mcg/ft^2~~ on all interior and exterior floors; ~~and~~

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- 2) ~~100 mcg/ft² on all other horizontal surfaces.~~
- de) The regulatory limit of lead in drinking water shall be 5 µg/L (or parts per billion or ppb)~~is established by the USEPA as 0.015 mg/L (i.e., 15 ppb).~~
- ef) Storage of any lead-containing or lead-contaminated article in an area accessible to children shall be prohibited. This includes automotive or marine batteries, battery casings or battery casing liners; scrap lead or lead solder; internal combustion engine parts; print or print faces; pottery glaze or pottery glaze containers; bullets or spent cartridges; or any other article containing or contaminated by lead.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.210 Procedures for Lead Inspections in Regulated Facilities

- a) ~~Licensure.~~ A lead inspection shall be conducted only by a person licensed by the Department as set forth in Section 845.125 as a lead inspector or lead risk assessor. Licensed lead inspectors and risk assessors shall present, upon request, proof of licensure in the form of the Department-issued ~~photo identification~~ license.
- b) ~~Conflict of Interest.~~ Lead inspectors and lead risk assessors conducting lead inspections shall avoid potential conflicts of interest by not being an employee of the client (other than as contracted for the services at hand) or of the lead abatement contractor for the lead abatement or lead mitigation project for which final clearance is being evaluated.
- c) Lead inspectors and lead risk assessors shall obtain or prepare a written statement of services in accordance with the client's specifications. The statement shall include the scope of the lead inspection, including a summary statement indicating what service was requested by the owner and the extent of service provided. The statement shall be descriptive and shall indicate if the service was a ~~partial/comprehensive~~ lead inspection. If the service was ~~not~~ a ~~partial/comprehensive~~ lead inspection, the extent and limitations of the service shall be clearly stated.

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- d) ~~Visual Assessment and Property Diagram.~~—A visual assessment of the condition of the building, structures, surfaces and ~~for~~ components to be included in the lead inspection shall be performed prior to environmental sampling.
- 1) A detailed property diagram shall be produced using a ~~consistent~~systematic labeling system.
 - 2) A written inventory shall be produced of each testing combination for all interior and exterior room equivalents.
- e) ~~Sampling Locations for Paint.~~—When conducting a lead inspection, a lead inspector or lead risk assessor shall select the following locations according to the USEPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling and HUD Guidelines and shall test the following locations for the presence of a lead-bearing~~lead-bearing~~ substance in accordance with Section 845.200:
- 1) Each interior and exterior component that has a distinct painting history, except for components that the lead inspector or lead risk assessor determines do not contain lead-bearing~~lead-bearing~~ substances.
 - 2) Additional samples for each component that has a distinct painting history in every common area, except for components that the lead inspector or lead risk assessor determines do not contain lead-bearing~~lead-bearing~~ substances.
- f) ~~Any sampling for lead in paint, dust, water or soil shall be collected using USEPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling and HUD Guidelines methodologies.~~
- g) ~~Preparation of Inspection Report.~~—The lead inspection shall be documented in a written report that shall include the following:
- 1) The name and complete address of the regulated facility;
 - 2) The name, complete address, and telephone number of the property owner or owners of the regulated facility;
 - 3) The name, ~~license number and~~ written signature and a copy of each individual's Department-issued the lead inspector or lead risk assessor

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~~license performing the work. A copy of the individual's license current at the time of the work shall be included in the report;~~

- 4) The name, complete address, and telephone number of the licensed lead abatement contractor employing the services of each lead inspector or lead risk assessor, if applicable;
- ~~54)~~ The date of the field work and the date of the report;
- ~~65)~~ A summary statement indicating what service was performed as specified in subsection (c) by the client in the contract for services. The statement shall be descriptive and shall indicate whether the service was a comprehensive lead inspection. If the service was not a comprehensive lead inspection, the extent and limitations of the service shall be clearly stated;
- ~~76)~~ Results of the visual inspections, including a narrative description of the regulated facility, including general condition, surface substrate type, painted surfaces condition, and maintenance practices;
- ~~87)~~ A list of the locations of the lead-bearing~~lead-bearing~~ substances identified. The list shall be cross-referenced with a basic floor plan drawing of the regulated facility inspected;
- ~~98)~~ A copy of all XRF sampling reports and laboratory analyses;
- ~~109)~~ Each testing method, device and XRF serial number (if applicable), and sampling procedures employed for paint analysis, including quality control data; and
- ~~1140)~~ A statement that the presence of lead-bearing~~lead-bearing~~ substances shall be disclosed to potential buyers and renters prior to obligation under a sales contract or lease in accordance with Section 845.25 and federal Lead Safe Housing Rule (24 CFR 35) and Lead-Bearing Paint Poisoning Prevention in Certain Residential Structures (40 CFR 745). Sample disclosure language can be found in the HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing, Chapter 7.

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- gh) The written report required by this Section shall be provided to the owner, who shall make the report available to any occupant, tenant or parent (in the case of a child care facility). A copy of the report shall be maintained by the licensed professional who performed the service in accordance with Section 845.230.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.215 Procedures for Lead Risk Assessments in Regulated Facilities

- a) ~~Licensure~~. A lead risk assessment shall be conducted only by a person licensed by the Department, as set forth in Section 845.125, as a lead risk assessor. A licensed lead risk assessor shall present, upon request, proof of licensure in the form of the Department-issued ~~photo identification~~ license.
- b) ~~Conflict of Interest~~. Lead risk assessors conducting lead risk assessment activities shall avoid potential conflicts of interest by not being an employee of the client (other than as contracted for the services at hand) or of the lead abatement contractor for the lead abatement or lead mitigation project for which final clearance is being evaluated.
- c) Lead risk assessors shall obtain or prepare a statement of services in accordance with the client's specifications. The statement shall include the scope of the lead risk assessment, including a summary statement indicating what service was requested by the owner and the extent of service provided. The statement shall be descriptive and shall indicate whether the service was a ~~partial~~comprehensive lead risk assessment. If the service was ~~not a~~ partial~~comprehensive~~ lead risk assessment, the extent and limitations of the service shall be clearly stated.
- d) ~~Visual Assessment~~. A visual ~~inspection for risk~~ assessment to locate the existence of deteriorated paint, to assess the extent and causes of the deterioration, and to evaluate other potential lead hazards shall be conducted prior to environmental sampling.
- 1) A detailed property diagram shall be produced using a consistent labeling system.
 - 2) A written inventory shall be produced of each testing combination for all interior and exterior room equivalents.

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- e) ~~Collection of Background Information.~~ The lead risk assessor shall collect background information regarding the physical characteristics of the property, including any previous lead inspection or risk assessment reports, maintenance history and use patterns that may cause exposure to a lead hazard.
- f) ~~Sample Locations for Paint.~~ When conducting a lead risk assessment, a lead risk assessor shall select ~~the following~~ locations according to the USEPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling and HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing. The ~~selected~~following locations shall be tested for the presence of a ~~lead-bearing~~lead bearing substance, in accordance with Section 845.200. The following surfaces that are determined to be a distinct testing combination shall be tested for the presence of lead:
- 1) Each friction surface;
 - 2) Each impact surface with visibly deteriorated paint; and
 - 3) All other surfaces with visibly deteriorated paint.
- g) ~~Sample Locations for Dust.~~ When conducting a lead risk assessment, a lead risk assessor shall select ~~the following~~ locations according to USEPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling and HUD Guidelines methodologies, and test for the presence of lead hazards in dust in accordance with Section 845.200. The following representative locations shall be tested for lead dust based on visual assessment of painting history and component type:
- 1) Two ~~single-surfaces~~single-surface dust samples shall be collected, one from the floor and one from the window in each area where occupants are likely to come into contact with dust;
 - 2) Additionally, interior window stool and floor dust samples (single-surface samples only) shall be collected and analyzed for lead concentration in common areas where the occupants are likely to come into contact with lead. ~~Composite samples are not permitted.~~
- h) ~~Soil Sampling.~~ Soil samples are discretionary based on the visual assessment and the existence of bare soil. If collected, soil samples shall be collected in accordance with USEPA Residential Sampling for Lead: Protocols for Dust and

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Soil Sampling and HUD Guidelines methodologies. ~~Soil samples collected with laboratory analyses reported as equal to or greater than the levels specified in Section 845.205 are considered elevated.~~

- ~~i)~~ ~~All environmental sampling or testing shall be conducted using methodologies that incorporate adequate quality control procedures as referenced in Section 845.200.~~
- ~~j)~~ ~~Any collected paint chip, dust, soil or water samples shall be analyzed by an accredited laboratory.~~
- ~~ik)~~ The lead risk assessment shall be documented in a written report that shall include the following:
 - 1) The name and complete address of the regulated facility;
 - 2) The name, complete address, and telephone number of the property owner;
 - 3) The name, ~~license number and~~ written signature, and a copy of each individual's Department-issued of the lead risk assessor license performing the work. A copy of the individual's license current at the time of the work shall be included in the report;
 - 4) The name, complete address, and telephone number of the licensed lead abatement contractor employing the services of each lead inspector or lead risk assessor, whichever is applicable;
- ~~54)~~ 54) The date of the field work and the date of the report;
- ~~65)~~ 65) A summary statement indicating what service was performed as specified in subsection (c) requested by the owner and the extent of service provided by the lead risk assessor. ~~The statement shall be descriptive and shall indicate whether the service was a comprehensive lead risk assessment. If the service was not a comprehensive lead risk assessment, the extent and limitations of the service shall be clearly stated. The statement shall also include a narrative description of the facility, including general condition, condition of the painted surfaces and maintenance practices;~~

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- ~~76~~) A list of the location and type of lead hazards and ~~lead-bearing~~ ~~lead-bearing~~ substances identified. The lead hazards and ~~lead-bearing~~ ~~lead-bearing~~ substances shall be cross-referenced with a basic floor plan drawing of the ~~regulated~~ facility assessed. Each lead hazard identified shall be accompanied by written hazard control options available to the owner to address each lead hazard. The lead hazard listing shall be arranged based on priority;
- ~~87~~) If the service was conducted for a regulated facility with multiple dwelling units, recommendations for maintenance of ~~lead-bearing~~ ~~lead-bearing~~ substances and lead hazards that may be employed universally for all units in the complex shall be provided to the property owner;
- ~~98~~) A copy of all XRF sampling reports and laboratory analyses, ~~and a statement as to how the samples were collected; and~~
- ~~10~~) Each testing method, device and XRF serial number (if applicable), and sampling procedures employed for paint analysis, including quality control data; and
- ~~119~~) A statement that the presence of ~~lead-bearing~~ ~~lead-bearing~~ substances shall be disclosed to potential buyers and renters prior to obligation under a sales contract or lease in accordance with Section 845.25 and federal Lead Safe Housing Rule (24 CFR 35) and Lead-Based Paint Poisoning Prevention in Certain Residential Structures (40 CFR 745). Sample disclosure language can be found in HUD Guidelines for the Evaluation and Control of Lead-Based Paint Hazards in Housing.
- ~~j1~~) The written report required by this Section shall be provided to the owner, who shall make the report available to any occupant, tenant or parent (in the case of a child care facility). A copy of the report shall be maintained by the licensed professional who performed the service in accordance with Section 845.230.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.220 Procedures for Lead Hazard Screens in Regulated Facilities (Repealed)

- a) ~~Licensure. A lead hazard screen shall be conducted only by a person licensed by the Department as set forth in Section 845.125 as a lead risk assessor. The~~

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~~licensed lead risk assessor shall present, upon request, proof of licensure in the form of the Department issued photo identification license.~~

- b) ~~Conflict of Interest. Lead risk assessors conducting lead risk assessment activities shall avoid potential conflicts of interest by not being an employee of the client (other than as contracted for the services at hand) or of the lead abatement contractor for the abatement or mitigation project for which clearance is being evaluated.~~
- e) ~~Lead risk assessors shall obtain or prepare a written statement of services in accordance with the client's specifications. The statement shall include the scope of the lead hazard screen, including a summary statement indicating what service was requested by the owner and the extent of service provided.~~
- d) ~~Collection of Background Information. The lead risk assessor shall collect background information regarding the physical characteristics of the property, including use patterns that may cause exposure to lead hazards.~~
- e) ~~Visual Inspection. A visual inspection of the regulated facility shall be conducted to:~~
 - 1) ~~Determine whether any deteriorated paint is present. Identification of 5 or more surfaces in poor condition constitutes failure of a lead hazard screen and requires a lead risk assessment; and~~
 - 2) ~~Locate at least 2 dust sampling locations.~~
- f) ~~Sample Locations for Paint. When conducting a lead hazard screen, a lead risk assessor shall select locations that have deteriorated paint and are found to have a distinct painting history to sample for the presence of lead bearing substances.~~
- g) ~~Sample Locations for Dust. When conducting a lead hazard screen, a lead risk assessor shall select the following locations according to the methodologies referenced in this Section, and shall test for the presence of lead hazards in dust, in accordance with Section 845.200. The following representative locations shall be tested for lead dust based on visual assessment of painting history and component type:~~

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- 1) ~~Two single surface dust samples shall be collected, one from the floor and one from the window in each area where occupants are likely to come into contact with dust; and~~
- 2) ~~Additionally, interior window stool and floor dust samples (single surface samples only) shall be collected and analyzed for lead concentration in common areas where the occupants are likely to come into contact with lead. Composite samples are not permitted.~~
- h) ~~Soil Sampling. Soil samples are discretionary based on the visual assessment. If collected, soil samples shall be collected in accordance with USEPA Residential Sampling for Lead: Protocols for Dust and Soil Sampling and HUD Guidelines for the Evaluation and Control of Lead Based Paint Hazards in Housing methodologies. Soil samples collected with laboratory analyses reported as equal to or greater than the levels specified in Section 845.205 are considered elevated.~~
- i) ~~All environmental sampling or testing shall be conducted using methodologies that incorporate adequate quality control procedures as referenced in Section 845.200.~~
- j) ~~All collected paint chip, dust, soil or water samples shall be analyzed by an accredited laboratory.~~
- k) ~~The lead hazard screen shall be documented in a written report that shall include the following:~~
 - 1) ~~The name and address of the regulated facility;~~
 - 2) ~~The name, address and telephone number of the property owner;~~
 - 3) ~~The name, license number and written signature of the lead risk assessor performing the work. A copy of the individual's license current at the time of the work, shall be included in the report;~~
 - 4) ~~The date of the field work and the date of the report;~~
 - 5) ~~A summary statement indicating what service was requested by the owner as required by subsection (c) of this Section. The statement shall also~~

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~~include a narrative description of the facility, including general condition, condition of the painted surfaces condition and maintenance practices;~~

- ~~6) Results of the visual inspections, including a narrative description of the facility, including general condition and condition of the painted surfaces;~~
 - ~~7) A list of the locations of the lead bearing substances identified. The list shall be cross referenced with a basic floor plan drawing of the regulated facility inspected;~~
 - ~~8) Recommendations for a follow up lead risk assessment, as appropriate, and any further necessary actions;~~
 - ~~9) A copy of all XRF sampling reports and laboratory analyses;~~
 - ~~10) Each testing method, device and XRF serial number (if applicable) and sampling procedures employed for paint analysis, including quality control data; and~~
 - ~~11) A statement that the presence of lead bearing substances shall be disclosed to potential buyers and renters prior to obligation under a sales contract or lease in accordance with Section 845.25, 24 CFR 35 and 40 CFR 745. Sample disclosure language can be found in HUD Guidelines for the Evaluation and Control of Lead Based Paint Hazards in Housing.~~
- ~~1) The written report required by this Section shall be provided to the owner. A copy of the report shall be maintained by the licensed professional who performed the service in accordance with Section 845.230.~~

(Source: Repealed at 42 Ill. Reg. _____, effective _____)

Section 845.225 Final Clearance Evaluations ~~Compliance Investigation~~ in Regulated Facilities

- a) The owner, its agent and ~~or~~ the licensed lead abatement contractor shall allow access to the Department or a delegate agency ~~authorized by the Department~~ to inspect a work area at any time during a lead abatement or lead mitigation project to determine compliance with the Act and this Part.

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- b) Upon completion of the lead abatement or lead mitigation activities and the ~~cleanup~~ ~~clean-up~~ procedures outlined in Section 845.285, each work area shall pass a visual inspection and final clearance ~~evaluation~~ ~~dust sampling~~, which shall include the following minimum requirements:
- 1) A licensed lead inspector or lead risk assessor shall review the Work Practice and Occupant Protection Plan, developed by the licensed lead abatement supervisor as outlined in Section 845.255, to determine the areas that require a final clearance evaluation.
 - 2) A licensed lead inspector or lead risk assessor shall receive and review the written assurance statement provided by the licensed lead abatement supervisor as required in Section 845.155.
 - 3) A licensed lead inspector or lead risk assessor shall conduct a visual inspection of the work areas identified in the above-referenced Work Practice and Occupant Protection Plan to ensure that the surfaces have been abated or mitigated. The licensed lead inspector or lead risk assessor shall notify the owner or its agent and the licensed lead abatement contractor of the results of the visual inspection, and shall include the locations and characteristics of surfaces requiring further lead abatement, lead mitigation or cleanup ~~with inadequate treatment~~. The visual assessment shall be documented in writing by the licensed lead inspector or lead risk assessor.
 - 4) For work areas that pass the final visual inspection, a licensed lead inspector or lead risk assessor shall collect ~~at least the following~~ dust wipe samples ~~from~~ ~~for~~ no fewer than 4 ~~four~~ rooms or common areas within the work area identified in the Work Practice and Occupant Protection Plan. If ~~(if~~ there are fewer than 4 rooms, all rooms and common areas shall be sampled):
 - A) At least one sample shall be collected from the bare floor;
 - B) At least one sample shall be collected from a window stool and one sample from a window well if available. ~~If there is not a window located within the work area, these dust samples shall be collected from alternative horizontal surfaces;~~

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- C) One sample shall be located on a horizontal surface or bare floor at or near the entrance to the work area.
- 5) For work areas that fail the final visual inspections, the licensed lead abatement contractor shall repeat the procedures outlined in Section 845.285.
- 6) For work areas that pass the final visual inspection, but are found in non-compliance with the regulatory limits established in Section 845.205(c), the licensed lead abatement contractor shall repeat the procedures outlined in Section 845.285 for non-compliant surfaces and ~~those~~ horizontal surfaces located below the non-compliant surfaces. Upon completion of these procedures, the licensed lead inspector or lead risk assessor shall repeat the visual assessment and dust sampling specified in subsection (b) for those non-compliant surfaces and the horizontal surfaces located below the non-compliant surfaces. This process shall continue until compliance with the regulatory limits established in Section 845.205(c) is achieved.
- c) Before a work area may be released for re-occupancy, the work area must meet the following requirements.
- 1) The work area shall pass the visual inspection outlined in subsection (b)(a), ensuring that all abated or mitigated surfaces and all uncarpeted floors have been treated to provide smooth and easily cleanable surfaces; ~~and~~ and
- 2) Lead dust levels on horizontal surfaces are below the levels established in Section 845.205(c). All environmental lead samples must be submitted and analyzed by ~~an accredited~~ laboratory currently recognized by NLLAP.
- d) Upon achieving acceptable final clearance evaluation results, the licensed lead inspector or lead risk assessor shall prepare a written final clearance evaluation compliance investigation report. A copy of the final clearance evaluation compliance investigation report shall be provided to the licensed lead abatement contractor and to the owner of the regulated facility, who shall make the report available to any occupant tenant or parent (in the case of a child care facility). The report shall include the following:

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- 1) The written assurance statement ~~provided~~required by the licensed lead abatement supervisor, as required in Section 845.155 subsection (b)(2) of this Section stating that the work area has passed the final visual inspection;
 - 2) A written statement that the work area passed visual inspection and analyses for dust wipe samples collected in the work area were within acceptable regulatory limits as outlined in Section 845.205(c);
 - 3) The printed name, license number, and written signature of the person who conducted the final clearance evaluation sampling; and
 - 4) A copy of the field sampling forms utilized, including the locations where the samples were collected and a copy of the laboratory results.
- e) The licensed lead inspector or lead risk assessor shall keep a copy of the final clearance evaluation~~compliance investigation~~ report, as required by the record keeping requirements outlined in Section 845.230.
- f) A final clearance evaluation shall not be conducted by a licensed lead inspector or lead risk assessor who is employed by or affiliated with the licensed lead abatement contractor that conducted the lead abatement or lead mitigation.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.230 Record Keeping Requirements for Environmental Investigations for Lead

All written reports and records required in Sections 845.210, 845.215, ~~845.220~~ and 845.225 shall be maintained by the licensed lead inspector ~~and~~/or lead risk assessor who performed the lead investigation service.

- a) Copies of all written reports and records shall be maintained for no fewer than 6 years from the date ~~of~~ the final clearance evaluation report or certificate of compliance is issued~~investigation~~;
- b) The licensed lead inspector and lead risk assessor shall allow the Department or its delegate agency access to ~~the such~~ records as requested, and shall provide copies to the Department upon request;

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- c) Copies of all written reports and records shall be provided to the person who contracted for the lead investigation service for the regulated facility.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART F: STANDARDS FOR LEAD MITIGATION
AND LEAD ABATEMENT**Section 845.250 Submissions and Notices**

- a) ~~Notice to the Department.~~ The lead abatement contractor shall notify the Department at least 7 calendar days prior to the commencement of any lead abatement or lead mitigation project ~~at~~ a regulated facility. A separate notification shall be submitted for each unique regulated facility.
- 1) Notifications and changes to the notification shall be submitted on a form provided by the Department and shall be complete and accurate;
 - 2) The notification shall ~~state the~~ reflect a start date ~~of that corresponds with~~ the beginning of lead abatement setup and an end date indicating when final clearance evaluation results are to be received by the lead abatement contractor ~~that corresponds with the achievement of clearance.~~ The lead abatement contractor shall submit any changes to the notification to the Department at least one day prior to the changes taking place;
 - 3) ~~The lead abatement contractor shall submit any changes in the notification sent to the Department. The calendar days shall be counted starting with the day the notice is received by the Department. The date received will be based on the postmarked date if mailed and/or the facsimile receipt date.~~ The lead abatement contractor may not start work ~~sooner than~~ on the start date placed on the original notification ~~eight~~ calendar day;
 - 4) In the event that a project is delayed or cancelled for any reason, a revised notification shall be submitted to the Department, prior to the delay or cancellation, informing the Department of the delay or cancellation stating so. ~~The notification shall be updated every 7 days until the project begins again.~~ If the notification dates expire before the final clearance evaluation results are received by the lead abatement contractor ~~job re-commences~~, a

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new 7-day notification shall be submitted to the Department in accordance with subsections (a)(1) through -(3).

- b) The owner or agent of any tenant-occupied regulated facility shall give notice to the occupants at least 7 calendar days, but not more than 30 calendar days, before a lead abatement contractor may commence a lead abatement or lead mitigation project. The owner or agent of the building in which the lead abatement or lead mitigation project is to take place shall notify all residents of: ~~Notice to Occupants~~
- 1) The area that is to undergo lead abatement or lead mitigation;~~The owner or its agent of any tenant-occupied regulated facility shall give notice to the occupants at least 7 calendar days, but not more than 30 calendar days, before a lead abatement contractor may commence a lead abatement or lead mitigation project. The owner of the building in which the lead abatement or lead mitigation project is to take place shall notify all residents of:~~
 - 2) The date on which lead abatement or lead mitigation is to commence;
 - 3) The name and telephone number for the Department-licensed lead abatement contractor;
 - 4) The occupants' obligations under this Section to remove personal items from the proposed work area; and
 - 5) The owner of a regulated facility who has received a mitigation notice under Section 9 of the Act shall post notices at all entrances to the regulated facility specifying the identified lead hazards. The posted notices, drafted by the Department and sent to the property owner with the notification of lead hazards, shall indicate the following:
 - A) that a unit or units in the building have been found to have lead hazards~~The area that is to be abated or mitigated;~~
 - B) that other units in the building may have lead hazards~~The date on which abatement or mitigation is to commence;~~

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- C) ~~*that the Department recommends that children 6 years of age or younger receive a blood lead testing*~~~~*The name and telephone number for the licensed lead abatement contractor;*~~
- D) ~~*where to seek further information*~~~~*The occupants' obligations under this Section to remove personal items from the proposed work area; and*~~
- E) ~~*whether mitigation notices have been issued for 2 or more dwelling units within a 5-year period of time.*~~~~*The owner of a dwelling unit or residential building who has received a mitigation notice under Section 9 of the Act shall post notices in common areas of the building specifying the identified lead hazards. The posted notice, drafted by the Department and sent to the property owner with the notification of lead hazards, shall indicate the following:*~~
- ~~i) *that a unit or units in the building have been found to have lead hazards;*~~
 - ~~ii) *that other units in the building may have lead hazards;*~~
 - ~~iii) *that the Department recommends that children 6 years of age or younger receive a blood lead screening;*~~
 - ~~iv) *where to seek further information; and*~~
 - ~~v) *whether mitigation notices have been issued for 2 or more dwelling units within a 5 year period of time.*~~
- c2) *Once the owner has complied with a mitigation notice or mitigation order issued by the Department, the owner may remove the notices posted pursuant to this Section. (Section 9.4 of the Act)*

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.255 Work Practice and Occupant Protection Program

- a) The lead abatement contractor shall protect occupants of a regulated facility undergoing lead abatement or lead mitigation activities from exposure to potential

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lead hazards that may be generated by the lead abatement or lead mitigation activities. To ensure the health and safety of occupants, a Work Practice and Occupant Protection Plan shall be ~~developed~~produced and followed for each lead mitigation and lead abatement project. At a minimum, the plan shall describe the protocols, procedures and work practices to be employed by the lead abatement contractor to ensure that the occupants are properly protected from potential lead hazards that may be generated from the lead abatement or lead mitigation work. The plan shall be written and shall fulfill the following requirements:

- 1) Evaluate the need to remove the occupants from the regulated facility during the lead abatement or lead mitigation;
- 2) Be unique to each lead abatement or lead mitigation work area;
- 3) Be developed by a licensed lead abatement supervisor employed by the licensed lead abatement contractor performing the lead abatement or lead mitigation work;
- 4) Provide the name, written signature and Department-issued license number of the licensed lead abatement supervisor who prepared the plan;
- 5) Be developed and implemented prior to commencement of lead abatement or lead mitigation;
- 6) Include the results of any lead inspection or lead risk assessment conducted in the regulated facility;
- 7) Evaluate and establish the requirements for pre-cleaning the work areas before establishing work place barriers and containment systems as required by Section 845.265;
- 8) Describe what work practices will be employed to prevent the uncontrolled release of dust and debris from the work area;
- 9) Describe the method of separating the work area from non-work areas, and describe work area isolation methods to prevent unauthorized entry by non-licensed or non-protected individuals;

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- 10) Describe in writing work practices to be employed to abate or mitigate the ~~lead-bearing~~lead-bearing substance and ~~or~~ lead hazard;
 - 11) Outline procedures to ensure that the work area or regulated facility is not re-occupied prior to final cleaning required in Section 845.285 and the final clearance evaluation requirements specified in Section 845.225;
 - 12) Be kept at the site and updated as necessary by the lead abatement supervisor employed by the lead abatement contractor performing the lead abatement or lead mitigation;
 - 13) Be kept by the lead abatement contractor after the completion of the lead mitigation or lead abatement project in accordance with the record keeping requirements outlined in Section 845.300; and
 - 14) Be made available for review by the building owner, its agent or a representative of the Department or its delegate agency.
- b) The lead abatement contractor performing a lead abatement or lead mitigation activity that is expected to break or disturb any ~~lead-bearing~~lead-bearing substances shall display a caution sign outside ~~at~~ each work area ~~at~~ the regulated facility in the following manner:
- 1) Before abating or mitigating a ~~lead-bearing~~lead-bearing substance, caution signs shall be posted by the lead abatement contractor immediately outside all entrances and exits to each work area;
 - 2) Caution signs shall be kept posted until the lead abatement or lead mitigation is completed and final ~~dust~~ clearance evaluation results have been obtained. Caution signs shall:
 - A) Be at least 11" by 8.5";
 - B) State the date and place of the lead abatement or lead mitigation project; and
 - C) Include the phrase "Warning, Lead Work Area, Poison, No Smoking or Eating" in bold lettering, at least 2 inches high.

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(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.260 Personnel Protection Program

- a) The lead abatement contractor, its agent, or any person who is performing lead abatement or lead mitigation in a regulated facility shall take the necessary precautions to protect his or her health, the health of any lead abatement supervisor or lead abatement worker-~~employed~~, and the health of occupants of the regulated facility during any lead abatement or lead mitigation that may produce lead chips, dust or fumes.
- b) The lead abatement contractor shall comply with the requirements established for worker protection in accordance with 29 CFR 1926.62, 29 CFR 1910.1025 and 29 CFR 1910.134.
- c) The lead abatement contractor shall maintain copies of the written personnel protection program on-site at each lead abatement and lead mitigation project and make those copies available for review by Department or delegate agency staff. The written plan shall include:
 - 1) The minimum requirements for personal protective equipment to enter the work area. If protective equipment is not provided, the lead abatement contractor shall have on-site air monitoring results and/or negative exposure assessment as required by OSHA, indicating that protective equipment is not required;
 - 2) The work practices ~~thatt~~o ensure ~~that~~ employees are not spreading potential lead contamination to other locations by transfer on protective equipment; and
 - 3) The personal hygiene practices to be used by personnel for decontamination prior to leaving the work area.
- d) Copies of the written personnel protection program shall be maintained as part of the records required in Section 845.300.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.265 Lead Work Area Isolation, Preparation and Containment

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- a) Work area isolation, preparation and containment shall be in accordance with the written Work Practice and Occupant Protection Program required by Section 845.255 and the procedures specified in this Section.
- b) The licensed lead abatement contractor shall ensure that unauthorized persons are not permitted to enter a work area where lead mitigation or lead abatement is occurring.
- c) The licensed lead abatement contractor shall ensure that all warning signs required by Section 845.255 are clearly displayed, identifying each work area within the regulated facility.
- d) ~~Accessibility.~~ At all times when a lead abatement or lead mitigation project is being conducted in a regulated facility, the lead abatement contractor shall ensure that the following conditions are met:
 - 1) The Department or its delegate agency shall have access to the work area at any time during a lead abatement or lead mitigation project to determine compliance with the requirements of this Part;
 - 2) The lead abatement contractor shall ensure that occupants and pets use alternative entrances and exits that do not require passage through the work area. The lead abatement contractor shall use all reasonable efforts to create an uncontaminated passage for entrance and exit of all building occupants;
 - 3) If the entrance to and exit from a building can only be through the work area, the lead abatement contractor shall provide an enclosed passage through the work area, which serves as an air-tight isolation barrier from the work area and is to be used for entrance and exit from the building. The airtight enclosed passage must remain in place until work is complete, final ~~cleanup~~ ~~clean-up~~ is conducted, and the ~~final clearance evaluation~~ ~~compliance investigation~~ required by Section 845.225 has been successfully completed;
 - 4) Restricted access to each work area shall remain in place until work is completed, final ~~cleanup~~ ~~clean-up~~ is conducted, and the final ~~dust~~

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clearance evaluation samples have met the minimum requirements set forth~~passed the compliance investigation required~~ in Section 845.225.

- e) ~~Work Area Pre-cleaning.~~ The lead abatement contractor shall conduct ~~the required~~ pre-cleaning of each work area as stated in~~required by~~ the Work Practice and Occupant Protection Plan required by Section 845.255, including at least the following:
- 1) Turn off all forced air ventilation in the work area and seal exhaust and intake points in the work area;
 - 2) Pre-clean movable objects ~~within the proposed work area~~ using HEPA-filtered vacuum equipment ~~and/or~~ wet cleaning methods, ~~as appropriate,~~ and remove ~~those such~~ objects from the work area;
 - 3) Clean upholstered furniture, drapes and removable carpeting twice using HEPA-filtered vacuum equipment before removal from the work area;
 - 4) Pre-clean fixed objects using HEPA-filtered vacuum equipment and/or wet cleaning methods ~~as appropriate~~; and
 - 5) Pre-clean the ~~proposed~~ work area using HEPA-filtered~~HEPA filtered~~ vacuum equipment ~~and/or~~ wet cleaning methods ~~as appropriate~~.
- f) ~~Interior Containment.~~ Before beginning lead abatement or lead mitigation in an interior~~to abate or mitigate a lead bearing substance that may cause lead chips, dust or fumes in the~~ work area, a licensed lead abatement contractor ~~performing lead abatement or lead mitigation~~ shall, ~~in the following order~~:
- 1) Ensure that access to the work area is restricted as required in subsection (d) ~~of this Section~~;
 - 2) Ensure that all requirements of work area pre-cleaning specified in subsection (e) ~~of this Section~~ have been completed;
 - 3) Cover and seal all objects that cannot be moved, such as radiators, refrigerators, stoves, kitchen cabinets, built-in furniture, and bookcases, with plastic sheeting at least 6 mils thick;

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- 4) Cover floors in the work area with plastic sheeting at least 6 mils thick ~~and sealed~~ in place. For projects that will last more than one day, 2 layers of plastic sheeting 6 mils thick shall be installed. At the end of each work day, the top layer of plastic sheeting shall be cleaned, removed and disposed of in accordance Section 845.285(b) ~~and replaced~~; and
 - 5) Protect carpeting to ensure that contamination does not occur from the lead abatement or lead mitigation activities. Carpeting is subject to ~~the compliance~~-sampling outlined in Section 845.225, ~~and including meeting~~ the regulatory limits of lead for floors ~~as specified in Section 845.205(c)~~.
- g) ~~Exterior Containment.~~ Before beginning ~~lead abatement or lead mitigation to abate or mitigate a lead-bearing substance~~ in an exterior work area, a licensed lead abatement contractor ~~performing the abatement or mitigation~~ shall ensure ~~the following~~:
- 1) Access to the work area ~~is shall be~~ restricted as required in subsection (d) of this Section.
 - 2) ~~All requirements of work area pre-cleaning specified in~~ ~~Pre-cleaning of the work area shall be completed as required by~~ subsection (e) of this Section ~~have been completed~~, including removal and disposal of visible paint chips and debris that are on the ground.
 - 3) When waste and debris will be generated from the lead mitigation or lead abatement activities, ~~the lead abatement contractor shall install at least one~~ layer of plastic sheeting at least 6 mils thick ~~shall be installed~~ to collect any debris ~~generated~~. The plastic sheeting shall be attached below the surface ~~that is~~ to be abated or mitigated to collect and contain any waste and debris. The plastic sheeting shall extend out from the foundation ~~at least~~ 3 feet per story being abated or mitigated, with a minimum of ~~65~~ feet and a maximum of 20 feet. ~~If these horizontal standards cannot be met for any reason, the lead abatement contractor shall erect vertical containment or equivalent extra precautions to contain the work area and ensure that dust and debris does not contaminate adjacent buildings or migrate to adjacent properties.~~
- A) When liquid waste is produced, ~~excluding hydro-blasting~~, the lead abatement contractor shall install a waste collection system capable

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of handling the amount of liquid waste to be generated by the procedure.

- B) The waste collection system shall be attached below the surface being abated or mitigated to assure that liquid waste does not leak from the contained work area.
- 4) Containment systems shall be installed to withstand ~~the forces of the~~ weather conditions and to contain all debris and waste generated during the lead abatement or lead mitigation activities. If inclement weather conditions persist during lead abatement or lead mitigation activities, the lead abatement contractor ~~shall may be required to~~ erect vertical containment or equivalent extra precautions to contain the work area and ensure that dust and debris does not contaminate adjacent buildings or migrate to adjacent properties~~shrouds to prevent dispersal or spread of generated debris.~~
- 5) If the lead abatement contractor is to employ vacuum blasting or contained hydro-blasting, the interior side of windows shall be sealed with at least 2 layers of plastic sheeting at least 6 mils thick.
- 6) Plastic containment barriers that cannot be secured to prevent unauthorized access in the absence of the lead abatement contractor shall be cleaned, removed and disposed of ~~daily~~ in accordance with Section 845.285(c) and replaced daily.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.270 Prohibited Work Practices

- a) No person conducting lead abatement or lead mitigation ~~of lead bearing substances~~ shall employ any of the following methods:
- 1) Open flame burning;
 - 2) Dry sanding;
 - 3) Open abrasive blasting;

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- 4) Uncontained exterior hydro-blasting;
- 5) Interior hydro-blasting;
- 65) Methylene chloride application; or
- 76) Dry scraping.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.275 Safe Work Practices

- a) Lead abatement ~~is a work practice that when completed shall remove or permanently eliminate exposure to the lead bearing substances at a regulated facility. Abatement of lead bearing substances may employ a wide range of work practices outlined in the methodologies specified in Section 845.15, including the following methods:~~
 - 1) Replacement ~~of any. Any component~~ part of a building ~~may be abated by replacement with a lead-free component part free of lead bearing substances.~~
 - 2) Removal ~~of any. Any component~~ part of a building ~~using may be abated by~~ the following techniques:
 - A) Off-site chemical stripping;
 - B) Heat ~~guns gun~~ (operating ~~at temperature temperature shall not exceeding exceed~~ 1100° F). If using heat guns, the lead abatement contractor shall ensure that ~~a appropriate fire extinguishing equipment is on site and immediately accessible to the lead workers using the heat guns. A~~ minimum of one fire extinguisher for each heat gun being used ~~is on site shall be~~ supplied ~~by the lead abatement contractor~~;
 - C) ~~Non-flammable Nonflammable~~ chemical strippers that do not contain methylene chloride;
 - D) Sander equipped with HEPA vacuum attachment;

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- E) Wet planing to substrate;
 - F) ~~Contained vacuum~~Vacuum blasting in exterior work areas only;
 - G) Contained hydro-blasting in exterior work areas only; and
 - H) Mechanical paint removal systems equipped with a HEPA vacuum attachment.
- 3) Enclosure ~~of a lead-bearing.~~ ~~A lead-bearing~~ substance may be ~~achieved~~abated by covering the ~~lead-bearing~~lead-bearing surface with an approved material. ~~Materials used shall comply~~any of the following materials, provided use of the material complies with local building ordinances or codes and shall be applied in accordance with methodologies outlined in Section 845.15. Materials approved for enclosure include:
- A) Gypsum board;
 - B) Fiberglass mats;
 - C) Canvas-backed vinyl wall coverings;
 - D) High pressure laminated plastic ~~sheeting~~sheet, such as Formica[®];
 - E) Tile;
 - F) Paneling;
 - G) Vinyl;
 - H) Wood;
 - I) Aluminum;
 - J) Stone; or
 - K) Other durable material that does not readily tear or peel.

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- 4) Encapsulation ~~of a lead-bearing.~~ A lead-bearing substance may be ~~achieved~~ abated by ~~applying an~~ encapsulation if the encapsulating product ~~is applied~~ in accordance with the manufacturer's directions and ~~shall be~~ is applied in accordance with methodologies specified in Section 845.15.
- b) Lead mitigation ~~is a work practice that when completed temporarily renders a lead bearing substance safe and removes an immediate health hazard to humans.~~ Mitigation of lead-bearing substances may ~~employ~~ include a wide range of interim lead hazard control work practices, including:
 - 1) ~~Procedures~~ Those procedures identified as interim controls outlined in the methodologies incorporated in Section 845.15;
 - 2) The methods outlined in subsection (a) ~~of this Section~~ that are not permanent;
 - 3) Paint film stabilization;
 - 4) Friction and impact surface treatment; ~~and~~
 - 5) Dust removal and control; ~~and~~
 - 6) ~~Reversal.~~ A lead-bearing substance may be mitigated by reversing component parts, provided that no lead-bearing surface remains exposed at the completion of the process and all seams are caulked and sealed.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.280 ~~Guidelines for~~ Abatement and Mitigation of Lead-Contaminated Soil

- a) Soil abatement, including removal of lead-contaminated soil, shall be conducted in accordance with methodologies ~~incorporated~~ outlined in Section 845.15 and ~~shall~~ meet the following requirements:
 - 1) All soil removal work shall be conducted by a ~~Department-~~ licensed lead abatement ~~contractor~~ employing licensed lead ~~abatement~~ workers who are supervised by a licensed lead ~~abatement~~ supervisor;

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- 2) Worker protection shall be provided as required in Section 845.260. At a minimum, all ~~lead abatement~~ workers removing ~~lead-contaminated~~ ~~leaded~~ soil shall be provided with a changing area equipped with a facility for washing or showering. ~~Lead abatement workers~~ Workers shall be required to change into personal protective clothing before entering the work area, and to remove personal protective clothing and shower or wash before leaving the work area;
- 3) A Work Practice and Occupant Protection Program as required by Section 845.255 shall be developed;
- 4) Equipment decontamination procedures shall be employed to prevent the spread of lead ~~dust and debris~~ ~~contamination~~. Disposable items are not to be reused and shall be discarded as provided in Section 845. ~~290~~ ~~285~~. The equipment decontamination procedures shall be outlined in the Work Practices and Occupant Protection Program required by Section 845.255;
- 5) Prior to beginning soil removal, the source of the lead contamination ~~of the soil~~ shall be identified and eliminated if possible, ~~to prevent re-contamination of the abated area~~;
- 6) Removal of the lead-contaminated soil shall be accompanied by dust suppression methods to keep the generation of dust to a minimum;
- 7) Soil that is stockpiled prior to disposal shall be:
 - A) Placed on a layer of impermeable plastic;
 - B) Kept moist to avoid dust generation; and
 - C) Covered with impermeable plastic that is secured to the ground;
- 8) Removed lead-contaminated soil shall be transported to disposal areas in sealed containers or in a covered vehicle in accordance with disposal requirements ~~incorporated~~ ~~outlined~~ in Section 845.290. Off-site vehicular or foot tracking of contaminated soil shall be avoided;

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- 9) Any ~~replacement~~ removed soil ~~that is to be replaced~~ shall be ~~replaced with soil that has been~~ tested and confirmed to have a lead concentration less than 400 ppm. The testing shall be conducted by a licensed lead inspector or lead risk assessor, with analysis performed by ~~an accredited~~ laboratory ~~currently recognized by NLLAP as defined in Section 845.20.~~
- b) Soil abatement, including the installation of a permanent cover, such as concrete or asphalt, over lead-contaminated soil shall be conducted in accordance with methodologies ~~incorporated~~ outlined in Section 845.15 and shall meet the following requirements:
- 1) Soil abatement work, including the installation of a permanent cover, may be conducted by non-licensed persons, provided that the abatement activities do not involve removal of the existing lead-contaminated soil;
 - 2) Dust suppression methods shall be employed ~~to keep the generation of dust to a minimum~~;
 - 3) Equipment decontamination procedures shall be employed to prevent the spread of lead ~~dust and debris~~ contamination. Disposable items are not to be reused and shall be discarded as provided in Section 845.290;
 - 4) Prior to beginning soil covering, the source of the lead contamination ~~of the soil~~ shall be identified and eliminated, if possible, ~~to prevent re-contamination of the work area.~~
- c) Soil mitigation, including the installation of a non-permanent cover, such as mulch, stone, gravel, soil, sod, etc., over lead-contaminated soil shall be conducted in accordance with documented methodologies ~~incorporated~~ outlined in Section 845.15 and shall meet the following requirements:
- 1) Soil mitigation work, including the installation of a non-permanent cover, may be conducted by non-licensed persons, provided that the mitigation activities do not include the removal of the existing lead-contaminated soil;
 - 2) Dust suppression methods shall be employed ~~to keep the generation of dust to a minimum~~;

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- 3) Equipment decontamination procedures shall be employed to prevent the spread of lead ~~dust and debris~~contamination. Disposable items are not to be reused and shall be discarded as provided in Section 845.290;
- 4) Prior to beginning soil mitigation, the source of the lead contamination ~~of the soil~~ shall be identified and eliminated if possible ~~to prevent re-contamination of the mitigation area~~;
- 5) The non-permanent cover material shall be tested and confirmed to have a lead concentration less than 400 ppm. The testing shall be conducted by a licensed lead inspector or lead risk assessor, with analysis conducted by ~~an accredited~~ laboratory currently recognized by NLLAP; and-
- 6) Installation of non-permanent covering shall be applied to a minimum depth of 2 inches over the lead-contaminated soil.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.285 Cleanup ~~Clean-Up~~ Procedures

- a) Cleanup of interior and exterior work areas shall be conducted at least daily at the end of the work shift, and upon completion of the lead mitigation and lead abatement work.
- b) ~~Clean Up of Interior Work Areas.~~ The lead abatement contractor shall clean up interior work areas using~~complete~~ the following procedures in the order that they appear:
 - 1) All work area isolation systems required in Section 845.265 shall remain in place until completion of the final clearance evaluation~~compliance investigation~~ in accordance with Section 845.225.
 - 2) All waste and debris shall be removed from the work area and disposed of in accordance with Section 845.290.
 - 3) All surfaces and plastic containment barriers in the work area shall be HEPA vacuumed and wet washed with a detergent and water solution ~~or a phosphate-free lead-dissolving detergent~~.

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- 4) After wet washing and allowing all surfaces to dry, HEPA vacuuming of all surfaces in the work area shall be repeated.
 - 5) All plastic barriers used for containment, excluding isolation barriers, if present, shall be removed, ~~and~~ disposed of and replaced daily until final clean up.
 - ~~6) All surfaces in the work area shall be HEPA vacuumed.~~
 - ~~67) All lead waste, isolation barriers and material from clean up, including mop heads, sponges, filters and disposable clothing, shall be deposited and sealed airtight in double plastic bags at least 4 mils thick or single bags 6 mils thick, and the bags shall be sealed.~~
- c) ~~Clean Up of Exterior Work Area.~~—The lead abatement contractor shall clean up exterior work areas using~~conduct exterior clean up according to~~ the following procedures:
- 1) All waste and debris shall be removed from the work area and disposed of in accordance with Section 845.290.
 - 2) All plastic barriers used for containment shall be removed, ~~and~~ disposed of and replaced daily until final clean up. The plastic sheeting shall be removed in a manner to prevent release of any remaining debris.
 - A) Any surface ~~in the work area~~ with visible debris remaining after removal of plastic sheeting shall be HEPA vacuumed.
 - B) All exterior horizontal components in the work area shall be wet washed with a detergent and water solution ~~or a phosphate free lead dissolving detergent as appropriate~~.
 - 3) All lead waste, work area barriers and material from clean up, including mop heads, sponges, filters and disposable clothing, shall be deposited and sealed airtight in double plastic bags at least 4 mils thick or single bags 6 mils thick, and the bags shall be sealed.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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Section 845.290 Disposal Procedures

~~Waste Disposal.~~—The lead abatement contractor shall dispose of all waste generated from the lead abatement or lead mitigation in accordance with State, local and federal laws.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.295 Re-occupation~~Reoccupanion~~ of the Lead Work Area

- a) Before a work area may be released for re-occupancy~~reoccupaney~~, the work area must meet the following requirements:
- 1) The work area shall pass the visual inspection outlined in Section 845.225; ~~ensuring that all abated or mitigated surfaces and all floors have been treated to provide smooth and easily cleanable surfaces;~~ and
 - 2) Lead dust levels on floors and other horizontal surfaces shall be below the levels established in Section 845.205(c). ~~All environmental lead samples must be submitted and analyzed by an accredited laboratory, as defined in 845.20.~~
- b) Upon ~~the work area's~~ passing ~~of~~ the visual inspection and achieving acceptable final dust sample clearance evaluation results, the licensed lead abatement contractor shall obtain a signed copy of the final clearance evaluation result~~compliance investigation report~~ required by Section 845.225 before being released from the work area.
- c) Upon receipt of the signed final clearance evaluation result~~compliance investigation report~~ required by Section 845.225, the licensed lead abatement contractor shall remove the remaining isolation barriers and may release the work area for re-occupancy~~reoccupaney~~.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.300 Record Keeping Requirements for Lead Mitigation and Lead Abatement Activities

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- a) The lead abatement contractor shall retain the following information for every lead abatement or lead mitigation project conducted in a regulated facility in Illinois:
- 1) The name and address of the owner or its agent for whom the project was conducted;
 - 2) A copy of the 7-day abatement/mitigation notification form and all revisions submitted to the Department prior to commencement;
 - 3) Copies of the results of any lead inspection or lead risk assessment conducted in the regulated facility and provided to the lead abatement contractor;
 - 4) A signed copy of the Work Practice and Occupant Protection Plan developed for the regulated facility;
 - 5) A copy of the written personal protection plan ~~OSHA personal monitoring results conducted~~ for the project;
 - 6) A list of the names of the licensed lead abatement workers and lead abatement supervisors employed for each project, including a copy of their Department-issued lead abatement license numbers;
 - 7) A copy of the written assurance statement provided by the licensed lead abatement supervisor as required in Section 845.155, ~~which states that all lead mitigation and lead abatement identified in the Work Practice and Occupant Protection Program have been completed~~; and
 - 8) A copy of the final clearance evaluation results ~~written compliance investigation report~~ required by Section 845.225, ~~indicating that the project met the clearance criteria~~.
- b) The records shall be retained for at least 6 years from the date the lead mitigation or lead abatement project was completed.
- c) The lead abatement contractor shall provide a copy of the items listed in subsections ~~subsection~~ (a)(1) through (8) to the owner of the regulated facility within 60 days after completion of the lead mitigation and/or abatement project.

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- d) The lead abatement contractor shall maintain the following records ~~pertaining to lead abatement contractor license application records and supporting documents~~ for as long as the company is licensed:
- 1) Completed license application form;
 - 2) Proof of liability insurance for all of the time that the lead abatement contractor is licensed;
 - 3) Medical monitoring records for all employees;
 - 4) Copies of all correspondence from the Department; and
 - 5) Records of all legal proceedings, lawsuits or claims that have been filed or levied against the ~~lead abatement contractor~~ ~~Contractor~~ during the time that it is licensed by the Department as a lead abatement contractor.
- e) The lead abatement contractor shall allow the Department or ~~delegate agency's~~ ~~representative~~ access to records pertaining to all lead mitigation and lead abatement projects conducted in regulated facilities.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

SUBPART G: FINES, PENALTIES AND ADMINISTRATIVE HEARINGS

Section 845.350 Denial, Suspension and Revocation of Lead Training Course Approval

- a) ~~Suspension, Revocation, or Denial of Training Courses.~~—The Director of ~~Public Health~~, after notice and opportunity for hearing, may deny the application for, or suspend or revoke the approval of, a lead training program ~~provider~~, or the approval of an individual training course, in any case in which the Department finds substantial or continued failure to comply with the requirements of this Part, including ~~but not limited to~~ fraud, misrepresentation, working without approval, or not adhering to approved training materials.
- b) The hearing notice shall be made by certified mail or by personal service and shall set forth the particular reasons for the proposed action and provide the applicant or approved ~~lead training program~~ provider with an opportunity to request a

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hearing. If a written hearing request is not received within 15 days after the date of mailing by the Department, the right to a hearing is waived.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.355 Denial, Suspension and Revocation of Licenses

- a) In any case in which the Director ~~of Public Health~~ finds substantial or continued failure to comply with the requirements of this Part, including fraud, misrepresentation, working without a license, or not adhering to work practice standards or failure to pay fines or penalties owed to the Department, the Director, after notice and opportunity for hearing, may deny the application for, or suspend or revoke the license of, a lead abatement contractor, lead supervisor, lead worker, lead abatement risk assessor or lead inspector.
- b) The hearing notice shall be made by certified mail or by personal service and shall set forth the particular reasons for the proposed action and provide the applicant or licensee with an opportunity to request a hearing. If a written hearing request is not received within 15 days after the date of mailing by the Department, the right to a hearing is waived.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.360 Fines and Penalties

- a) In addition to any other action authorized by the Act or this Part, *the Department is authorized to ~~may~~ assess ~~administrative~~ penalties against any licensee or any other person who violates the Act or this Part. (Section 12.2(b) of the Act) ~~licensed lead worker, licensed lead professional, licensed lead abatement contractor or approved lead training provider for violation of any provision of the Act or this Part. (Section 11.2 of the Act)~~ The Department shall determine whether a fine will be assessed and the amount of any such fine.*
- b) The Department shall consider the following criteria independently and aggregately to determine whether a fine shall be assessed:
 - 1) Whether the Department issued a stop work order and whether the person strictly obeyed the order;

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- 2) Whether the person has previously been cited for a violation of the Act or this Part, except that any previously cited violation shall not be considered if the violation was held to be unfounded by a final order of the Department or by a court, or if any previous citations for violations occurred more than 3 years ago;
 - 3) Whether the violation is of such nature as to result in the possibility of injury or other harm to the environment; to the person's agents or employees; to the building owner, users or occupants; or to the general public;
 - 4) Whether the violation appears to be the result of any degree of negligence by the person or by the person's agents or employees;
 - 5) Whether the person demonstrated good faith efforts to correct the violation upon receipt of oral or written notice of the violation and whether such actions in fact corrected the violation;
 - 6) Whether the person has falsified any lead license or certificate or represents himself or herself as authorized to conduct work without a valid license in a fraudulent manner; and
 - 7) Whether the person falsified any record keeping information required by the Act or this Part.
- c) Criteria to determine the amount of a fine ~~and~~/or penalty for a violation of any provision of the Act or of this Part are as follows. All amounts determined pursuant to these criteria shall be added together to determine the total fine against the person.
- 1) First violation – the person may be issued a fine of up to ~~\$5,000~~\$1,000.
 - 2) Each day that a violation exists shall constitute a separate or repeat violation.
 - 3) Repeat violation – the person may be issued a minimum fine of ~~\$5,000~~\$1,000 plus additional fines calculated according to subsection (c)(4) ~~of this Section~~.

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- A) For each violation that may cause or result in harm or injury to the health or safety of the agents or employees of the person present: \$100 multiplied by the number of agents or employees present at any time on the date of the violation.
 - B) For each violation that may cause or result in harm or injury to the health or safety of the building owners or users, occupants of the building or the general public: \$100 multiplied by the number of persons present in or around the regulated facility at any time on the date of violation.
 - C) For each violation that may cause or result in contamination with lead dust or debris of any part of the regulated facility other than the work area: ~~\$5,000~~\$1,000.
 - D) For each violation that may cause or result in contamination with lead dust or debris of any surrounding areas to the regulated facility: ~~\$5,000~~\$1,000.
- 4) For a third violation of a provision of the Act or this Part, a licensee or approved training program provider, in addition to the fines and penalties in subsection (c)(3), may have his/her license or Department approval denied, suspended or revoked in accordance with Sections 845.350 and 845.355.
- 5) Notwithstanding any other provision of this Part, the Department may at any time, upon a finding of 5 or more violations during the same inspection that may cause or result in harm or injury to the health and safety of persons, assess a fine ~~and~~/or penalty pursuant to subsection (c)(3).
- d) The Department shall serve notice of fine and/or penalty assessments, and shall provide the same rights and opportunity for hearing as provided in Section 12.2 of the Act and this Section. In the event that a person fails to request a hearing within the time provided in the notice, the person shall be deemed to have waived the right to an administrative hearing, and the fine and/or penalty assessments that are upheld in whole or in part by final order of the Department shall be due in full at the conclusion of the time period for filing for administrative review pursuant to the Administrative Review Law.

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- e) All fine ~~and/or~~ penalty assessments that are upheld in whole or in part by final order of the Department shall be due in full at the conclusion of the time period for filing for administrative review pursuant to the Administrative Review Law, unless the person has within that time filed proceedings in administrative review specifically appealing the fine ~~and/or~~ penalty assessment and unless the court has stayed enforcement of the fine ~~and/or~~ penalty assessment.

(Source: Amended at 42 Ill. Reg. _____, effective _____)

Section 845.365 ~~Emergency~~ Stop Work Orders for Regulated Facilities

Whenever the Department or its delegate agency finds that a situation exists that requires immediate action to protect the public health, it may, without notice or hearing, issue an order requiring that such action be taken as it may deem necessary to protect the public health, including, but not limited to, the issuance of a stop work order, ordering the immediate suspension of any improper activities that may disturb a lead-bearing surface, and requiring that any person found to be improperly conducting such activities immediately cease work. Notwithstanding any other provision in the Act or this Part, such order shall be effective immediately. The Attorney General, State's Attorney, or Sheriff of the county in which the property is located has authority to enforce the order after receiving notice of the order. Any person subject to such an order is entitled, upon written request to the Department, to a hearing to determine the continued validity of the order. (Section 8.3 of the Act)~~In circumstances of substantial danger to the environment or to the health of persons, the Department may direct a person to cease and desist lead activities conducted pursuant to the Act and this Part, to halt the activity causing or contributing to the danger, or to take such other action as may be necessary. The persons, licensed lead worker, licensed lead professional, licensed lead contractor or approved lead training course provider subject to the order will be removed from the Department's list of approved and/or licensed individuals or firms. The Department shall authorize the reinstatement of the lead activities and reinstatement of the individual and/or firm to the Department's list when the activities that are the subject of the emergency stop work order have been brought into compliance with applicable State and federal requirements and this Part.~~

(Source: Amended at 42 Ill. Reg. _____, effective _____)

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Section 845.APPENDIX A Instructions for Childhood Blood Lead Poisoning Reporting System (Repealed)**Section 845.EXHIBIT A Instructions for Completing the Laboratory-Based Report of Childhood Lead Poisoning (Repealed)**

~~The Childhood Lead Poisoning Report form shall be completed for all blood lead test results on all persons 15 years of age and younger. Each laboratory in Illinois certified by the Department to conduct a blood lead analysis is required to complete the Childhood Lead Poisoning Report form, unless the laboratory is reporting to the Department using the electronic reporting system.~~

- 1) ~~Complete the following information on the child's complete name:

LAST NAME: Enter the child's complete last name.

FIRST NAME: Enter the child's complete first name.

MIDDLE INITIAL: Enter the child's middle initial.~~
- 2) ~~Complete the following information on the child's parent or guardian, if available:

LAST NAME: Enter the parent/guardian's complete last name.

FIRST NAME: Enter the parent/guardian's complete first name.

MAIDEN NAME: Enter the parent/guardian's complete maiden last name.~~
- 3) ~~TELEPHONE NUMBER: If available, enter the child's telephone number (area code and 7-digit number).~~
- 4) ~~DATE OF BIRTH: Enter the child's date of birth. Use 2 digits for the month, 2 digits for the day and 2 digits for the year (e.g., 01/01/01).~~
- 5) ~~ADDRESS OF CHILD: Complete the following elements on the form. All elements refer to the current address for the child.

NUMBER: Enter the number of the child's current street address.~~

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~~DIRECTION: Enter the direction that appears in the child's current street address (e.g., North).~~

~~STREET NAME: Enter the name of the of the child's current street address.~~

~~TYPE: Enter the applicable type of street address (e.g., street, boulevard, avenue).~~

~~APARTMENT NUMBER: If applicable, enter the apartment number of the child's address.~~

~~COUNTY: Enter the complete name of the county where the child currently resides.~~

~~CITY: Enter the complete name of the city where the child current resides.~~

~~STATE: Enter the state where the child currently resides. Use the standard 2-character abbreviation.~~

~~ZIP: Enter the 5-digit zip code where the child currently resides.~~

- 6) ~~SEX: Check the appropriate box to indicate the child's sex.~~
- 7) ~~RACE: Check the appropriate box to indicate the child's race.~~
- 8) ~~HISPANIC: Check the appropriate box to indicate whether the child is Hispanic.~~

TEST DATA

- 1) ~~DATE OF FIRST TEST: Enter the month, day and year the first blood lead sample to be reported was collected. Use 2 digits for the month, 2 digits for the day and 2 digits for the year (e.g., 01/01/01).~~
- 2) ~~TYPE: Check the appropriate box to indicate the specimen type (venous or capillary).~~
- 3) ~~TEST RESULTS: Enter the blood lead level of the sample in micrograms per deciliter (mcg/dL).~~
- 4) ~~DATE OF SECOND TEST: Enter the month, day and year that the second blood lead sample to be reported was collected. Use 2 digits for the month, 2 digits for the day and 2 digits for the year (e.g., 01/01/01).~~

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- 5) ~~TYPE: Check the appropriate box to indicate the specimen type (venous or capillary).~~
- 6) ~~TEST RESULTS: Enter the blood lead level of the sample in micrograms per deciliter (mcg/dL).~~
- 7) ~~NAME OF LABORATORY: Enter the name of the laboratory analyzing the blood lead sample or the laboratory code number.~~
- 8) ~~LABORATORY TELEPHONE NUMBER: Enter the telephone number of the laboratory that analyzed the blood lead sample.~~

SUBMITTING PARTY DATA

- 1) ~~NAME: Enter the name of the physician, hospital staff member, laboratory technician, clinic employee or other person submitting the report of blood lead results.~~
- 2) ~~TELEPHONE NUMBER: Enter the telephone number of the submitting party (area code and 7 digit number).~~
- 3) ~~CLINIC/HOSPITAL: Enter the name of clinic or hospital.~~
- 4) ~~ADDRESS: Enter the address of the physician, hospital, laboratory, clinic or other person/facility submitting the report of the blood lead test. The street number, direction, street name, suite, city, state, zip code and county shall be included.~~

COMPLETION DATA

- 1) ~~SIGNATURE/TITLE: On the line provided on the form, the usual signature of the person (first and last name) completing the form shall be affixed. Enter the title of the person completing the form.~~
- 2) ~~DATE OF REPORT: Enter the month, day and year the form is completed. Use 2 digits for the month, 2 digits for the day and 2 digits for the year (e.g., 01/01/01).~~

All elevated blood lead levels of 45 mcg/dL shall be reported by telephone within 24 hours to the Childhood Lead Poisoning Prevention Program at (217) 785-9464 or (217) 782-0403.

Mail completed report within 48 hours to:

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~~Illinois Department of Public Health
Division of Health Assessment and Screening
Childhood Lead Poisoning Prevention Program
535 West Jefferson Street
Springfield, Illinois 62761~~

(Source: Repealed at 42 Ill. Reg. _____, effective _____)

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Section 845.APPENDIX A Instructions for Childhood Blood Lead Poisoning Reporting System (Repealed)**Section 845.EXHIBIT B Instructions for Submitting Follow-Up Data for Children With Blood Lead Levels \geq 15 mcg/dL (Repealed)**

~~Medical follow-up should be completed by delegate agencies for all persons 15 years of age and younger having had a blood lead test analyzed and confirmed at 15 mcg/dL or higher.~~

~~All medical and environmental follow-up data must be entered into a STELLAR database maintained by the delegate agency. A STELLAR report and any additional reports requested by the Illinois Department of Public Health should be run regularly, at intervals determined by the Department. Detailed instructions on the STELLAR procedures are available from the Department upon request.~~

(Source: Repealed at 42 Ill. Reg. _____, effective _____)

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Section 845.APPENDIX B Information Agreement (Repealed)

The Illinois Department of Public Health ("Department") and _____
("Applicant"), agree as follows:

- 1) ~~The Department will provide data dealing with children who have been tested for lead poisoning in Illinois as outlined in the letter of application.~~
- 2) ~~The applicant agrees that:~~
 - a) ~~Use of data is restricted to the purpose outlined in the letter of application (Attachment A), and any other or additional use of the data may result in immediate termination of this agreement by the Department;~~
 - b) ~~Any and all data that may lead to the identity of any child or parent, research subject, physician, informant, other person or hospital is strictly privileged and confidential. Applicant agrees to keep all such data strictly confidential at all times;~~
 - c) ~~All officers, applicants and employees of Applicant will keep all such data strictly confidential. Applicant will communicate the requirements of this Section to all officers, applicants and employees, will discipline all persons who may violate the requirement of this section, and will notify the Department in writing within 48 hours after any violation of this section, including full details of the violation and corrective actions to be taken;~~
 - d) ~~All data provided by the Department pursuant to this agreement are the sole property of the Department. Any copies by applicant of data provided by the Department pursuant to this agreement are subject to all provisions contained in this agreement. Any copies of data created by Applicant will be destroyed upon completion of the purpose outlined in the application;~~
 - e) ~~The applicant agrees to forward to the Department copies of proposed publications containing data or interpretation of data received as a result of this agreement for the sole purpose of confirming compliance with this agreement;~~
 - f) ~~Any breach of any of the provisions of this agreement will void the agreement.~~

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- 3) ~~The Applicant further agrees to state in publications and presentations concerning research that is the subject of this agreement that the Department was the source of data and conclusions, opinions and recommendations are not necessarily those of the Department.~~
- 4) ~~The Applicant and the Department understand and agree that this agreement may not be sold, assigned or transferred in any matter and that any actual or attempted sale, assignment or transfer shall render this agreement null, void and of no further effect.~~
- 5) ~~This agreement shall take effect upon signature by the Applicant and the Director of Public Health.~~
- 6) ~~All notices required or requested by either the Department or the Applicant shall be sent to the following addresses:~~

~~To the Department:~~

~~Illinois Department of Public Health
 Childhood Lead Poisoning Prevention Program
 535 West Jefferson Street
 Springfield, Illinois 62761~~

~~To the Applicant:~~

~~_____

 _____~~

- 7) ~~The Applicant and the Department understand and agree that this agreement constitutes the total agreement between them and that no promises, terms or conditions, either oral or written, express or implied, not recited, incorporated or referenced in this agreement shall be binding.~~

Applicant

Department

(Signature)

(Recommended by)

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(Title)

(Director, Department)

(Typed/printed name)

(Execution date)

(Source: Repealed at 42 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Services Delivered by the Department of Children and Family Services.
- 2) Code Citation: 89 Ill. Adm. Code 302
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
302.310	Amendment
302.410	Amendment
- 4) Statutory Authority: 20 ILCS 505/4
- 5) Effective Date of Rules: August 2, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 13887; November 17, 2017
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Based on comments received, minor edits were done for clarification. Additionally, comments from the Cook County Public Guardian led to the reinstatement of the Section titled "Respite Care for Medically Fragile/Technology Dependent Care."
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rules: This rulemaking brings the Department into compliance with federal reimbursement guidelines for youth who are adopted or who have had

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guardianship transferred after the age of 16. Youth age 16 and older when they achieve permanency, adoption or kinship guardianship, are able to receive benefits beyond the age of 18 and up to the age of 21 provided that they meet the criteria outlined within the amendments. The amendments are part of the recent PIP agreement between the federal government and DCFS.

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

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

217/524-1983
217/524-3715 (TTY)
217/557-0692 (FAX)
cfpolicy@idcfs.state.il.us

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERYPART 302
SERVICES DELIVERED BY THE
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBPART A: GENERAL PROVISIONS

Section	Purpose
302.10	Purpose
302.20	Definitions
302.30	Introduction
302.40	Department Service Goals
302.50	Functions in Support of Services

SUBPART B: REPORTS OF SUSPECTED CHILD ABUSE OR NEGLECT (RECODIFIED)

Section	Purpose
302.100	Reporting Child Abuse or Neglect to the Department (Recodified)
302.110	Content of Child Abuse or Neglect Reports (Recodified)
302.120	Transmittal of Child Abuse or Neglect Reports (Recodified)
302.130	Special Types of Reports (Recodified)
302.140	Referrals to the Local Law Enforcement Agency and State's Attorney (Recodified)
302.150	Delegation of the Investigation (Recodified)
302.160	The Investigative Process (Recodified)
302.170	Taking Children Into Temporary Protective Custody (Recodified)
302.180	Notification of the Determination Whether Child Abuse or Neglect Occurred (Recodified)
302.190	Referral for Other Services (Recodified)

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section	Purpose
302.300	Adoptive Placement Services (Repealed)
302.305	Adoption Listing Service for Hard-to-Place Children or Children with Disabilities for Whom the Department is Not Legally Responsible

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

302.310	Adoption Assistance
302.311	Nonrecurring Adoption Expenses (Repealed)
302.315	Adoption Registry (Repealed)
302.320	Counseling or Casework Services
302.330	Day Care Services
302.340	Emergency Caretaker Services
302.350	Family Planning Services
302.360	Health Care Services
302.365	Mental Health Services (Repealed)
302.370	Homemaker Services
302.380	Information and Referral Services
302.390	Behavioral Health Services
302.400	Successor Guardianship (Repealed)
302.405	Subsidized Guardianship Program
302.410	Subsidized Guardianship (KinGAPKinGap)

SUBPART D: INTENSIVE FAMILY PRESERVATION SERVICES

Section

302.500	Purpose
302.510	Implementation of the Family Preservation Act
302.520	Types of Intensive Family Preservation Services
302.530	Phase In Plan for Statewide Family Preservation Services
302.540	Time Frames

302.APPENDIX A	Acknowledgement of Mandated Reporter Status (Recodified)
302.APPENDIX B	Calculating the Amount of Adoption Assistance (Repealed)

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5/3-6-2(g)]; the Illinois Alcoholism and Dangerous Drug Dependency Act [20 ILCS 305]; the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; and the Adoption Act [750 ILCS 50].

SOURCE: Adopted and codified at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg.

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5557, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1551, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified to 89 Ill. Adm. Code 300 at 11 Ill. Reg. 3492, Sections 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, Appendix A; amended at 13 Ill. Reg. 18847, effective November 15, 1989; amended at 14 Ill. Reg. 3438, effective March 1, 1990; amended at 14 Ill. Reg. 16430, effective September 25, 1990; amended at 14 Ill. Reg. 19010, effective November 15, 1990; amended at 16 Ill. Reg. 274, effective December 31, 1992; emergency amendment at 17 Ill. Reg. 2513, effective February 10, 1993, for a maximum of 150 days; emergency expired July 9, 1993; amended at 17 Ill. Reg. 13438, effective July 31, 1993; amended at 19 Ill. Reg. 9107, effective June 30, 1995; amended at 19 Ill. Reg. 9485, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10746, effective July 1, 1995, for a maximum of 150 days; emergency expired November 27, 1995; emergency amendment at 19 Ill. Reg. 16735, effective November 28, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4606, effective March 15, 1996; amended at 20 Ill. Reg. 6670, effective May 1, 1996; emergency amendment at 21 Ill. Reg. 1033, effective January 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3265, effective March 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6204, effective May 15, 1997; amended at 21 Ill. Reg. 10912, effective July 29, 1997; amended at 22 Ill. Reg. 7140, effective April 13, 1998; emergency amendment at 22 Ill. Reg. 7289, effective April 13, 1998, for a maximum of 150 days; emergency expired September 10, 1998; amended at 22 Ill. Reg. 8803, effective May 15, 1998; amended at 22 Ill. Reg. 21314, effective December 1, 1998; emergency amendment at 25 Ill. Reg. 4292, effective March 15, 2001, for a maximum of 150 days; emergency expired August 11, 2001; amended at 25 Ill. Reg. 11821, effective August 31, 2001; amended at 25 Ill. Reg. 16243, effective December 15, 2001; amended at 26 Ill. Reg. 11747, effective August 1, 2002; amended at 26 Ill. Reg. 16434, effective October 22, 2002; amended at 28 Ill. Reg. 2155, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 10405, effective July 8, 2004, for a maximum of 150 days; emergency expired December 4, 2004; amended at 29 Ill. Reg. 20354, effective November 30, 2005; amended at 30 Ill. Reg. 2323, effective February 2, 2006; amended at 32 Ill. Reg. 11611, effective July 10, 2008; emergency amendment at 33 Ill. Reg. 14310, effective October 1, 2009, for a maximum of 150 days; amended at 34 Ill. Reg. 3248, effective February 26, 2010; emergency amendment at 34 Ill. Reg. 13182, effective September 1, 2010, for a maximum of 150 days; emergency expired January 28, 2011; amended at 35 Ill. Reg. 2899, effective February 8, 2011; amended at 35 Ill. Reg. 8204, effective May 15, 2011; amended at 36 Ill. Reg. 4048, effective March 5, 2012; expedited correction at 37 Ill. Reg. 19427, effective March 5, 2012; amended at 40 Ill. Reg. 693, effective December 31, 2015; amended at 40 Ill. Reg. 7721, effective May 16, 2016; amended at 42 Ill. Reg. 2027, effective January 11, 2018; amended at 42 Ill. Reg. 2169, effective January 17, 2018; amended at 42 Ill. Reg. 15899, effective August 2, 2018.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section 302.310 Adoption Assistance

- a) General Provisions
 - 1) Eligibility, Funding Source, Assistance Amounts
 - A) Adoption assistance may be provided to those persons adopting children who are legally free for adoption, who are residents [or youth in care](#) of Illinois, and who the Department has determined meet the special needs criteria for non-recurring adoption assistance or who meet both the eligibility and special needs criteria for ongoing adoption assistance and who, it is reasonable to conclude, are not likely to be adopted without the provision of adoption assistance.
 - B) Adoption assistance is available through a combination of federal and State funding. The State receives federal reimbursement for a portion of the assistance provided for children meeting the Title IV-E eligibility criteria of the Social Security Act. The Department must comply with all of the requirements of that Act to claim funding for Title IV-E eligible children. The Title IV-E adoption assistance process is a combination of the field staff preparing the subsidy and documenting special needs followed by a centralized eligibility unit determining financial aspects of Title IV-E assistance.
 - C) State funding provides adoption assistance for children for whom the Department has placement and care responsibility and who meet the special needs criteria but are not eligible for Title IV-E adoption assistance. [State funding also provides adoption assistance as well as](#) for children who age out of eligibility for Title IV-E adoption assistance and continue in school up to the earliest of their nineteenth birthday or graduation from high school.
 - D) ~~Eligibility~~[Although eligibility](#) for adoption assistance shall be determined regardless of the financial circumstances of the adoptive parents, the types and amounts of assistance shall be

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determined by the Department and the adoptive parents on an individual basis. The Department shall notify the prospective adoptive parents of the availability and the types of assistance. The adoptive parent may refuse any or all of the adoption assistance. The ongoing monthly payment shall be issued to the person identified in the adoption assistance agreement. Any type of adoption assistance services included in this Part that are payable through insurance or other funding sources will not be paid for by the Department. The child adopted with adoption assistance is entitled to receive only those services and/or payments specified in the adoption assistance agreement.

- 2) Responsibility of the State in Interjurisdictional Adoptions
 - A) When the Department has responsibility for placement and care of a child who is eligible for Title IV-E reimbursement, the Department is responsible for entering into the adoption assistance agreement and paying the adoption subsidy, even if the child is placed in an adoptive home in another state.
 - B) If the Department does not have responsibility for placement and care of a Title IV-E eligible child, it is the adoptive parent's state of residence where the adoption assistance application should be made. In that event, the public child welfare agency in the adoptive ~~parent's~~parents' state of residence is responsible for determining whether the Title IV-E child meets the definition of special needs, entering into the adoption assistance agreement and paying the subsidy, consistent with the way public benefits are paid in other programs.
- 3) Continued Eligibility of Children
 - A) If an adoption is dissolved because of the termination of parental rights, or the death of the adoptive parents, a child adopted with Title IV-E adoption assistance continues to be eligible for Title IV-E adoption assistance if the State determines that the child meets the definition of a child with special needs prior to finalization of adoption.

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- B) When an adoption assistance agreement is terminated because of the death of the adoptive parents, or the termination of parental rights and the child is adopted again, the Title IV-E child's state of residence is responsible for entering into the assistance agreement and paying the subsidy, consistent with the way public benefits are paid in other programs.
- C) A child who was previously adopted with adoption assistance and whose adoption dissolves or whose adoptive parents die may be treated as if the financial circumstances for a subsequent adoption are the same as the first time the child was adopted.
- b) Eligibility for Adoption Assistance
- ~~1)~~ Children ~~who are~~ under the Department's legal responsibility and those who are not under the Department's legal responsibility when the adoption petition is filed are eligible for Title IV-E adoption assistance when they meet one of the eligibility criteria described in this subsection (b)~~(1)~~ and the special needs criteria detailed in subsection (b)(2). Children for whom the Department of Children and Family Services is responsible for placement and care when the adoption petition is filed who do not meet the eligibility requirements in this subsection (b)~~(1)~~ but do meet the special needs criteria detailed in subsection (b)(2) are eligible for State-funded adoption assistance. Children not under the legal responsibility of the Department who do not meet the eligibility criteria described in this subsection (b)~~(1)~~ but who meet the definition of a child with special needs are eligible for adoption assistance non-recurring expenses only. The Department will not disqualify a child who is otherwise eligible for adoption assistance based on the child being an alien child. A qualified alien child must meet the provisions of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (P.L. 104-193, 110 Stat. 2168), as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) (P.L. 104-208), and the Balanced Budget Act of 1997 (BBA) (P.L. 105-33, 8 USC 1642).
- 1A) The child was eligible for AFDC under the provisions of Title IV-A of the Social Security Act in effect as of July 16, 1996 during the month the petition was filed to remove the child from the home and the Department has determined that the child meets the definition of a child with special needs; or

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- Aii) An AFDC-eligible child removed from the home as a result of a court order shall be eligible for adoption assistance when there is a judicial determination in the removal order that it was contrary to the welfare of the child to remain in the home; or-
- Bii) An AFDC-eligible child removed from the home as a result of a voluntary placement agreement shall be eligible for adoption assistance when the child was placed in a foster home and at least one Title IV-E maintenance payment was made while the voluntary placement agreement was in effect; or-
- Ciii) An AFDC-eligible child who was voluntarily relinquished to a public or private not-for-profit agency shall be eligible for adoption assistance in the following circumstances:
- i)• a petition to officially remove the child from the home was filed with the court within 6 months after the date the child last lived with the relative who voluntarily relinquished the child; and
 - ii)• there is subsequent judicial determination with respect to the petition that remaining in the home is contrary to the child's welfare; or
- DB) The child's eligibility for Supplemental Security Income (SSI) was established and documented by the Social Security Administration and the Department determines that the child meets the definition of a child with special needs prior to the finalization of the adoption; or
- EC) The child is a child of minor parent receiving Title IV-E foster care maintenance payments that include the child, although the child is not a ward of the Department and the child meets the definition of a child with special needs; or
- FD) The child is a child for whom adoptive parents were previously receiving adoption assistance and the Department has determined that the child meets the definition of a child with special needs prior to the finalization of the subsequent adoption.

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2) Special Needs Criteria

In order to be eligible for adoption assistance, the Department must determine that the child meets all three of the following criteria that comprise the definition of a child with special needs:

- A) the child cannot or should not be returned to the home of his or her parents as evidenced by:
 - i) ~~a voluntary or involuntary termination of parental rights; and/or a termination of parental rights; or~~
 - ii) ~~the death of a parent, a petition to terminate parental rights; or~~
 - iii) ~~a voluntary relinquishment; and~~
- B) there exists a specified factor or condition because of which it is reasonable to conclude that the child cannot be placed with adoptive parents without providing adoption assistance. These factors or conditions include:
 - i) an irreversible or non-correctable physical, mental or emotional disability; or
 - ii) a physical, mental, or emotional disability correctable through surgery, treatment or other specialized services; or
 - iii) the child is one year of age or older; or
 - iv) the child is a member of a sibling group being adopted together where at least one child meets one of the conditions in subsections (b)(2)(B)(i) through (iii); or
 - v) the child is being adopted by adoptive parents who have previously adopted, with adoption assistance, another child born of the same mother or father; and

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- C) a reasonable, but unsuccessful, effort has been made to place the child with adoptive parents without providing adoption assistance, and the prospective adoptive parents are either unwilling or unable to adopt the child without adoption assistance, as evidenced by a written statement from the adoptive parents. A documented search for alternative adoptive placements without adoption assistance shall be made unless the Department determines that such a search would not be in the best interests of the child because the child has developed significant emotional ties with the prospective adoptive parents while in their care.
- c) Types of Adoption Assistance
The types of adoption assistance that a family may apply for include:
- 1) Non-recurring Expenses
Payment for non-recurring adoption expenses incurred by or on behalf of the adoptive parents in connection with the adoption of a special needs child, up to a maximum of \$1500 for each adopted child.
 - 2) Monthly Payments
An ongoing monthly payment is to be determined through the discussion and negotiation process between the adoptive parents and the Department based on the needs of the child and the circumstances of the family. This payment should combine with the parent's resources to cover the ordinary and special needs of the child. This payment shall not exceed the amount the child receives in his or her current foster family upon entry of the final order of adoption unless the child is an unlicensed relative placement. In such a case, upon entry of a final order or adoption, the adoptive family may receive up to the applicable licensed foster family home rate. The ongoing monthly payment shall only be issued to one custodial caregiver identified as payee in the adoption assistance agreement, and this person shall be the designated authority for the purpose of service provision. In the event that there is a change in the custodial status of the child, the Department shall be notified. If a change in payee is necessary, notification shall be sent to the Department in writing with the supporting legal documentation attached. A non-custodial parent may request notice of periodic reviews or subsequent amendments to the adoption assistance agreement regarding their children.

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~~B) The Department shall make an initial determination whether to provide ongoing monthly payments and the amount of the payment in each individual case by taking into consideration the circumstances of the adoptive parents and the needs, age, and type of placement of the child being adopted, which may be adjusted for any benefits the child will be receiving, such as Social Security, Veteran's benefits, railroad retirement or black lung benefits. Supplemental Security Income (SSI) benefits shall not be considered in the determination of the ongoing monthly payment. When a child is SSI eligible following the adoption, the adoptive parents shall tell the Social Security Administration the amount of the ongoing monthly adoption assistance payment that they are receiving. The Social Security Administration may reduce the SSI payment dollar for dollar as the receipt of SSI is based on income.~~

3) A Medicaid card.

4) Needs Not Payable Through Other Sources

A) Payment may be made for physical, emotional and mental health needs not payable through insurance or public resources (e.g., other State or community funded programs) that are associated with, or result from, a condition whose onset has been established as occurring prior to the entry of the final order of adoption. Payment shall not be made until the Department has been notified in writing that such services will begin and has approved the requested services, and a contract (when applicable) has been executed. The Department's reimbursement shall be limited to what is usual, customary, and reasonable based on Medicaid-eligible service rates in the community as determined by the Department.

B) The Department will not pay for physical, emotional, medical, mental health or psychological services or treatment for a pre-existing condition or risk factors unless the pre-existing condition, service or risk factor is included in the adoption assistance agreement or can be documented as a pre-existing condition that was unknown at the time of the agreement by a medical provider.

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- 5) **Therapeutic Day Care**
Therapeutic day care is available only for children who are determined to have a disability that requires special educational services through an Individualized Education Plan (IEP), an Individual Family Service Plan (IFSP), or a 504 Educational Special Needs Plan and is not fundable through another source. Specific therapeutic interventions must be provided as an integral part of the day care programming. Payment for therapeutic day care shall not be made until the Department has been notified in writing that such services will begin, has approved the requested services, and a contract has been executed (when applicable).
- 6) **Employment Related Day Care**
Payment ~~may be made~~ for day care for children under the age of three years may be made if the adoptive parent is employed or in a training program that will lead to employment. Payment for day care services shall end on the child's third birthday. This day care payment cannot be used in addition to therapeutic day care.
- 7) [College Scholarships and the Education and Training Voucher Program](#)
[Children who are receiving adoption assistance may apply for a 4-year college scholarship awarded by the Department on a competitive basis \(see 89 Ill. Adm. Code 312\). A limited number of scholarships are awarded by the Department each year to high school or high school equivalent graduates. Youth who are adopted from foster care after attaining age 16 are eligible to enter the Education and Training Voucher \(ETV\) Program.](#)
- 8) **Respite Care for Medically Fragile/Technology Dependent [Children](#)~~Care~~**
 - A) The Department may make payment for care for children who have a pre-existing condition that meets the medical eligibility guidelines used by the Department of Healthcare and Family Services (HFS) for the Home and Community Based Services (HCBS) Waiver program for Children who are Medically Fragile/Technology Dependent. ~~The Such~~ payment shall not exceed 10 days per State fiscal year. Unused days from one fiscal year cannot be carried over to a new State fiscal year or donated to another family. This program is operated by the Division of Specialized Care for Children (DSCC) for HFS. DCFS regional

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nurses shall assist in making the determination of whether the child meets the eligibility requirements for the waiver program.

B) Respite care shall be provided by an authorized provider licensed by the Department of Public Health as a children's respite care center under the Alternative Health Care Delivery Act [210 ILCS 3]. The provider must accept the Medicaid nursing hourly rate as the payment rate for the respite care. DCFS shall select and contract directly with the authorized provider to pay for this service. The adoptive parents must not already be receiving respite care from another source.

i) For existing adoptive cases: If the adoptive parents agree to apply, the parents should apply for the HCBS waiver program. As part of this application process, medical eligibility and cost neutrality calculations shall be determined. If determined eligible and the adoptive parents agree to accept HCBS waiver program services, then the respite care shall be provided through that program (if respite care is available as part of the service package resulting from these determinations and there is available capacity in the waiver program).

ii) For new adoptive cases, the adoptive parents must apply for the HCBS waiver program. As part of this application process, medical eligibility and cost neutrality calculations shall be determined. If determined eligible, the adoptive parents must agree to accept HCBS waiver program services, and the respite care shall be provided through that program (if respite care is available as part of the service package resulting from these determinations and there is available capacity in the waiver program).

~~8) College Scholarships
Children who are adopted and receiving adoption assistance may apply for a 4-year college scholarship awarded by the Department to high school or high school equivalent graduates.~~

9) Conditional Adoption Assistance

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Conditional adoption assistance is available to children adopted before February 1, 2004. To be eligible for conditional adoption assistance, the child must meet all of the eligibility requirements for adoption assistance and have a documented disability or risk factor not evident at the time of the adoption but that may require intervention, treatment or services in the future.

- 10) ~~Adoption Incentive (Independent Facilitation Grants)~~
The Department will pay an incentive payment for children who are 14 to 18 years of age when adopted during the time period of March 15, 2001 through January 31, 2003. The Department will provide a payment of \$3000 to be awarded to an adopted child under the following circumstances in the manner described:
- A) ~~In order to assist youth who have been adopted to make the transition to adulthood, the Department will provide a payment of \$3000 directly to the youth upon termination of his or her adoption subsidy.~~
 - B) ~~The payment is intended to assist the child's transition to adulthood by helping pay for education, housing, or other forms of vocational training or employment assistance.~~
 - C) ~~In order to be eligible for this payment, the child:~~
 - i) ~~must have been the legal responsibility of the Department prior to the adoption; and~~
 - ii) ~~must have been 14 to 18 years of age when adopted, during the time period of March 15, 2001 through January 31, 2003.~~
 - D) ~~Children in adoptive placements within this time period who do not have their adoptions finalized by January 31, 2003 will not be eligible for this grant award.~~
 - E) ~~The payment will be awarded directly to the child.~~
- 11) ~~Enhanced Subsidized Guardianship and Adoption Assistance~~

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~~The Enhanced Subsidized Guardianship and Adoption Program (ESGAP) provides transition services to youth who are 14 years old or older when adopted or when guardianship is transferred. It is a Title IV-E waiver program that is federally funded. Federal regulations limit the Title IV-E waiver services a child can receive to those offered by the waiver program to which he or she is assigned. Children are randomly assigned to a single Title IV-E waiver program per mandatory federal guidelines for the program.~~

- A) ~~ESGAP provides the following services to youth as they transition to adulthood:~~
- ~~i) Youth in College/Vocational Training;~~
 - ~~ii) Employment Incentive Program;~~
 - ~~iii) Life Skills Training;~~
 - ~~iv) Housing Cash Assistance; and~~
 - ~~v) Education and Training Vouchers.~~
- B) ~~To be eligible for ESGAP, a youth must meet the following criteria:~~
- ~~i) Is 14 years of age or older and not yet 18 years of age when moving to adoption or guardianship; is assigned to the subsidized guardianship demonstration group; and is eligible for adoption assistance or subsidized guardianship; or~~
 - ~~ii) Is a younger sibling of an eligible youth and is moving to permanency in the same home and at the same time as the eligible youth.~~
- C) ~~Documentation from the caseworker that the child is eligible for ESGAP must be included in the subsidy packet prior to the finalization of the adoption or transfer of guardianship.~~

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- d) **Adoption Assistance Agreement**
The adoption assistance agreement shall be signed prior to the entry of the final order of adoption. The types, amount and duration of adoption assistance shall be agreed to in writing by the Department and the adoptive parents prior to the entry of the final order of adoption, and shall be set forth in the adoption assistance agreement, which shall be binding on the parties to the agreement. This payment shall not exceed the amount the child received in his or her current foster family home upon entry of the final order of adoption unless the child is in an unlicensed relative placement. In such a case, upon entry of the final order of adoption, the adoptive family may receive up to the applicable licensed foster family home rate. The adoption assistance agreement shall remain in effect, regardless of where the adoptive parents currently reside and shall contain provisions for the protection of the interests of the child in cases where the adoptive parents and child move. The adoptive parents may request a change in their child's subsidy due to a change in the family or child's circumstances. All changes and/or services are subject to periodic review and authorization by the Department.
- e) **Notification ~~Requirements~~Requirement by Adoptive Parents**
The adoptive parent shall notify the Department no later than 30 days after any of the following occurrences:
- 1) the child is no longer the legal responsibility of the adoptive parents;
 - 2) the adoptive parents no longer financially support the child;
 - 3) the child graduates from high school or equivalent;
 - 4) there is a change of residential address or mailing address of the adoptive parents or the child;
 - 5) the child dies;
 - 6) the child becomes an emancipated minor;
 - 7) the child marries;
 - 8) the child enlists in the military; ~~or~~
 - 9) the child's custodial status changes; ~~or~~

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- 10) if the child was adopted before July 1, 2017, or was younger than 16 years of age when the adoption was finalized on or after July 1, 2017, the child completes his or her secondary education or a program leading to an equivalent credential; or
- 11) if the child was adopted after July 1, 2017 and was 16 years of age or older when the adoption was finalized and the child reaches the age of 18, the child's participation in any of the following:
- A) the child is completing secondary education or a program leading to an equivalent credential;
 - B) the child is enrolled in an institution that provides post-secondary education or a vocational program;
 - C) the child is participating in a training program or activity designed to promote, or remove barriers to, employment;
 - D) the child is employed at least 80 hours per month; or
 - E) the child is incapable of doing any of the above due to a medical condition.
- f) Notification Requirements by the Department
The Department shall provide adoptive parents of children adopted with adoption assistance with information about the Department's post-adoption search and reunion services, including information about accessing these services, at least once each year until adoption assistance payments cease. Youth who were adopted with adoption assistance shall be provided this same information within 30 days after his or her eighteenth birthday.
- g) Periodic Reviews
The Department shall mail an Annual Notification letter to the adoptive parent or parents, which will facilitate the adoptive parent's communication with the Department.~~Periodic reviews are annual recertifications that are required for children in adoptive homes to maintain their eligibility for the Title XIX Medicaid Program. The Department shall conduct periodic reviews to confirm that the child remains eligible for a Medicaid card. The adoptive parents, including non-~~

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~~custodial parents if the non-custodial parent has provided the Department with the correct mailing address, will receive written notice of the review. Adoptive parents are required to participate and cooperate with the review.~~

- h) Termination of Adoption Assistance
The adoption assistance shall terminate when the Department has determined that one of the following has occurred:
- 1) ~~The~~When the terms of the adoption assistance agreement are fulfilled.
 - 2) The adoptive parents have requested that the adoption assistance permanently stop.
 - 3) The adoptive parents are no longer legally or financially responsible for the child.
 - 4) The child becomes an emancipated minor.
 - 5) The child marries.
 - 6) The child enlists in the military.
 - 7) If the adoption was finalized before July 1, 2017, or the child was under the age of 16 when the adoption was finalized on or after July 1, 2017:
 - A) the child reaches age 18;
 - B) a child 18 years of age graduates from high school or equivalent or reaches age 19, whichever occurs first; or
 - C) a child who has a physical, mental or emotional disability associated with a condition or risk factor that existed prior to the finalization of the adoption and documented prior to the youth's 18th birthday reaches age 21.~~The child reaches age 18; a child 18 years of age graduates from high school or equivalent or reaches age 19, whichever occurs first; or a child who has a physical, mental or emotional disability associated with a condition or risk factor that existed prior to the finalization of the adoption and that was documented prior to the child's 18th birthday reaches age 21.~~

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- 8) For children who were were 16 years of age or older when the adoption was finalized on or after July 1, 2017, the child reaches age 21. Between the ages of 18 and 21, the adoption assistance payments may stop and start based on the child's compliance with, and the adoptive parent's confirmation of, the requirements listed in this subsection (h)(8) (failure of the adoptive parent to provide annual written confirmation will cause the subsidy payment to stop).
- A) The child is completing secondary education or a program leading to an equivalent credential;
- B) The child is enrolled in an institution that provides post-secondary education or a vocational program;
- C) The child is participating in a program or activity designed to promote, or remove barriers to, employment;
- D) The child is employed at least 80 hours per month; or
- E) The child is incapable of doing any of the above due to a medical condition.
- 98) The adoptive parents die.
- 109) The adoptive parents' parental rights are terminated.
- 1140) The child dies.
- i) Title IV-E Demonstration Waiver
The Department has received a Title IV-E demonstration waiver from the Department of Health and Human Services (DHHS) to operate a subsidized legal guardianship program. The Title IV-E terms and conditions allow reinstatement of the child's IV-E eligibility status that was in place prior to the establishment of the guardianship in situations where the guardianship disrupts. Therefore, if a guardianship disrupts and the child returns to foster care or is going to be adopted, the State shall apply the eligibility criteria in section 473 of the Social Security Act for the child as if the legal guardianship had never occurred.

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- ij)** Appeal of Department Decisions
Adoptive parents may appeal the following Department decisions in accordance with 89 Ill. Adm. Code 337, Service Appeal Process:
- 1) The Department failed to advise the potential adoptive parents about the availability of adoption assistance to children under the care of the Department;
 - 2) The adoptive parents disagree with the Department's determination that a child is ineligible for adoption assistance;
 - 3) The Department's denial of Title IV-E adoption assistance eligibility to a child for whom it does not have placement and care responsibility;
 - 4) Inaction on the part of the Department on a Title IV-E adoption assistance eligibility determination request;
 - 5) Adoption assistance or a specific component of adoption assistance was denied;
 - 6) Relevant facts regarding the child were known by the Department and were not presented to the adoptive parents prior to the finalization of the adoption;
 - 7) The Department denies the adoptive parents request to modify the adoption assistance agreement; or
 - 8) An adoption assistance agreement has been amended, suspended or terminated without the concurrence of the adoptive parent.

(Source: Amended at 42 Ill. Reg. 15899, effective August 2, 2018)

Section 302.410 Subsidized Guardianship ~~(KinGAP)~~(KinGap)

- a) General Provisions
 - 1) The subsidized guardianship program (~~KinGAP~~KinGap) implements provisions of 42 USC 673 that allow the State to enter into guardianship agreements to provide assistance payments to grandparents and other

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relatives who have assumed the legal guardianship of children for whom they have cared as a licensed foster parent and for whom they have committed to care on a permanent basis. The program offers a subsidized private guardianship arrangement for children for whom the permanency goals of return home and adoption have been ruled out. Guardianship is governed by the Illinois Probate Act [755 ILCS 5] and the Illinois Juvenile Court Act [705 ILCS 405]. A licensed relative foster parent caring for a child determined to be eligible for the subsidized guardianship program shall be made aware of the availability of subsidized guardianship and the types of assistance available. The subsidized guardianship agreement must be signed prior to the transfer of guardianship.

- 2) The State funded option of subsidized guardianship provides subsidized guardianship for children for whom the Department has placement and care responsibility and who meet the special needs criteria as defined in Section 302.310(b)(2), but are not eligible for Title IV-E KinGAP, as well as for children who age out of eligibility for Title IV-E KinGAP and continue in school up to the earliest of their 19th birthday or graduation from high school, or age 21 when the child meets specific requirements outlined in subsections (f)(2), (i)(7) and (i)(8).

b) The Subsidized Guardianship Agreement

1) General Provisions

The type, amount and duration of subsidized guardianship shall be agreed to in writing by the Department and the subsidized guardian prior to the transfer of guardianship and shall be set forth in the subsidized guardianship agreement, which shall be binding on the parties to the agreement. ~~It shall be stipulated~~~~The agreement shall also stipulate~~ that the agreement shall remain in effect regardless of the state where the subsidized guardian resides currently or in the future and shall contain provisions for the protection of the interests of the child in cases in which the subsidized guardian and child move to another state while the agreement is in effect. The amounts of ongoing subsidized guardianship payments are subject to change based on changes in State or federal law regarding adoption assistance payments. Subsidized guardians may refuse any or all payments offered by the Department. The child for whom guardianship is transferred and for whom the guardian is receiving a subsidy shall receive only those services and/or payments specified in the

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subsidized guardianship agreement. The child may require services in the future that are not currently being provided for pre-existing physical, emotional or mental health needs or risk factors. Any pre-existing conditions must be described in the subsidized guardianship agreement to be eligible for assistance through the [Subsidized Guardianship Adoption Assistance](#) Program at a future date. Assistance cannot be granted for ~~services for~~ pre-existing conditions if the conditions are not listed in the subsidized guardianship agreement in accordance with subsection (e)(4) or cannot be documented, as a pre-existing condition that was unknown at the time of the agreement, by a medical provider. The subsidized guardianship agreement must be signed, and a copy of the signed agreement must be provided to the prospective guardian, prior to the transfer of guardianship.

- 2) [Successor of Guardianship](#)
The subsidized guardianship agreement may not be transferred by the guardians to any other party. However, in the event of the death or incapacity of the guardians, the child remains eligible for assistance if the guardians have designated a successor guardians in the agreement (or any amendment to the agreement). Upon assuming care of the child, the successor guardians shall contact the Department to inform the Department of changes in the child's living situation, to request a home study and background checks, and to initiate the application process for a subsidy.

c) Eligibility Criteria

- 1) Eligibility for Subsidized Guardianship under [KinGAP](#)~~KinGap~~
- A) For a child to qualify for subsidized guardianship under [KinGAP](#)~~KinGap~~, the following criteria must be met:
- i) the child must have been removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare and the best interest of the child; and

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- ii) the child must be eligible for foster care maintenance payments while residing for at least 6 consecutive months in the home of a licensed prospective relative guardian immediately prior to the establishment of the guardianship; and
 - iii) the prospective relative guardian must have been a licensed foster parent for at least the consecutive 6 month period that the child has been in his/her home immediately prior to the establishment of the guardianship; and
 - iv) return home or adoption are not appropriate permanency options for the child; and
 - v) the child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child; and
 - vi) ~~with respect to~~ a child who has attained 14 years of age, ~~the child~~ has been consulted and the child has agreed to the guardianship arrangement.
- B) A sibling of an eligible child who is placed with the same relative as the eligible child under a kinship guardianship agreement, when DCFS and the relative guardian agree that the placement is appropriate, also qualifies for subsidized guardianship under [KinGAP](#)~~KinGap~~.
- 2) Eligibility for the State Funded Option of Subsidized Guardianship
- A) For a child to qualify for the State Funded Option of Subsidized Guardianship, the following criteria must be met:
- i) the child does not qualify for subsidized guardianship under KinGap;
 - ii) the child is 12 years of age or older; and

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- iii) the child has lived with an unlicensed relative caregiver or licensed non-relative for at least the 6 consecutive month period prior to the establishment of the guardianship and meets the following:
- the child was removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare and best interest of the child; and
 - the child was eligible for foster care maintenance payments while residing for at least 6 consecutive months in the unlicensed home of relative or licensed non-relative home immediately prior to establishing guardianship; and
 - the prospective non-relative guardian has been a licensed foster parent for at least the consecutive 6 month period immediately prior to the establishment of the guardianship; and
 - return home or adoption are not appropriate permanency options for the child; and
 - the child demonstrates a strong attachment to the prospective guardian and the prospective guardian has a strong commitment to caring permanently for the child; and
 - the child has been consulted and has agreed to the guardianship arrangement.
- B) A younger sibling of a child eligible for the State funded option of subsidized guardianship who is placed with the same unlicensed relative or licensed non-relative as the eligible child, when DCFS and the unlicensed relative or licensed non-relative guardian agree that the placement is appropriate, also qualifies for the State funded option of subsidized guardianship.

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- d) Determination Whether Subsidized Guardianship under KinGap is in the Best Interests of the Child
- 1) Prior to approving a subsidized guardianship arrangement for a child, the Department shall determine whether subsidized guardianship is in the best interests of the child. In making this determination, the Department shall consider all relevant factors, including but not limited to:
 - A) the wishes of the child's prospective subsidized guardian and the guardian's demonstrated ability to provide care that meets the special needs of the child, if any;
 - B) the wishes of the child under the age of 14 or the consent of the child, if over age 14;
 - C) the interaction and interrelationship between the child and the prospective subsidized guardian;
 - D) the child's adjustment to the present home, school and community;
 - E) the child's need for stability and continuity of relationship with the prospective subsidized guardian; and
 - F) the mental and physical health of all individuals involved.
 - 2) The Department shall ensure that the subsidized guardianship arrangement is safe and suitable placement by means of a safety checks, which shall include a CANTS/SACWIS and LEADS check [in accordance with 89 Ill. Adm. Code 385 \(Background Checks\)](#).
- e) Types of Assistance
A child meeting the eligibility criteria for subsidized guardianship is entitled to the following types of assistance:
- 1) Non-recurring Expenses
Payment for non-recurring expenses associated with obtaining legal guardianship for the child subject to the maximum of up to \$2000 per child.

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- 2) Ongoing Monthly Payments
 - A) An ongoing monthly payment to be determined through the discussion and negotiation process between the prospective guardian and the Department based on the needs of the child and the circumstances of the family. This payment should combine with the guardian's resources to cover the ordinary and special needs of the child. This payment shall not exceed the amount the child receives in his or her current foster family home upon transfer of guardianship. The ongoing monthly payment shall only be issued to one custodial caregiver identified as payee in the assistance agreement, and this person shall be the designated authority for the purpose of service provision. In the event that there is a change in the custodial status of the child, the Department shall be notified. If a change in payee is necessary, notification shall be sent to the Department in writing with the supporting legal documentation attached. The ongoing monthly payment may be adjusted for any benefits the child will continue to receive, such as Social Security, Veteran's benefits, railroad retirement or black lung benefits. Supplemental Security Income (SSI) benefits shall not be considered in determining the ongoing monthly payment amount. When the child is SSI-eligible following the transfer of guardianship, the guardian shall tell the Social Security Administration the amount of the ongoing monthly payment that they are receiving. The Social Security Administration may reduce the SSI payment dollar for dollar as the receipt of SSI is based on income.
 - B) ~~Eligibility~~ Although eligibility for a subsidy under the subsidized guardianship program shall be determined regardless of the financial circumstances of the prospective subsidized guardian, the types and amounts of assistance under each subsidized guardianship agreement shall be determined by the Department in the same manner as described for adoption assistance in Section 302.310(c).
- 3) A Medicaid card.

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- 4) Needs Not Payable through Other Sources
A child meeting the eligibility criteria for subsidized guardianship entitled to the types of assistance outlined in subsections (e)(1), (2) and (3) may also apply for the following types of assistance:
- A) Physical, emotional and mental health needs not payable through insurance or public resources (e.g., other State or community funded programs) that are associated with, or result from, a condition whose onset has been established as occurring prior to the transfer of guardianship. Payment shall not be made until the Department has been notified in writing that the services will begin and has approved the requested services, and a contract (when applicable) has been executed. The Department's reimbursement shall be limited to what is usual, customary and reasonable based on Medicaid-eligible service rates in the community as determined by the Department.
- B) The Department will not pay for physical, emotional, medical, mental health or psychological services or treatment for a pre-existing condition or risk factors unless the pre-existing condition, service or risk factor is included in the subsidized guardianship agreement or can be documented by a medical provider as a pre-existing condition that was unknown at the time of the agreement.
- 5) Therapeutic Day Care
Therapeutic day care is available only for children who are determined to have a disability that requires special education services through an Individualized Education Plan (IEP), an Individual Family Service Plan (IFSP), or a 504 Educational Special Needs Plan and is not fundable through another source. Specific therapeutic interventions must be provided as an integral part of the day care programming. Payment for therapeutic day care shall not be made until the Department has been notified in writing ~~that requested services have been~~that those services will begin and has approved, when services will begin the requested services, and that a contract has been executed (when applicable).
- 6) Employment Related Day Care
Payment ~~may be made~~ for day care for children under the age of 3 years may be made if the guardian is employed or in a training program that will

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lead to employment. Payment for day care services shall end on the child's third birthday. This day care payment cannot be used in addition to therapeutic day care.

- 7) College Scholarships and the Education and Training Voucher Program
Children who are receiving subsidized guardianship assistance may apply for a 4-year college scholarship awarded by the Department on a competitive basis. A limited number of scholarships ~~are~~ awarded by the Department each year to high school or high school equivalent graduates. Youth who enter into subsidized guardianship ~~or are adopted~~ from foster care after attaining age 16 are eligible to enter the Education and Training Voucher (ETV) Program.

f) Responsibilities of the Subsidized Guardian

Subsidized guardians are responsible for the following:

- 1) ensuring that parents have the opportunity to visit their children in accordance with the provisions/orders of the court; and
- 2) notifying the Department no later than 30 days after any one of the following occurrences:
 - A) the child is no longer the legal responsibility of the guardian;
 - B) the guardian no longer financially supports the child;
 - C) the child graduates from high school or equivalent;
 - D) there is a change of residential address or mailing address of the guardian or the child;
 - E) the child dies;
 - F) the child becomes an emancipated minor;
 - G) the child marries;
 - H) the child enlists in the military;

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- D) the mental or physical incapacity of the guardian prevents the guardian from discharging the responsibilities necessary to protect and care for the child;
 - J) the custodial status of the child changes; ~~or~~
 - K) the guardianship is vacated;~~;~~
 - L) the child has completed his or her secondary education or a program leading to an equivalent credential, if the guardianship was awarded before July 1, 2017 or the child was younger than 16 years of age when guardianship was awarded on or after July 1, 2017;
 - M) on or after July 1, 2017, if the child was 16 years of age or older when guardianship was awarded, and the child reaches the age of 18, the child:
 - i) is completing secondary education or a program leading to an equivalent credential;
 - ii) is enrolled in an institution that provides post-secondary education or a vocational program;
 - iii) is participating in a training program or activity designed to promote, or remove barriers to, employment;
 - iv) is employed at least 80 hours per month; or
 - v) is incapable of doing any of the above due to a medical condition.
- g) Department Responsibilities
- 1) The Department shall ensure that members of sibling groups are placed together, unless there is an explicit determination that they should not be placed together for the reasons described in 89 Ill. Adm. Code 301 (Placement and Visitation Services).

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- 2) The Department shall explain in the child's service plan the following:
 - A) the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;
 - B) the reasons for ~~the any~~ separation of any and all siblings during placement;
 - C) the reasons why a permanent placement with a fit and willing relative through a subsidized guardianship assistance arrangement is in the child's best interests;
 - D) the ways in which the child meets the eligibility requirements for a subsidized guardianship assistance payment;
 - E) the efforts the agency has made to discuss adoption with the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons not to pursue; and
 - F) the efforts made by the Department to discuss with the child's parent or parents the subsidized guardianship assistance arrangement, or the reasons why the efforts were not made.
- 3) The Department shall offer short-term support services for foster care and relative home providers prior to and during subsidized guardianship. Services will include preliminary screening, assessment, assistance in applying for subsidized guardianship, and payment of one time only court costs and legal fees, if required.
- 4) The Department shall ensure that an orientation is provided to the caregiver's family to ensure that all family members understand the benefits and responsibilities of all the participants in the subsidized guardianship arrangement.
- 5) The Department shall ensure that each guardian has access to post-guardianship staff ~~who shall~~ respond to requests for information and assistance.

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- 6) The Department shall ensure that all guardians are aware of their right to appeal service decisions with which they may disagree under 89 Ill. Adm. Code 337 (Service Appeal Process) as summarized in subsection (j).
 - 7) The Department shall accept custody of the child in accordance with the Abused and Neglected Child Reporting Act [325 ILCS 5] if the guardian does not care for the child to the extent the child's health or well-being is endangered.
- h) **Periodic Reviews**
~~The Department shall mail an Annual Notification letter to the guardian, which will facilitate the guardian's communication with the Department. Periodic reviews are annual re-certifications that are required for children in guardianship homes to maintain their eligibility for the Title XIX Medicaid Program. The Department shall conduct periodic reviews to confirm that the child remains eligible for a Medicaid card. The guardians will receive written notice of the review, and response from the guardians to this notice is a requirement.~~
- i) **Termination of Payments**
Payments for subsidized guardianship assistance shall terminate when the Department has determined that any one of the following has occurred:
- 1) when the terms of the subsidized guardianship agreement are fulfilled;
 - 2) the guardian has requested that the payment permanently stop;
 - 3) the guardian is no longer financially supporting the child;
 - 4) the child becomes an emancipated minor;
 - 5) the child marries;
 - 6) the child enlists in the military;
 - 7) if the guardianship was finalized before July 1, 2017, or the child was under the age of 16 when the guardianship was finalized on or after July 1, 2017:

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- A) the child reaches age 18;
- B) a child 18 years of age graduates from high school or equivalent or reaches age 19, whichever occurs first; or
- C) a child who has a physical, mental or emotional disability associated with a condition or risk factor that existed prior to the finalization of the guardianship and that was documented prior to the youth's 18th birthday reaches age 21~~the child reaches age 18; a child 18 years of age graduates from high school or equivalent or reaches age 19, whichever occurs first; or a child who has a physical, mental or emotional disability that was documented prior to the 18th birthday reaches age 21;~~
- 8) for children who were 16 years of age or older when the guardianship was transferred on or after July 1, 2017, the child reaches age 21. Between the ages of 18 and 21, the subsidy payments may stop and start based on the child's compliance with, and the guardian's confirmation of, the requirements listed in this subsection (i)(8) (failure of the guardian to provide annual written confirmation will cause the subsidy payment to stop).
- A) The child is completing secondary education or a program leading to an equivalent credential;
- B) The child is enrolled in an institution that provides post-secondary education or a vocational program;
- C) The child is participating in a training program or activity designed to promote, or remove barriers to, employment;
- D) The child is employed at least 80 hours per month; or
- E) The child is incapable of doing any of the above due to a medical condition;
- 98) the guardian dies;
- 109) the guardianship is vacated; or

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~~1140~~) the child dies.

- j) Appeal of Department Decisions
Guardians may appeal the following Department decisions in accordance with 89 Ill. Adm. Code 337 (Service Appeal Process):
- 1) The Department failed to advise the potential guardian about the availability of a subsidy to children under the care of the Department;
 - 2) The potential guardians disagree with the Department's determination that a child is ineligible for subsidized guardianship;
 - 3) The Department's denial of Title IV-E subsidized guardianship eligibility to a child for whom it does not have placement and care responsibility;
 - 4) Inaction on the part of the Department on a Title IV-E subsidized guardianship eligibility determination request;
 - 5) Subsidized guardianship or a specific component of the subsidized guardianship was denied;
 - 6) Relevant facts regarding the child were known by the Department and were not presented to the guardian prior to the transfer of guardianship;
 - 7) The Department denies the guardian's request to modify the subsidized guardianship agreement; or
 - 8) A subsidized guardianship agreement has been amended, suspended or terminated without the concurrence of the guardian.

(Source: Amended at 42 Ill. Reg. 15899, effective August 2, 2018)

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- 1) Heading of the Part: Political Subdivision Emergency Services and Disaster Agencies
- 2) Code Citation: 29 Ill. Adm. Code 301
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
301.110	Amendment
301.120	Amendment
301.140	Amendment
301.170	New Section
301.210	Amendment
301.220	Amendment
301.230	Amendment
301.240	Amendment
301.250	Amendment
301.260	Repealed
301.280	New Section
301.310	Amendment
301.320	Amendment
301.410	Amendment
301.420	Amendment
301.430	Amendment
301.440	Amendment
301.450	Amendment
301.510	Amendment
301.520	Amendment
301.620	Amendment
301.630	Amendment
301.730	Amendment
301.740	Amendment
301.750	Amendment
301.760	Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 5 (f)(4), (5), (5.5), (5.10) and 10 of the Illinois Emergency Management Agency Act [20 ILCS 3305].
- 5) Effective Date of Rules: July 31, 2018
- 6) Does this rulemaking contain an automatic repeal date? No

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- 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 at the Agency's headquarters located at 1035 Outer Park Drive, Springfield IL and is available for public inspection.
- 9) Notice of Proposal Published in the *Illinois Register*: 42 Ill. Reg. 7603; April 27, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:
 1. In Section 301.120, after the period add "The National Standard can be obtained at <https://www.emap.org> or by contacting an IEMA regional office (<https://www2.illinois.gov/iema/Contacts/Pages/Contacts-Regional.aspx>)."
 2. In Section 301.120, strike "during the next federal fiscal year"
 3. In Section 301.170, change "is" to "should be"
 4. In Section 301.240, delete "(a)"
 5. In Section 301.250, strike "a" and add "an"
 6. In Section 301.430, after "and" add "shall"
 7. In Section 301.430, reinstate the comma
 8. In Section 301.630 after "CMS" add "(available"
 9. In Section 301.630, after ".aspx" add "),"
 10. In Section 301.630, strike the period and add a semicolon
 11. In Section 301.630 delete "The forms may be found on the CMS website."
 12. In Section 301.730, change "In accordance with the submission schedule established by IEMA, applicants" to "Applicants"

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13. In Section 301.730, strike "to IEMA" and add ", within 30 days after notification from IEMA,"
 14. In Section 301.730, change "pursuant to federal guidelines and the IEMA established schedule" to "within 45 days after the application deadline"
 15. In Section 301.740, strike ", on a federal fiscal year basis,"
 16. In Section 301.740, strike "who have met the requirements of", delete "Sections", and strike "301.720 and 301.730"
 17. In Section 301.740, strike "met"
 18. In Section 301.740, strike existing text and delete "Sections"
 19. In Section 301.740, strike "and who have"
 20. In Section 301.740, strike "met the requirements of" and delete "Sections"
 21. In Section 301.740, strike everything except "requested an"
 22. In Section 301.740, strike "throughout the FFY"
 23. In Section 301.740, strike ", prior to the end of the FFY,"
 24. In Section 301.740, strike "met the requirements of" and "301.720 and" and delete "Sections"
 25. In Section 301.740, strike "301.730" and "and who have"
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
 - 13) Does 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: These amendments update language regarding emergency operation plans, exercise standards and review processes to be consistent with federal guidelines, statutory requirements and current practice including allowing

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flexibility for electronic communication. In addition, the requirements for worker's compensation coverage were updated to reflect current procedures. Grant application procedures were also updated to reflect current practice and to be consistent with the federal program. A new provision was included to allow municipalities that crossover multiple jurisdictions to choose which jurisdiction in which to be included.

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

Traci Burton
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

217/785-9860

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

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TITLE 29: EMERGENCY SERVICES, DISASTERS, AND CIVIL DEFENSE
CHAPTER I: ILLINOIS EMERGENCY MANAGEMENT AGENCY
SUBCHAPTER c: ADMINISTRATION AND ORGANIZATION OF
POLITICAL SUBDIVISION EMERGENCY SERVICES AND DISASTER AGENCIES

PART 301
POLITICAL SUBDIVISION EMERGENCY SERVICES AND DISASTER AGENCIES

SUBPART A: GENERAL PROVISIONS

Section	
301.110	Purpose, Scope, Applicability
301.120	Definitions
301.130	Severability
301.140	Multiple County ESDA Consolidation
301.170	Program Requirements

SUBPART B: EMERGENCY OPERATIONS PLAN REQUIREMENTS

Section	
301.210	Authority
301.220	Initial Analysis and Assessment
301.230	Basic Plan Requirements
301.240	Functional Annex Requirements
301.250	Hazard Specific Annexes
301.260	Other Annexes (Repealed)
301.280	Supporting Plans

SUBPART C: EMERGENCY OPERATIONS PLAN
SUBMISSION AND REVIEW REQUIREMENTS

Section	
301.310	EOP Submission and Review Requirements for Mandated ESDAs and Accredited ESDAs
301.320	EOP Submission and Review Requirements for Non-Mandated ESDAs

SUBPART D: EXERCISE REQUIREMENTS

Section

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- 301.410 Exercise Requirements for the Emergency Operations Plan
- 301.420 Exercise Planning
- 301.430 Exercise Evaluation and Approval for Mandated ESDAs and Accredited ESDAs
- 301.440 Exercise Evaluation and Acceptance for Non-Mandated ESDAs
- 301.450 Waiver of Exercise Requirement

SUBPART E: ACCREDITATION AND CERTIFICATION OF ESDAS

Section

- 301.510 Accreditation of ESDAs
- 301.520 Certification of Non-Mandated ESDAs

SUBPART F: WORKERS' COMPENSATION ACT AND WORKERS'
OCCUPATIONAL DISEASES ACT COVERAGE FOR VOLUNTEERS

Section

- 301.610 Authority
- 301.620 Eligibility
- 301.630 Procedures for Filing a Claim

SUBPART G: REQUIREMENTS FOR THE EMERGENCY
MANAGEMENT ASSISTANCE GRANT PROGRAM

Section

- 301.710 Purpose
- 301.720 Eligible Applicants
- 301.730 Application Procedures
- 301.740 Allocation Determination
- 301.750 Reimbursement Procedures
- 301.760 Reconsideration of Reimbursement Denial

AUTHORITY: Implementing and authorized by Sections 5(f)(4), (5), (5.5), (5.10) and 10 of the Illinois Emergency Management Agency Act [20 ILCS 3305].

SOURCE: Adopted at 26 Ill. Reg. 3036, effective February 26, 2002; amended at 31 Ill. Reg. 11565, effective July 26, 2007; amended at 42 Ill. Reg. 15933, effective July 31, 2018.

SUBPART A: GENERAL PROVISIONS

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Section 301.110 Purpose, Scope, Applicability

- a) In serving the IEMA mandate to prepare the State of Illinois to deal with disasters, to preserve the lives and property of the people of this State and to protect the public peace, health and safety in the event of a disaster, the purposes of this Part are:
- 1) To encourage local policy makers and emergency management program administrators~~responders~~ to plan and coordinate a comprehensive~~their~~ emergency management strategy to improve prevention, protection, response, recovery and mitigation~~emergency management~~ capabilities at the local level; and
 - 2) To establish requirements for:
 - A) Emergency management programs;
 - B) Emergency operations plans;
 - ~~C~~B) Exercises of emergency operations plans;
 - D) Other required plans;
 - ~~E~~C) Accreditation and certification~~Certification~~ of ESDAs;
 - ~~F~~D) Workers' compensation coverage and workers' occupational diseases coverage for volunteers; and
 - ~~G~~E) The emergency management assistance grant program.
- b) The provisions of this Part apply to all emergency services and disaster agencies established pursuant to the Illinois Emergency Management Agency Act [20 ILCS 3305].

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

Section 301.120 Definitions

All definitions set forth in this Section have the following meanings throughout this Part, unless

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specifically provided otherwise. Words and terms not defined have the meanings set forth in the Illinois Emergency Management Agency Act.

"Act" means the Illinois Emergency Management Agency Act [20 ILCS 3305].

"Accreditation" means recognition of an emergency services and disaster agency by the Illinois Emergency Management Agency, in accordance with the requirements of Section 301.510 ~~of this Part~~.

"Annex" means descriptions in the emergency operations plan of policies, processes, roles and responsibilities that agencies and departments carry out before, during and after any disaster or emergency. Annexes focus on critical operational functions and entities responsible for those functions.

"Assumptions" means the information, facts and data treated as true for development of the emergency operations plan.

"Certification" means recognition of a non-mandated emergency services and disaster agency by an accredited county or multiple county emergency services and disaster agency in conjunction with the Illinois Emergency Management Agency, or by the Illinois Emergency Management Agency in the event that no accredited county or multiple county emergency services and disaster agency serves the county in which the non-mandated emergency services and disaster agency is located, in accordance with Section 301.520 ~~of this Part~~.

"Concept of Operations" means the overall approach of the political subdivision to the management of a disaster, such as who directs response efforts, what should happen, and when it should happen, including, but not limited to, how the political subdivision will implement the concepts and procedures of a recognized incident command system.

"Coordinator" means the staff assistant to, or the person appointed in accordance with Section 10(i) of the Act by, the principal executive officer of a political subdivision with the duty of coordinating the emergency management programs of that political subdivision.

"Damage Assessment" means an appraisal or determination of the effects of the disaster on physical, economic and natural resources and on human life.

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"Disaster" means *an occurrence or threat of widespread or severe damage, injury or loss of life or property resulting from any natural or technological cause, including but not limited to fire, flood, earthquake, wind, storm, hazardous materials spill or other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, extended periods of severe and inclement weather, drought, infestation, critical shortages of essential fuels and energy, explosion, riot, hostile military or paramilitary action, or acts of domestic terrorism.* [20 ILCS 3305/4]

"Emergency Management" means the efforts of the political subdivisions to develop, plan, analyze, conduct, provide, implement and maintain programs for disaster mitigation, preparedness, response and recovery.

"Emergency Operations Center" or "EOC" means a location where policy and strategic management decisions are made during a disaster or disaster exercise.

"Emergency Operations Plan" or "EOP" means the written plan of a political subdivision describing the organization, mission, and functions of the political subdivision government and supporting services for responding to and recovering from disasters.

"Emergency Planning and Community Right-to-Know Act" or "[federal EPCRA](#)" means ~~the federal Act~~ (42 USC 11001).

"Emergency Services and Disaster Agency" or "ESDA" means *the agency by this name, by the name emergency management agency, or by any other name that is established by ordinance within a political subdivision to coordinate the emergency management program within that political subdivision and with private organizations, other political subdivisions, the State and federal governments.* [20 ILCS 3305/4]

"Exercise" means *a planned event realistically simulating a disaster, conducted for the purpose of evaluating the political subdivision's ~~coordinated~~Coordinated emergency management capabilities, including, but not limited to, testing emergency operations plans.* [20 ILCS 3305/4]

"Exercise Design Team" means the people selected in accordance with Section 301.420(a) ~~of this Part~~ to develop and coordinate the exercise and the team from which a team member is designated to be the design team leader.

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~~"Federal Fiscal Year" or "FFY" means the federal budget period that begins annually on October 1 and ends the following September 30. The federal fiscal year is divided into four quarters. The first quarter is October 1–December 31; the second quarter is January 1–March 31; the third quarter is April 1–June 30; and the fourth quarter is July 1–September 30.~~

"FEMA" means the Federal Emergency Management Agency.

~~"Full Scale Exercise" means a time pressured exercise of a minimum of six functions of the emergency operations plan, involving strategic and tactical decision making, including the direction and control function, activating the emergency operations center and incident command post and deploying responders, equipment, and resources to the field.~~

~~"Functional Exercise" means a time pressured exercise of a minimum of four functions of the emergency operations plan, involving strategic and tactical decision making, including the direction and control function, activating the emergency operations center or the incident command post, or both.~~

"Goals" mean concepts adopted by strategic decision makers to give overall direction to disaster response and recovery, derived from one or more emergency management functions of the emergency operations plan and accomplished through decision makers of the emergency operations center and incident command system.

~~"Hazardous Materials Annex" means the annex to the emergency operations plan that is prepared in accordance with the requirements of Section 301.250 of this Part by the emergency services and disaster agency to address chemical hazards of the political subdivision and that includes all applicable portions of a State Emergency Response Commission approved Local Emergency Planning Committee chemical emergency response plan as applicable to the political subdivision preparing the emergency operations plan.~~

"IEMA" means the Illinois Emergency Management Agency.

"Illinois Emergency Planning and Community Right to Know Act" or "Illinois EPCRA" means 430 ILCS 100.

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"Incident Command" means a system that combines facilities, equipment, personnel, procedures, and communications to operate within a common organizational structure and that designates responsibility for the management of assigned resources to effectively accomplish stated goals and objectives.

~~"Incident Commander" means the individual responsible for the management of all incident command operations.~~

~~"Incident Command Post" means the location at which the primary command functions are executed.~~

"Local Emergency Planning Committee" or "LEPC" means the committee appointed in each emergency planning district by the State Emergency Response Commission pursuant to ~~the federal EPCRA~~Emergency Planning and Community Right to Know Act and ~~the Illinois EPCRA~~Emergency Planning and Community Right to Know Act.

"Mandated Emergency Services and Disaster Agency" or "Mandated ESDA" means each ESDA~~emergency services and disaster agency~~ required to be established pursuant to Section 10 of the ~~Illinois Emergency Management Agency Act~~ [20 ILCS 3305/10]:

Each county ESDA~~emergency services and disaster agency~~, unless multiple county ESDA~~emergency services and disaster agency~~ consolidation is authorized by IEMA~~the Illinois Emergency Management Agency~~ with the consent of the respective counties in accordance with Section 301.140 ~~of this Part~~;

Each multiple county ESDA~~emergency services and disaster agency~~ authorized in accordance with Section 301.140 ~~of this Part~~;

Each ESDA~~emergency services and disaster agency~~ in a municipality with a population of over 500,000; and

Each ESDA~~emergency services and disaster agency~~ determined by the Governor to be required for a municipal corporation pursuant to Section 10(d) of the Act.

"Mitigation" means actions taken to eliminate or reduce the degree of risk to life

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and property from hazards, either prior to or following a disaster.

"National Standard" means the version of the Emergency Management Standard developed by the Emergency Management Accreditation Program and accepted by IEMA. The National Standard can be obtained at <https://www.emap.org> or by contacting an IEMA regional office (<https://www2.illinois.gov/iema/Contacts/Pages/Contacts-Regional.aspx>).

"Non-Mandated Emergency Services and Disaster Agency" or "Non-Mandated ESDA" means an ~~ESDA~~ emergency services and disaster agency not required to be established pursuant to the ~~Illinois Emergency Management Agency Act~~, but established by ordinance of the political subdivision it serves.

"Objectives" mean definable and measurable concepts adopted by tactical decision makers to accomplish the goals of disaster response and recovery, usually derived from one or more emergency management functions of the emergency operations plan.

"Political Subdivision" means *any county, city, village, or incorporated town or township if the township is in a county having a population of more than 2,000,000.* [20 ILCS 3305/4]

"Preparedness" means actions taken and programs and systems developed prior to a disaster to support and enhance response to and recovery from a disaster.

"Principal Executive Officer" means *chair of the county ~~board~~Board, supervisor of a township if the township is in a county having a population of more than 2,000,000, mayor of a city or incorporated town, president of a village, or in their absence or disability, the interim successor as established under Section 7 of the Emergency Interim Executive Succession Act [5 ILCS 275].* [20 ILCS 3305/4]

"Recovery" means restoration actions and programs.

"Response" means the actions taken to address the immediate and short-term effects of a disaster.

"State Emergency Response Commission" or "SERC" means the Illinois Emergency Management Agency ~~as appointed by the Governor~~ in accordance with ~~Illinois EPCRA~~ the Emergency Planning and Community Right to Know Act

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~~to carry out all State responsibilities required by the Emergency Planning and Community Right to Know Act.~~

"Strategic Decisions" means policy decisions that determine the goals of disaster response and recovery, usually made by elected officials or by designees appointed by ordinance, law, or emergency operations plan to act on behalf of elected officials during a disaster.

~~"Table Top Exercise" means a low stress, non time pressured, discussion based exercise of a minimum of four functions of the emergency operations plan, including the direction and control function, held in the Emergency Operations Center, the Incident Command Post, or other suitable facility.~~

"Tactical Decisions" means decisions that determine the objectives to satisfy the goals set by strategic decision makers, usually made by designees of the strategic decision makers, including command or general staff within the incident command system.

"Work Plan" means a narrative description of the ESDA's emergency services and disaster agency's specific actions to be accomplished ~~during the next federal fiscal year.~~

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

Section 301.140 Multiple County ESDA Consolidation

IEMA may authorize a multiple county ESDA consolidation, if all of the following requirements are met:

- a) At least one of the counties to be consolidated has been determined by IEMA to have an inability to comply with the ESDA requirements of the ~~IEMA~~ Act and of this Part, including, but not limited to, the EOP and exercise requirements, that can be remedied by consolidation or all the counties that are to be consolidated determine that the consolidation would better serve the interest of life-safety and protection of property and the environment;
- b) The counties to be consolidated are geographically connected; and
- c) The counties seeking to consolidate present to IEMA a signed intergovernmental

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agreement between the counties seeking to consolidate ESDAs that provides at a minimum:

- 1) Evidence of consolidation approval and authorization by each of the county boards involved;
- 2) A beginning and ending date to the term of the consolidation agreement;
- 3) A description of how the county boards will divide or distribute authority for the consolidated ESDA in a way that will ensure that the emergency management interests of the affected counties are adequately addressed and of how issues will be addressed by the counties, such as funding and budget issues and legal representation for ESDA issues, including tort and workers' compensation issues; and
- 4) A description of how the consolidated ESDA will achieve command and control, as well as coordinate response and recovery~~operate~~ in a situation of concurrent disasters in each of the consolidated counties; ~~and~~
- 5) ~~Evidence of how the unified command system will be implemented by the consolidated ESDA.~~

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

Section 301.170 Program Requirements

The responsible ESDA shall have a documented emergency management program that should be consistent with the national standard, including program administration and evaluation; the use of advisory committee and coordination processes; administrative and financial processes and procedures; processes for requesting changes to ordinances and authorities; completion of a hazard identification risk assessment and threat and hazard identification risk assessment; hazard mitigation; implementation of prevention processes and programs; operational planning for emergency operations, recovery, continuity of operations and continuity of government plans; incident management; resource management and logistics; mutual aid; communications and warning capabilities; implementation and maintenance of operational procedures; the use and testing of facilities; implementation of training and exercise programs; and public information, crisis communications and education programs.

(Source: Added at 42 Ill. Reg. 15933, effective July 31, 2018)

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SUBPART B: EMERGENCY OPERATIONS PLAN REQUIREMENTS

Section 301.210 Authority

- a) In accordance with requirements of Section 10(g) of the Act, each ESDA established pursuant to the Act shall prepare an emergency operations plan for its geographic boundaries that complies with the planning, review and approval standards set forth in this Part.
- b) If the corporate boundaries of a municipality fall within the boundaries of more than one county jurisdiction, the principal executive officer of the municipality may choose which county jurisdiction to be included for planning and exercise purposes after the following:
- 1) The chosen county jurisdiction agrees to be responsible for the entire municipality for planning and exercise purposes through an intergovernmental agreement or equivalent legally binding document. The intergovernmental agreement or equivalent legally binding document shall set the term of the agreement;

AGENCY NOTE: If an agreement cannot be reached between the municipality and county jurisdictions involved, the county jurisdiction where the primary business address for the municipality is located shall be responsible for the planning and exercise requirements of this Part for the municipality.
 - 2) Notice is given to all county emergency management jurisdictions affected by the decision, including all other jurisdictions in which population of the municipality lies; and
 - 3) Notice is given to IEMA and IEMA has provided written approval prior to any change in responsibility. The intergovernmental agreement or equivalent legally binding document indicating agreement of the county in accordance with subsection (b)(1) shall be provided to IEMA.
- c) The responsible county jurisdiction under subsection (b)(1) shall provide all county emergency management jurisdictions affected by subsection (b) a copy of the EOP and copies of exercise and training records for the municipality.

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- d) Nothing in this Section shall require a municipality to choose only one county nor shall it prevent more than one county from sharing responsibility for planning and exercise purposes. In addition, nothing in this Section shall require a county to accept full responsibility for a municipality unless it has agreed to do so under subsection (b)(1).

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

Section 301.220 Initial Analysis and Assessment

To begin the planning process and in conjunction with ~~biennial~~ EOP updates, representatives of the political subdivision organizations involved with emergency response shall jointly conduct all of the following tasks:

- a) Conduct a hazard identification and risk assessment~~analysis~~ for the political subdivision:
- 1) Identify hazards, including natural, ~~and~~ technological and human-caused;
 - 2) Hazard profiles shall include risk and vulnerability assessments and consequence analysis~~Profile hazards, considering frequency, magnitude, intensity, location, spatial extent, duration, seasonal pattern, speed of onset and availability of warning, using historical data, scientific methods or other sources; and~~
 - 3) Compare, ~~and~~ prioritize and document risks of the hazards identified.
- b) Develop a profile of~~Assess vulnerabilities within~~ the political subdivision:
- 1) Collect demographic data (such as daily population patterns, traffic patterns, seasonal population changes, ~~special-needs~~ populations with functional and access needs) from public and private sources to determine potential consequences of identified hazards ~~for~~ people and community functions.
 - 2) Collect structural inventory data (including data on critical facilities, residential, commercial, and industrial structures, lifelines, and transportation) to determine potential consequences of identified hazards

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~~for~~ community functions, property and sites of potential secondary hazards.

- c) Complete a Threat and Hazard Identification Risk Assessment to assess all core capabilities for prevention, protection, response, recovery and mitigation mission areas ~~Assess response capabilities~~ of the political subdivision, identify shortfalls in ~~core~~ response capabilities and develop strategies to alleviate shortfalls in planning, organization, equipment, training and exercises, such as memorandums of understanding, mutual aid agreements or good Samaritan agreements.

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

Section 301.230 Basic Plan Requirements

- a) The EOP shall have a basic plan~~foreword~~ that includes:
- 1) A document signed and dated by the principal executive officer of the political subdivision approving the plan.
 - 2) A register for recording changes and entering change dates.
 - 3) ~~A signature page providing signatory evidence that the highest ranking officials of all governmental departments, including, but not limited to, fire and police, and private sector organizations with assigned emergency responsibilities, concur with the portions of the plan applicable to the entity they represent.~~
 - 34) For non-mandated ESDAs, except those accredited pursuant to Section 301.510 ~~of this Part~~, ~~a signature page providing signatory~~ evidence that each county or multiple county ESDA coordinator serving the county in which the non-mandated ESDA is located, other than the county or multiple county ESDA reviewing the EOP for acceptance pursuant to Section 301.320 ~~of this Part~~, concurs with the portions of the plan applicable to the ESDA they represent.
 - 5) ~~A distribution list of the plan recipients, indicating whether complete plans or specific portions were distributed.~~
 - 46) A table of contents listing all sections of the plan.

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- b) Each ESDA shall have an EOP that individually addresses:
- 1) The EOP's purpose and:
 - A) scope; or
 - B) goals and objectives;
 - 2) Authority;
 - 3) Situation and assumptions;
 - 4) Functional roles and responsibilities for internal and external agencies, organizations, departments and positions;
 - 5) Logistical support and resource requirements necessary to implement the EOP;
 - 6) The concept of operations for the EOP; and
 - 7) Assignment of responsibility for EOP maintenance, review and updating.
- c) The EOP shall identify and assign specific areas of responsibility for performing functions in response to an emergency or disaster.
- d) The EOP shall contain a list of formal mutual aid agreements, memoranda of understanding (MOUs), and other written agreements affecting the emergency response and recovery functions of the political subdivision.
- e) The EOP shall delineate processes for the political subdivision to supplement resources provided through MOUs.
- f) For EOPs due for review on or after September 1, 2020, ESDAs shall include in the EOP how the political subdivision will perform each of the following functions, and identify and assign specific areas of responsibility for performing the functions in response to an emergency or disaster:
- 1) administration and finance;

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- 2) agriculture and natural resources;
- 3) critical infrastructure and key resource restoration;
- 4) debris management;
- 5) detection and monitoring;
- 6) donation management;
- 7) energy and utilities services;
- 8) firefighting/fire protection;
- 9) human services (including food, water and commodities distribution);
- 10) incident and needs assessment;
- 11) information collection, analysis, and dissemination;
- 12) law enforcement;
- 13) mutual aid;
- 14) private sector coordination;
- 15) public works and engineering;
- 16) search and rescue;
- 17) transportation systems and resources; and
- 18) volunteer management

~~The EOP shall have a Basic Plan Overview detailing the political subdivision's approach to emergency operations, including:~~

- ~~1) A general purpose statement of the EOP.~~

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- 2) ~~A list of assumptions used in developing the plan.~~
- 3) ~~A concept of operations section, including, but not limited to, how the political subdivision will implement the concepts and procedures of a recognized incident command system.~~
- 4) ~~Identification of the line of succession, by title and position, (with up to two alternates) of who will implement the plan, direct emergency response and recovery, and provide continuous leadership, authority and responsibility.~~
- 5) ~~A description of the functions and responsibilities assigned to each organization, including private and volunteer organizations or groups, in support of emergency response and recovery operations in the political subdivision. This information may also be exhibited in a chart or matrix designating who has primary and support responsibilities.~~
- 6) ~~Maps, or references to maps or to a Geographic Information System available in the EOC, pertinent to emergency operations planning for the political subdivision and including, but not limited to, locating fixed hazards.~~
- 7) ~~An attachment containing written mutual aid agreements, memorandums of understanding (MOUs), and other written agreements affecting the emergency response and recovery functions of the political subdivision.~~
- 8) ~~Procedures detailing how the political subdivision will request outside assistance in a disaster, such as assistance from other ESDAs or IEMA, or both.~~
- 9) ~~Citations to the legal authorities for emergency operations, including, but not limited to, ordinances.~~
- 10) ~~Assignment of responsibility for plan maintenance, review, evaluation and updating.~~

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

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Section 301.240 Functional Annex Requirements

- a) For EOPs due for review on or after September 1, 2020, ESDAs shall include in the EOP annexes~~The EOP shall include an annex~~ addressing how the political subdivision will perform each of the following functions:
- 1) Direction, ~~and~~ Control and Coordination – The~~What~~ means the political subdivision will use to establish and maintain a unified and coordinated operational structure and process to direct and control activities throughout response and recovery that integrates all critical stakeholders and supports the execution of strategies, priorities and functional roles and responsibilities~~direct and control activities during and following emergency situations.~~
 - 2) Communications – The means, organizations and processes by which the political subdivision will communicate among and between affected communities and organizations involved in response and recovery in support of situational awareness and operations~~How information will be exchanged among responders in an emergency situation.~~
 - 3) Warning/Emergency Information – The means, organizations and processes by which officials will coordinate the delivery of alerts and warning that provide the public with life-saving information and instructions on actions to be taken for potential or actual emergencies~~How the public will be warned and instructed regarding actual or threatened hazards through the public media or other means.~~
 - 4) Public Information – The means, organizations and processes~~process~~ by which a political subdivision will coordinate the delivery of prompt, reliable and actionable~~provide timely, accurate, and useful~~ information to the whole community through the use of clear, consistent, accessible and culturally and linguistically appropriate methods to effectively relay information regarding any threat or hazard, as well as the actions being taken and the assistance being made available, as appropriate~~and instructions to area residents throughout an emergency. It includes information disseminated to the public through the media and other information sources on what is happening, what the response organization is doing, and what the public should do for its safety.~~

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- 5) Disaster Intelligence/Damage Assessment – The means the political subdivision will use to coordinate timely, accurate and actionable information resulting from the identification, planning, collection, processing, analysis, evaluation and dissemination of information among government or private sector entities, as appropriate~~identify, collect, analyze and disseminate information on the extent and impact of the disaster.~~
- 6) Evacuation and Population Protection – The means the political subdivision will use to coordinate the evacuation and movement of people to a safe area, or instruct the public to shelter-in-place, when conditions require immediate protection for potential or actual emergencies~~The movement of people to a safe area from an area believed to be at risk, when emergency situations necessitate such action.~~
- 7) Mass Care or Population Related Disaster Services – The means the political subdivision will use to coordinate life-sustaining and human services to the affected population, to include hydration, feeding, sheltering, temporary housing, evacuee support, reunification, and distribution of emergency supplies~~Actions taken to ensure appropriate services are provided at a mass care facility, including, but not limited to, providing temporary shelter, food, medical care, clothing and other essential life support needs to people displaced from their homes because of a disaster situation.~~
- 8) Health and Medical – The means the political subdivision will use to coordinate lifesaving medical treatment via Emergency Medical Services and related operations and avoid additional disease and injury by providing targeted public health, medical and behavioral health support and products to all affected populations in emergencies and disasters~~The activities associated with providing health and medical services in emergencies and disasters, including emergency medical, hospital, public health, environmental health, mental health services.~~
- 9) Mortuary Services or Fatality Management – The means the political subdivision will use to coordinate fatality management services, including:
 - A) decedent remains recovery and victim identification;

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- B) inventorying and protecting deceased's personal effects;
 - C) working with local, State and federal authorities to provide mortuary processes, temporary storage or permanent internment solutions;
 - D) sharing information with mass care services for the purpose of locating and notifying the next of kin and reunifying family members and caregivers with missing persons/remains; and
 - E) providing counseling to the bereaved~~Activities including the collection, identification, and care of human remains; determining the cause of death; inventorying and protecting deceased's personal effects; and locating and notifying the next of kin.~~
- 10) Resource Management or Logistics – The process the political subdivision will use to coordinate resources and material to satisfy the needs generated by a disaster through the delivery of essential commodities, equipment, services and personnel in support of impacted communities and survivors, to include emergency power and fuel support, as well as the coordination of access to community staples~~The process of managing people, equipment, facilities, supplies and other resources to satisfy the needs generated by a disaster.~~
- b) Each functional annex required by subsection (a) shall individually address:
- 1) The annex's purpose and:
 - A) scope; or
 - B) goals and objectives;
 - 2) Authority;
 - 3) Situation and assumptions;
 - 4) Identification of and functional roles and responsibilities for internal and external agencies, organizations, departments and positions;

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- 5) Logistical support and resource requirements necessary to implement the annex;
 - 6) A description of situations that trigger implementation of the annex;
 - 7) A description of assumptions that apply to the annex;
 - 8) The concept of operations for the annex; and
 - 9) Assignment of responsibility for annex maintenance, review and updating.
- 1) ~~The purpose of the function.~~
 - 2) ~~A description of situations that trigger implementation of the function.~~
 - 3) ~~A description of assumptions that apply to the function.~~
 - 4) ~~The concept of operations for the function.~~
 - 5) ~~Assignment of responsibility for annex maintenance, review and updating.~~
- c) In addition to the above requirements of subsections (a) and (b), each annex may include functional appendices, tabs, check-lists and job aids.~~In addition to addressing the requirements of subsection (b), the Direction and Control annex shall also:~~
- 1) ~~Describe the direction and control relationship of tasked organizations, including:~~
 - A) ~~The command structure—specifically who will be in charge during emergency response operations.~~
 - B) ~~The authorities of, and limitations on, key response personnel such as the on-scene Incident Commander.~~
 - C) ~~How emergency response organizations will be notified when it is necessary to respond.~~
 - D) ~~The means that will be used to obtain, analyze, and disseminate~~

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~~information (for decision making, requesting assistance, reporting, etc.).~~

- ~~E) The relationship between the EOC and the Incident Command Post.~~
- 2) ~~List the organizations that are tasked with specific direction and control responsibilities and describe those responsibilities. Include the assignment of responsibility for:~~
 - A) ~~Reporting to the EOC when activated.~~
 - B) ~~Coordinating press releases among response organizations.~~
 - C) ~~Managing the primary and alternate EOCs.~~
 - D) ~~Maintaining a significant events log.~~
 - E) ~~Removing debris.~~
- d) ~~In addition to addressing the requirements of subsection (b), the Communications annex shall also:~~
 - 1) ~~Describe the total emergency communications system used for communication among all groups and individuals involved in the political subdivision's response to an emergency.~~
 - 2) ~~Describe the primary and backup communication methods and personnel.~~
 - 3) ~~Identify the organization assigned to coordinate all communication activities.~~
 - 4) ~~List the organizations that are tasked with specific communications responsibilities and describe those responsibilities.~~
 - 5) ~~Identify the representative from each tasked organization who will report to the EOC when activated.~~
- e) ~~In addition to addressing the requirements of subsection (b), the~~

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~~Warning/Emergency Information annex shall also:~~

- ~~1) Identify the methods used to provide warning/emergency information for the public and special populations.~~
- ~~2) Identify the locations of outdoor warning/emergency information devices and define the geographical areas covered.~~
- ~~3) Describe the specific warning/emergency information responsibilities assigned to the tasked organizations.~~
- ~~4) Identify the department or agency responsible for activating public warning/emergency information systems.~~

f) ~~In addition to addressing the requirements of subsection (b), the Public Information annex shall also:~~

- ~~1) Assign a person to be the public information officer (PIO) responsible for coordinating information gathering and production, rumor control, public inquiries, and media relations.~~
- ~~2) Designate a facility as the public information center.~~
- ~~3) List the organizations that are tasked with specific public information responsibilities and describe those responsibilities.~~
- ~~4) Assign a public information representative to report to the EOC when activated.~~

g) ~~In addition to addressing the requirements of subsection (b), the Disaster Intelligence/Damage Assessment annex shall also:~~

- ~~1) List the organizations that are tasked with specific disaster intelligence/damage assessment responsibilities and describe those responsibilities.~~
- ~~2) Assign a disaster intelligence/damage assessment representative to report to the EOC when activated.~~

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- h) ~~In addition to addressing the requirements of subsection (b), the Evacuation annex shall also:~~
- 1) ~~List the organizations that are tasked with specific evacuation responsibilities and describe those responsibilities.~~
 - 2) ~~Identify the department, agency or organization responsible for coordinating all transportation resources planned for use in an evacuation.~~
- i) ~~In addition to addressing the requirements of subsection (b), the Mass Care annex shall also:~~
- 1) ~~List the organizations that are tasked with specific mass care responsibilities and describe those responsibilities, including:~~
 - A) ~~Identification of the department, agency, or organization responsible for determining the need to open shelter.~~
 - B) ~~Identification of the department, agency, or organization responsible for emergency mass feeding operations.~~
 - C) ~~Identification of the department, agency, or organization responsible for providing health and/or medical care at shelter and/or congregate care facilities.~~
 - 2) ~~Assign a mass care representative to report to the EOC when activated.~~
 - 3) ~~Identify the mass care representative who will coordinate press releases with the public information officer.~~
- j) ~~In addition to addressing the requirements of subsection (b), the Health and Medical Services annex shall also:~~
- 1) ~~List the organizations and individuals that are tasked with responsibilities for providing emergency health and medical services and describe those responsibilities, including:~~
 - A) ~~Identification of the department, agency, or organization responsible for arranging crisis counseling for emergency workers.~~

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- ~~B)~~ Identification of the department, agency, or organization responsible for sanitation services.
- 2) Assign a health and medical services representative to report to the EOC when activated.
- k) In addition to addressing the requirements of subsection (b), the Mortuary Services annex shall also:
- 1) List the organizations and individuals that are tasked with mortuary services responsibilities and describe those responsibilities.
- 2) Describe how mortuary services will be expanded during a mass casualty incident, if necessary.
- l) In addition to addressing the requirements of subsection (b), the Resource Management annex shall also:
- 1) List the organizations and individuals that are tasked with resource management responsibilities and describe those responsibilities. Include identification of who will organize, manage, coordinate, and distribute the donations of money, goods, and labor received from individual citizens and volunteer groups during an emergency.
- 2) Assign a resource management representative to report to the EOC when activated.
- dm) The ESDA may include additional ~~functional~~ annexes in the EOP as determined by the ESDA to be necessary for the emergency management efforts of the political subdivision in the event of a disaster, ~~including, but not limited to, the following functions: search and rescue, law enforcement, public works, transportation, energy management, animal welfare, legislative relations, aviation operations and/or others.~~ IEMA may require the ESDA to include ~~an additional annexes~~ functional annex in the EOP, if IEMA determines that those annexes ~~are such an annex is~~ necessary preparation for protection of the public peace, health and safety in the event of a disaster.

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- e) The ESDA may use traditional, functional, core capability or Emergency Support Function (ESF) annexes in the EOP as determined by the ESDA to be necessary for the emergency management efforts of the political subdivision in the event of a disaster.

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

Section 301.250 Hazard Specific Annexes

- a) Each hazard specific annex of the EOP shall individually address:
- 1) The annex's purpose and:
 - A) scope; or
 - B) goals and objectives;of the annex.
 - 2) Authority;A description of situations that trigger implementation of the hazard specific annex.
 - 3) Situation and assumptions;A description of assumptions that apply to the hazard specific annex.
 - 4) Identification of and functional roles and responsibilities for internal and external agencies, organizations, departments and positions;
 - 5) Logistical support and resource requirements necessary to implement the annex;
 - 6) The concept of operations for the hazard specific annex; and-
 - 7) Assignment of responsibility for annex maintenance, review and updating.
- b) In addition to the above requirements of subsection (a), each hazard specific annex of the EOP may include functional appendices, tabs, check-lists and job aids.
- cb) TheBeginning January 1, 2003, the EOP shall include, as a Hazardous Materials annex, all applicable portions of ana-SERC approved LEPC chemical emergency

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response plan for the political subdivision, developed in accordance with the requirements of the Illinois EPCRA. The SERC shall appoint an ESDA coordinator from within the LEPC's emergency planning district to serve as a member of the LEPC in the development of the LEPC chemical emergency response plan.

de) Based upon United States Geological Survey calculations of probable areas subject to earthquake damage, IEMA has determined that the EOPs of the following county ESDAs and of political subdivision ESDAs located within the following counties shall include an Earthquake annex: Alexander, Calhoun, Crawford, Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Jersey, Johnson, Lawrence, Madison, Massac, Monroe, Perry, Pope, Pulaski, Randolph, Richland, Saline, St. Clair, Union, Wabash, Washington, Wayne, White, and Williamson. In addition to addressing the requirements of subsection (a), the Earthquake annex shall address, at a minimum:

- 1) For Direction and Control purposes:
 - A) The use of ground or aerial surveys, or both, to determine the scope of the damage, casualties, and the status of critical facilities.
 - B) The use of damage assessment information to identify the facilities and areas where urban search and rescue operations are to be conducted and to establish priorities for search and rescue operations.
 - i) Provisions to control access into and out of damaged areas.
 - ii) The inspection of buildings and other structures to determine habitability or the need for condemnation or demolition and how such determinations will be marked.
- 2) For Public Information purposes:
 - A) The development and distribution of survival tips on what to do during and immediately after an earthquake.
 - B) The distribution of warnings and advice on the continuing threats of fire, unsafe areas, building collapse, aftershocks, and other

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hazards.

- C) Public notification of emergency assistance locations, such as shelter, medical services, and food and water.
- 3) For Evacuation purposes, ~~the A) provisions~~ Provisions for moving residents of custodial facilities, including, but not limited to, hospitals and jails, following an earthquake due to structural damage from the earthquake or projected aftershocks.
- 4) For Mass Care purposes:
- A) Identification of mass care facilities in low seismic risk areas that are away from secondary effect threats.
 - B) Identification of mass care facilities that are structurally sound, well retrofitted, or built to code, based on the knowledge of a structural engineer.
 - C) A ranking of the mass care facilities based on the amount of earthquake resistance protection offered.
- ed) An ESDA may include additional Hazard Specific annexes for threats and hazards identified through the process set forth in Section 301.220 ~~in the EOP as determined by the ESDA to be necessary for the emergency management efforts of the political subdivision in the event of a disaster, including, but not limited to annexes on flooding and dam failures, nuclear power plant accidents, terrorism, weapons of mass destruction, tornadoes, or airport accidents.~~ IEMA may require the ESDA to include ~~an~~ additional Hazard Specific annexes ~~annex~~ in the EOP, if IEMA determines that those annexes are ~~such annex is~~ necessary preparation for protection of the public peace, health and safety in the event of a disaster.

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

Section 301.260 Other Annexes (Repealed)

~~Mandated ESDAs shall include, as an annex, the EOP, or a cross-reference to the EOP, of a non-mandated ESDA that the mandated ESDA has reviewed and accepted in accordance with the provisions of Section 301.320 of this Part.~~

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(Source: Repealed at 42 Ill. Reg. 15933, effective July 31, 2018)

Section 301.280 Supporting Plans

- a) For EOPs due for review on or after September 1, 2020, ESDAs shall have a recovery plan that addresses short- and long-term recovery priorities and provides guidance for restoration of critical community functions, services, vital resources, facilities, programs, and infrastructure to the affected area.
- b) For EOPs due for review on or after September 1, 2020, ESDAs shall have a continuity of operations plan (COOP) that describes how the ESDA's essential functions will be continued and recovered in an emergency or disaster. The plan shall identify essential positions and lines of succession, and provide for the protection or safeguarding of critical applications, communications resources, vital records/databases, process and functions that must be maintained during response activities and identify and prioritize applications, records, processes and functions to be recovered if lost.
- c) For EOPs due for review on or after September 1, 2020, ESDAs shall have a continuity of government (COG) plan that identifies the jurisdiction's leadership succession authorities and addresses how the ESDA will support the preservation, maintenance or reconstitution of the jurisdiction's constitutional responsibilities. The plan shall include identification of succession of leadership, delegation of emergency authority, and command and control.
- d) The plans required in subsections (a) through (c) may be separate plans, included within the basic plan, or contained in annexes.

(Source: Added at 42 Ill. Reg. 15933, effective July 31, 2018)

SUBPART C: EMERGENCY OPERATIONS PLAN
SUBMISSION AND REVIEW REQUIREMENTS**Section 301.310 EOP Submission and Review Requirements for Mandated ESDAs and Accredited ESDAs**

- a) Each mandated ESDA and each ESDA eligible for and seeking accreditation pursuant to Section 301.510 ~~of this Part~~ shall ~~biennially~~ submit to IEMA for

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review and approval an emergency operations plan for their geographic boundaries that complies with the planning standards of this Part.

AGENCY NOTE: For review of EOPs, "approval" means that IEMA has determined that the requirements specified in this Part have been included in the plan.

- b) The principal executive officer of the political subdivision and the ESDA coordinator shall review and approve the EOP submission ~~not more than 60 days~~ prior to the submission to IEMA. The EOP submission shall include a statement, signed by the principal executive officer and the ESDA coordinator, that the plan has been reviewed and approved by all departments or organizations with assigned emergency responsibilities.
- c) Each ESDA ~~should~~ shall review and update its EOP ~~at least annually~~ biennially, except the ESDA shall ~~annually~~ review and update the Hazardous Materials annex to the EOP based on changes provided by the LEPC as a result of the LEPC's annual review of its the LEPC chemical emergency response plan. A review and update should be considered by the ESDA at a lesser interval for any circumstances that impact the jurisdiction and the functions described in the EOP.
- d) Each ESDA shall submit a copy of its EOP, ~~either personally with proof of submittal or by certified or registered mail,~~ to IEMA in accordance with the review schedule established by IEMA.

AGENCY NOTE: Written notification shall be given to IEMA of any revisions to the EOP made during those periods of time where the ESDA's EOP is not due for review by IEMA.

- e) ~~Within 30 days after submittal,~~ IEMA shall review the plan and give written notification to the ESDA, ~~either personally with proof of notification or by certified or registered mail,~~ of IEMA approval or disapproval of the EOP in accordance with the planning standards set forth in this Part.
- f) If the EOP is disapproved, IEMA shall provide a written list of deficiencies and suggested means of remediation to the ESDA. The ESDA has 60 calendar days after receipt of the disapproval to remediate the plan and resubmit it to IEMA, ~~either personally with proof of submission or by certified or registered mail.~~ IEMA may arrange for technical assistance in remediating the plan.

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- g) ~~Within 30 days after receipt of the resubmitted plan,~~ IEMA shall notify the ESDA and the principal executive officer of the political subdivision, ~~either personally with proof of notification or by certified or registered mail,~~ of its final determination of approval or disapproval.
- h) ~~In the event that the ESDA fails to obtain IEMA approval of an EOP within the time frames established in this Section, IEMA may arrange for an EOP that complies with the planning standards of this Part to be written for the political subdivision in order to fulfill the IEMA mandate of ensuring statewide disaster preparedness.~~
- h) Upon approval of the EOP, IEMA will ~~make and~~ retain a copy of the approved plan in the IEMA regional office ~~and return the original copy of the approved plan to the ESDA for retention. In addition, IEMA shall forward a copy of the approved plans of those ESDAs eligible for and seeking accreditation pursuant to Section 301.510 of this Part to the county or multiple county ESDA serving the county in which the ESDA eligible for and seeking accreditation is located.~~
- j) ~~IEMA shall send a letter of approval to each mandated ESDA or accredited ESDA that has completed an EOP that complies with the planning standards of this Part.~~

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

Section 301.320 EOP Submission and Review Requirements for Non-Mandated ESDAs

- a) Except for those non-mandated ESDAs eligible for and seeking accreditation pursuant to Section 301.510 ~~of this Part,~~ each non-mandated ESDA shall biennially submit to the county or multiple county ESDA serving the county in which the non-mandated ESDA is located, for acceptance by the county or multiple county ESDA, an EOP for its geographic boundaries that complies with the planning standards ~~of this Part.~~ The county or multiple county ESDA shall send a letter of acceptance or non-acceptance to the non-mandated ESDA. ~~If the EOP is not accepted by the county or multiple county ESDA and if the non-mandated ESDA so requests, IEMA shall provide professional and technical EOP assistance through the county or multiple county ESDA serving the county in which the non-mandated ESDA is located.~~

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- b) ~~IEMA shall annually review a random sample of at least one EOP but not less than 10 percent of county or multiple county ESDA accepted EOPs in each county that has accepted an EOP in accordance with subsection (a) to ensure consistency of planning review statewide.~~
- be) For non-mandated ESDAs eligible for and seeking accreditation pursuant to Section 301.510 ~~of this Part~~, the EOP submission and review requirements of Section 301.310 ~~of this Part~~ shall apply.

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

SUBPART D: EXERCISE REQUIREMENTS

Section 301.410 Exercise Requirements for the Emergency Operations Plan

- a) The ESDA shall have a documented exercise program for its EOP and conduct or participate in an IEMA-approved exercise for hazards identified through the processes set forth in Section 301.220, and exercise all core capabilities, within a four-year cycle beginning with IEMA's approval of the EOP, including at least one full-scale exercise.
- b) The ESDA shall have a process for corrective actions to prioritize and track the resolution of deficiencies in exercise events. Corrective actions identified in the process shall be used to revise relevant plans.
- c) The ESDA may combine hazards and core capabilities into one or more exercises and must submit required documentation to IEMA for approval pursuant to Sections 301.420 and 301.430.

~~The ESDA shall coordinate a biennial, evaluated exercise of the EOP in the following manner:~~

- a) ~~Table top or functional exercise, except for the year of the full-scale exercise.~~
- b) ~~Full-scale exercise every fourth biennial exercise.~~

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

Section 301.420 Exercise Planning

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- a) The ESDA coordinator shall select an exercise design team and exercise design team leader for each exercise.
- b) The ESDA coordinator ~~should~~ shall submit to IEMA for design approval, at least 30 days, or 60 days if State assistance is being requested, in advance of the exercise, a description of:
 - 1) The type of exercise and exercise date;
 - 2) The exercise scenario;
 - 3) The scope of participation;
 - 4) The exercise objectives, meaning the ends toward which exercise efforts are directed; and
 - 5) The EOP functional areas and core capabilities being tested.

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

Section 301.430 Exercise Evaluation and Approval for Mandated ESDAs and Accredited ESDAs

- a) IEMA shall coordinate the evaluation of the exercise for mandated ESDAs and for accredited ESDAs.
- b) IEMA shall determine if the exercise is approved in accordance with FEMA's Homeland Security Exercise and Evaluation Program (HSEEP) ~~the IEMA Exercise Evaluation Guide~~ and issue to the ESDA written notice of the determination within 14 days, ~~personally with proof of notice or by certified or registered mail, to the ESDA.~~
- c) If the exercise is not approved, the ESDA shall, within ~~45~~ 30 days after receipt of the IEMA determination of disapproval:
 - 1) Plan a suitable corrective exercise to correct the deficiencies identified by the evaluation;
 - 2) Notify IEMA no less than 10 days in advance of the corrective exercise;

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and

- 3) Have IEMA coordinate the evaluation of the corrective exercise.
- d) IEMA shall determine if the corrective exercise is approved in accordance with HSEEP~~the IEMA Exercise Evaluation Guide~~ and shall issue the final IEMA determination by written notice, ~~personally with proof of notice or by certified or registered mail~~, within ~~45~~30 days after completion of the corrective exercise ~~documentation~~, to the ESDA and to the principal executive officer of the political subdivision.
- e) In the event that the ESDA fails to obtain IEMA approval of an exercise within the time frames established in this Subpart, IEMA may coordinate the planning and conducting of an exercise that complies with the exercise requirements of this Part in order to fulfill the IEMA mission of ensuring statewide disaster preparedness.

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

Section 301.440 Exercise Evaluation and Acceptance for Non-Mandated ESDAs

- a) Except for those non-mandated ESDAs eligible for and seeking accreditation pursuant to Section 301.510 ~~of this Part~~, each non-mandated ESDA shall:
 - 1) Coordinate the approval and evaluation of the exercise in accordance with FEMA's Homeland Security Exercise and Evaluation Program (HSEEP)~~using the IEMA Exercise Evaluation Guide~~; and
 - 2) Submit documentation at least 45, within 30 days in advance, of the exercise and evaluation to the county or multiple county ESDA serving the county in which the non-mandated ESDA is located, for acceptance by the county or multiple county ESDA. The county or multiple county ESDA shall send a letter of acceptance or non-acceptance to the non-mandated ESDA. If the exercise and evaluation is not accepted by the county or multiple county ESDA, and upon request of the non-mandated ESDA, IEMA may shall provide professional and technical exercise assistance, through the county or multiple county ESDA serving the county in which the non-mandated ESDA is located.

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- b) ~~IEMA shall annually review a random sample of at least one accepted exercise and evaluation submittal but not less than 10 percent of county or multiple county ESDA accepted exercise and evaluation submittals in each county that has accepted an exercise and evaluation in accordance with subsection (a) to ensure consistency of exercise and evaluation acceptance statewide.~~
- be) For non-mandated ESDAs eligible for and seeking accreditation pursuant to Section 301.510 ~~of this Part~~, the exercise evaluation and approval requirements of Section 301.430 ~~of this Part~~ shall apply.

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

Section 301.450 Waiver of Exercise Requirement

- a) If an actual disaster or emergency occurs during a jurisdiction's four-year exercise cycle, IEMA, or the county for non-mandated unaccredited ESDAs, has the discretion to waive the requirements of this Subpart. In addition to a letter requesting a waiver, ESDAs shall submit the following documentation Sections 301.410 and 301.420 of this Part, for the ESDA's current exercise year, if the ESDA satisfies all of the following conditions:

~~The ESDA submits documentation to IEMA that it was involved in an actual response to a disaster during the year in which the exercise is required. Such documentation shall include details about the response, including, but not limited to, the date, type of disaster, and type of response.~~

- 1b) Within 60 days after the EOC is no longer active, For mandated ESDAs and non-mandated for accredited ESDAs shall submit an After Action Report (AAR) and a Corrective Action/Improvement Plan to their IEMA regional office. In addition, non-mandated accredited ESDAs shall also submit the AAR and Corrective Action/Improvement Plan to the county in which they reside, IEMA shall coordinate the evaluation of the actual response as an exercise using the IEMA Exercise Evaluation Guide. Except for those non-mandated ESDAs accredited pursuant to Section 301.510 of this Part, non-mandated ESDAs shall coordinate the evaluation of the actual response as an exercise using the IEMA Exercise Evaluation Guide and shall submit documentation of the actual response and evaluation to IEMA within 30 days after the actual response.

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- 2) Within 60 days after the EOC is no longer active, except for those non-mandated ESDAs accredited pursuant to Section 301.510, non-mandated ESDAs shall submit an After Action Report (AAR) and a Corrective Action/Improvement Plan to the county in which they reside.

AGENCY NOTE: Prior to an ESDA submitting the required documents for a waiver, IEMA or the county, as appropriate, shall determine which core capabilities will be evaluated to meet the exercise requirement.

- be) The actual response as an exercise shall be approved or accepted in the same manner as an exercise is approved or accepted pursuant to Sections 301.430 and 301.440 ~~of this Part.~~

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

SUBPART E: ACCREDITATION AND CERTIFICATION OF ESDAS

Section 301.510 Accreditation of ESDAs

- a) The following ESDAs are eligible to apply for IEMA accreditation:
- 1) Mandated ESDAs; and
 - 2) Non-mandated ESDAs determined biennially by the IEMA Director, or his/her designee, to have demonstrated justification to IEMA for accreditation eligibility based on the following political subdivision criteria:
 - A) Heightened, greater than average disaster vulnerability;
 - B) An increased need for ESDA services in the political subdivision due to all of the following:
 - i) Population size and concentration;
 - ii) Insufficiency of county ESDA resources to meet the emergency management needs of the political subdivision; and

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- iii) A high concentration of emergency management resources in the political subdivision existing prior to the accreditation eligibility review;
 - C) Evidence that the ESDA coordinator provides to the political subdivision a paid emergency management work effort as coordinator of at least 50% of the political subdivision's standard full-time work week, not including exercise hours; and
 - D) Documentation of the emergency management services provided to the political subdivision by the ESDA, including, but not limited to, documentation of emergency operations plans, training, exercises, and actual responses, during a minimum of the past 5 years.
- b) For IEMA accreditation, eligible applicants, determined in accordance with subsection (a) ~~of this Section~~, shall satisfy all of the following requirements:
- 1) Submit a copy of the political subdivision ordinance creating the ESDA affixed with the official seal by the clerk of the political subdivision.
 - 2) Submit documentation of the ESDA coordinator's Notice of Appointment card.
 - 3) Submit evidence that the political subdivision supports a paid emergency management work effort of at least 50% of the political subdivision's standard full-time work week, not including exercise hours.
 - 4) Submit documentation that~~the following~~:
 - A) ~~For ESDA coordinators appointed prior to January 1, 2002, documentation that the ESDA Coordinator has biennially completed 48 hours of professional development training, of which a minimum of 24 hours is IEMA sponsored professional development training. However, for the first accreditation review pursuant to this rulemaking, eligible applicants may submit documentation that the ESDA coordinator has, at any time prior to the first accreditation review pursuant to this rulemaking, completed the equivalent of 48 hours of professional development~~

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~~training. The IEMA-sponsored professional development training program shall, at a minimum, be consistent with and at least as stringent as the FEMA professional development series. Coordinators may receive credit for up to 24 hours of non-IEMA-sponsored professional development training, including, but not limited to, emergency management conferences, independent study courses, college courses or internet courses, but only if such training is consistent with or at least as stringent as training in the IEMA-sponsored professional development training program and is pre-approved for a specific number of credit hours in writing by IEMA prior to the training.~~

- ~~B) For ESDA coordinators appointed after January 1, 2002, documentation that:~~
- ~~Ai) An ESDA coordinator appointed after January 1, 2002 has completed, within 12~~Within six~~ months after the date of appointment, unless this time is extended by IEMA up to one year from the date of appointment, the ESDA coordinator has completed the IEMA New Coordinators Workshop Course and the Principles of Emergency Management Course or courses determined by IEMA to be consistent with or at least as stringent as these courses; and~~
- ~~Bi) After the first year of appointment, or for ESDA coordinators appointed prior to January 1, 2002, the ESDA coordinator has biennially completed 48 hours of professional development training, of which a minimum of 24 hours is IEMA-sponsored professional development training. The IEMA-sponsored professional development training program shall, at a minimum, be consistent with and at least as stringent as the FEMA Professional Development Series~~professional development series~~. Coordinators may receive credit for up to 24 hours of non-IEMA-sponsored professional development training, including, but not limited to, emergency management conferences, independent study courses, college courses or internet courses, but only if such training is consistent with or at least as stringent as training in the IEMA-sponsored professional development training program and is pre-approved for a specific number of credit hours in writing by IEMA~~

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prior to the training.

- 5) Complete an EOP that meets the requirements of ~~Subparts~~ Subpart B and C of this Part no later than July 1, 2002, except ESDAs that have an EOP approved by IEMA within the 18 month period immediately preceding January 1, 2002 shall complete an EOP that meets the requirements of Subpart B of this Part no later than the date of the next IEMA scheduled biennial EOP review.
 - 6) ~~Submit documentation that IEMA has approved the EOP in accordance with the review and approval provisions of Subpart C of this Part, except ESDAs that have an EOP approved by IEMA within the 18 month period immediately preceding January 1, 2002 shall submit documentation of such prior IEMA EOP approval.~~
 - 67) Conduct an exercise in accordance with the requirements of Subpart D of this Part.
 - 8) ~~Submit documentation of final IEMA approval of the exercise conducted in accordance with the requirements of Subpart D of this Part.~~
 - 9) ~~Submit a list of non-mandated ESDA EOPs, if any, reviewed by the county or multiple county ESDA in accordance with Section 301.320 of this Part.~~
 - 10) ~~Submit a list of non-mandated ESDAs, if any, whose exercises and evaluations have been submitted to the county or multiple county ESDA in accordance with the requirements of Section 301.440 of this Part.~~
 - 11) ~~Submit a list of non-mandated ESDAs, if any, certified by the county or multiple county ESDA in accordance with the requirements of Section 301.520 of this Part.~~
 - 712) Complete and submit all current National Incident Management System (NIMS) compliance documents as established by IEMA.
- c) The term of accreditation is two years, with beginning and ending dates indicated on the accreditation document issued by IEMA. Eligible ESDA applicants may seek accreditation renewal by satisfying the requirements of subsection (b) ~~of this~~

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- d) IEMA shall issue an accreditation document under signature of the IEMA Director.

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

Section 301.520 Certification of Non-Mandated ESDAs

- a) Except for those non-mandated ESDAs accredited in accordance with Section 301.510 ~~of this Part~~, non-mandated ESDAs may apply to an accredited county or multiple county ESDA serving the county in which the non-mandated ESDA is located, for certification, or to IEMA in the event that no accredited county or multiple county ESDA serves the county in which the non-mandated ESDA is located. Each accredited county or multiple county ESDA, or IEMA in the event that no accredited county or multiple county ESDA serves the county in which the non-mandated ESDA is located, may issue certification to non-mandated ESDAs located within its geographic boundaries, if the non-mandated ESDAs satisfy the following requirements:
- 1) Submit a copy of the political subdivision ordinance creating the ESDA affixed with the official seal by the clerk of the political subdivision.
 - 2) Submit documentation of the ESDA coordinator's Notice of Appointment card.
 - 3) Submit documentation that the following:
 - A) ~~For ESDA coordinators appointed prior to January 1, 2002, documentation that the ESDA coordinator has biennially completed 48 hours of professional development training, of which a minimum of 24 hours is IEMA-sponsored professional development training. However, for the first certification review under this Part, eligible applicants may submit documentation that the ESDA coordinator has, at any time prior to the first certification review under this Part, completed the equivalent of 48 hours of professional development training. The IEMA-sponsored professional development training program shall, at a minimum, be consistent with and at least as stringent as the FEMA professional~~

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~~development series. Coordinators may receive credit for up to 24 hours of non-IEMA sponsored professional development training, including, but not limited to, emergency management conferences, independent study courses, college courses or internet courses, but only if such training is consistent with or at least as stringent as training in the IEMA sponsored professional development training program and is pre-approved for a specific number of credit hours in writing by IEMA prior to the training.~~

- ~~B)~~ For ~~ESDA coordinators appointed after January 1, 2002,~~ documentation that:
- ~~Ai)~~ An ESDA coordinator appointed after January 1, 2002, has completed, within 12~~Within six~~ months after the date of appointment, ~~unless this time is extended by IEMA up to one year from the date of appointment, the ESDA coordinator has completed~~ the IEMA New Coordinators Workshop Course and the Principles of Emergency Management Course or courses determined by IEMA to be consistent with or at least as stringent as these courses; and
- ~~Bi)~~ After the first year of appointment, or for ESDA coordinators appointed prior to January 1, 2002, the ESDA coordinator has biennially completed 48 hours of professional development training, of which a minimum of 24 hours is IEMA-sponsored professional development training. The IEMA-sponsored professional development training program shall, at a minimum, be consistent with and at least as stringent as the FEMA Professional Development Series~~professional development series~~. Coordinators may receive credit for up to 24 hours of non-IEMA-sponsored professional development training, including, but not limited to, emergency management conferences, independent study courses, college courses or internet courses, but only if such training is consistent with or at least as stringent as training in the IEMA-sponsored professional development training program and is pre-approved for a specific number of credit hours in writing by IEMA prior to the training.
- 4) Complete an EOP that meets the requirements of Subparts~~Subpart B~~ and

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~~C of this Part~~ that is reviewed and accepted by the county or multiple county ESDA in accordance with Section 301.320 ~~of this Part~~.

- 5) Conduct an exercise and evaluation that meets the requirements of Subpart ~~D of this Part~~ that is accepted by the county or multiple county ESDA in accordance with Section 301.440 ~~of this Part~~.
- ~~b) IEMA shall annually review a random sample of at least one certification but no less than 10 percent of certifications issued by accredited county or multiple county ESDAs in each county that has certified a non-mandated ESDA pursuant to subsection (a) for compliance with the requirements stated and to ensure consistency of certification reviews statewide.~~
- ~~b) The certification term is two years with beginning and ending dates indicated on the certificate issued by the accredited county or multiple county ESDA under signature of the accredited county or multiple county ESDA and IEMA. The non-mandated ESDA may seek renewal of its certification.~~

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

SUBPART F: WORKERS' COMPENSATION ACT AND WORKERS'
OCCUPATIONAL DISEASES ACT COVERAGE FOR VOLUNTEERS

Section 301.620 Eligibility

Only a volunteer meeting all of the following requirements is eligible for State coverage under the Workers' Compensation Act or Workers' Occupational Diseases Act:

- a) Volunteer, age 18 and above, of IEMA or of an ESDA accredited pursuant to Section 301.510 ~~of this Part~~;
- b) Volunteer not compensated ~~by IEMA or the ESDA for which he/she is volunteering~~;
- c) Duly qualified through appointment by IEMA or the ESDA to perform disaster response functions consistent with the IEMA Act and the political subdivision's ESDA ordinance;
- d) Enrolled (sworn in) in accordance with Section 20 of the Act; and

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- e) Suffering disease, injury or death while participating in any of the following: a disaster response, disaster exercise, training related to the EOP of the political subdivision, or a search-and-rescue team response to an occurrence or threat of injury or loss of life that is beyond local response capabilities, if:
- 1) Disaster~~For disaster~~ response if:
 - A) IEMA is notified at the time of disaster response by contacting the IEMA Communications Center at 1-800-782-7860; and
 - B) The coverage request, on a form prescribed by IEMA, is received by IEMA within 10 calendar days after the disaster response has ended.
 - 2) Disaster~~For a disaster~~ exercise or training if related to the EOP of the political subdivision, the event is planned and:
 - A) The exercise or training is related to the EOP of IEMA or the political subdivision;
 - BA) The exercise or training event is specifically and expressly pre-approved in writing by IEMA for a specific date; and
 - CB) The coverage request, on a form prescribed by IEMA, is received by IEMA at least 5 calendar days, but not more than 30 calendar days, in advance of the planned exercise or training and is placed on the State Exercise or Training Calendar event.
 - 3) Search~~For a search-~~and-rescue team response if:
 - A) The search-and-rescue team response is to an occurrence or threat of injury or loss of life that is beyond local response capabilities;
 - B) The search-and-rescue team response is specifically and expressly requested by IEMA or by the ESDA that appointed and enrolled the search-and-rescue team volunteer and is specifically and expressly approved by IEMA prior to the search-and-rescue team response. The Director of IEMA shall determine the termination

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of the approval period. IEMA shall document its approval and termination on a form prescribed by IEMA; and

- C) Each search-and-rescue team volunteer used in the response has completed training appropriate to the function he or she performs during the search-and-rescue team response.

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

Section 301.630 Procedures for Filing A Claim

- a) To ~~file a claim~~~~request coverage~~ for a volunteer under the Workers' Compensation Act or the Workers' Occupational Diseases Act, the accredited ESDA that appointed and enrolled the volunteer shall submit to ~~the IEMA Workers' Compensation Coordinator~~, in a timely manner, all of the following:
- 1) Evidence that the notification or pre-approval requirements of Section 301.620(e)~~of this Part~~ have been satisfied for the disaster response, disaster exercise, training, or search-and-rescue team response;
 - 2) Information provided by the volunteer including:
 - A) Evidence of immediate notification to the volunteer's supervisor of the disease or injury;
 - B) Evidence that the volunteer, or a supervisor in the event the volunteer is seriously injured or incapacitated, contacted the early intervention partner prescribed by the Illinois Department of Central Management Services (CMS) at 800-773-3221 immediately after suffering the disease or injury;
 - C) Completed documentation on the forms prescribed by CMS ([available at http://www2.illinois.gov/cms/Employees/benefits/rm/Pages/WorkersCompensation.aspx](http://www2.illinois.gov/cms/Employees/benefits/rm/Pages/WorkersCompensation.aspx)), including, but not limited to~~of~~:
 - i) The Employee's Notice of Injury;
 - ii) The Initial Workers' Compensation Medical Report;

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- iii) An Information Release Authorization; and
 - iv) The Demands of the Job;
 - 3) A Workers Compensation Coverage Request, on a form prescribed by IEMA, ~~submitted~~signed by the ESDA coordinator;
 - 4) A ~~written~~ copy of the sworn oath taken by the volunteer in accordance with Section 20 of the Act, signed and dated by the volunteer;
 - 5) A Supervisor's Report of Injury or Illness, on a form prescribed by CMS that may be found on the CMS website; and
 - 6) The Workers' Compensation Witness Report, on a form prescribed by CMS that may be found on the CMS website.
- b) Completed claims shall be forwarded ~~from IEMA~~ to CMS ~~the Illinois Department of Central Management Services~~ for compensation determinations in accordance with requirements of the Workers' Compensation Act and the Workers' Occupational Diseases Act.

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

SUBPART G: REQUIREMENTS FOR THE EMERGENCY
MANAGEMENT ASSISTANCE GRANT PROGRAM**Section 301.730 Application Procedures**

- a) Applicants seeking Emergency Management Assistance (EMA) grant funds shall ~~annually, by August 31,~~ submit, within 30 days after notification from IEMA, ~~to IEMA~~ a completed EMA application packet, in the format prescribed by IEMA, ~~that~~which includes the following:
- 1) Documentation of current IEMA accreditation to satisfy the eligibility requirement stated in Section 301.720;
 - 2) A completed application form, as prescribed by IEMA, that includes the budget of the applicant's EMA eligible personnel and administrative

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expenses ~~for the federal fiscal year beginning October 1~~ and an annual work plan; and

- 3) The requested grant amount.
- b) IEMA shall notify applicants of their EMA grant program acceptance or rejection within 45 days after the application deadline by September 30. Accepted applicants are grantees.
- c) Grantees for the EMA grant program shall enter into a Grant Agreement with IEMA setting forth the terms of the grant, including the grantee's agreement to satisfy all grant related assurances and certifications required by the State of Illinois and by the United States Government.

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

Section 301.740 Allocation Determination

- a) The Director of IEMA shall annually determine the amount of funding available for the EMA grant program prior to the award of any grants, based on the level of funding provided by FEMA. Such amount shall be allocated annually to EMA grantees by IEMA, ~~on a federal fiscal year basis~~, up to 50 percent of the grantee's political subdivision's eligible EMA expenses, in accordance with the requirements of this Section.
- b) To assist ESDAs in accomplishing the basic preparedness requirements of the Act (ESDA coordinators' organization, administration, training, and operation of the ESDA and ESDA development and exercise of the EOP, exclusive of contractor fees), the following EMA fund allocations shall be made:
 - 1) Basic Amount. A basic amount of funding, as established annually by the Director of IEMA not to exceed 40 percent of the total annual amount available for the EMA grant program determined pursuant to subsection (a) ~~of this Section~~, shall annually be allocated equally among all EMA grantees ~~who have met the requirements of Section 301.720 and 301.730 of this Part on or before October 1~~. However, if a grantee's Basic Amount allocation exceeds the amount requested in the grantee's EMA application, the EMA application amount shall be used as the Basic Amount allocation for ~~that~~ grantee.

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- 2) Population Share. 50 percent of the total EMA grant amount remaining, after the final allocations in subsection (b)(1) ~~of this Section~~ have been made, shall annually be allocated among all EMA grantees who have ~~met the requirements of Section 301.720 and 301.730 of this Part on or before October 1 and who have~~ requested an eligible grant amount in excess of the Basic Amount allocation, on a per capita basis according to the most recent census data available through the Illinois Secretary of State's office or, if unavailable, through the U.S. Department of Commerce, Bureau of the Census. EMA grantees whose geographic borders encompass another EMA grantee's jurisdiction shall have their per capita figures reduced accordingly. If a grantee's Basic Amount allocation plus Population allocation exceeds the total amount requested in the grantee's EMA application, the EMA application amount shall be used as the final allocation for that grantee.

- c) Additional Program Needs – The total EMA grant amount remaining, after the allocations in subsection (b) ~~of this Section~~ have been made, shall annually be allocated for ESDA Additional Program Needs. This amount shall be completely allocated among all EMA grantees who have ~~met the requirements of 301.720 and 301.730 of this Part on or before October 1 and have~~ requested an eligible grant amount in excess of the Base Amount plus Population allocation, on a per capita basis according to the most recent census data available through the Illinois Secretary of State's office or, if unavailable, through the U.S. Department of Commerce, Bureau of the Census. EMA grantees whose geographic borders encompass another EMA grantee's jurisdiction shall have their per capita figures reduced accordingly. However, for an Additional Program Needs allocation, the EMA grantee shall, ~~on or before October 1,~~ present documentation justifying the additional needs request for necessary and essential local emergency preparedness ESDA personnel and administrative purposes including, but not limited to:
 - 1) Additional exercises beyond the biennial EOP exercise;
 - 2) Personnel costs beyond those required for basic preparedness;
 - 3) Mitigation planning and awareness; and
 - 4) Emergency management public awareness efforts.

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- d) If the grantee's allocation amount calculated under this Section exceeds the amount requested in the EMA application, the EMA application amount shall be used as the final EMA grant amount.
- e) IEMA shall monitor the expenditure of allocated EMA funds ~~throughout the FFY~~ and may, ~~prior to the end of the FFY~~, reallocate unobligated funds, among all EMA grantees who have ~~met the requirements of Section 301.720 and 301.730 of this Part and who have~~ requested an eligible grant amount in excess of the allocation determined in accordance with subsections (b) and (c) of this Section, on a per capita basis according to the most recent census data available through the Illinois Secretary of State's office or, if unavailable, through the U.S. Department of Commerce, Bureau of the Census. EMA grantees whose geographic borders encompass another EMA grantee's jurisdiction shall have their per capita figures reduced accordingly.

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

Section 301.750 Reimbursement Procedures

- a) Reimbursement for eligible expenses is available to grantees up to the amount of the grantee's annual EMA grant amount determined in accordance with Section 301.740 ~~of this Part~~. However, reimbursements under the EMA grant program shall not exceed 50 percent of the dollar amount spent on the requested reimbursement by the grantee's political subdivision. Prior approval from IEMA is required for requested reimbursement expenses not included in the political subdivision budget submitted in the grantee's original EMA application pursuant to Section 301.730.
- b) Eligible expenses for reimbursement are reasonable expenses in the categories listed on the Eligible Expenses form prescribed by IEMA as eligible expenses and any other reasonable expenses approved by IEMA through the application and allocation process of this Subpart. However, none of the ineligible expenses on the Ineligible Expense form prescribed by IEMA are reimbursable.
- c) Grantees who have a signed EMA grant agreement with IEMA may apply to IEMA for reimbursement of eligible expenses on a quarterly basis by submitting to IEMA, no later ~~than~~ 30 calendar days after the last day of the preceding quarter, unless an extension has been pre-approved by IEMA, the following:

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- 1) A list and documentation of incurred expenses for which reimbursement is being requested in a format prescribed or authorized by IEMA. IEMA may request additional documentation to validate the claim.
- 2) A narrative quarterly report describing the ESDA's specific actions accomplished during the quarter for which reimbursement is being requested.
- d) IEMA may deny a reimbursement request if the grantee fails to comply with any of the requirements of this ~~Part~~Subpart. If denying a reimbursement request, IEMA shall notify the grantee in the grants management system or successor systems~~issue a denial letter within 15 days after receipt of the reimbursement request.~~

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

Section 301.760 Reconsideration of Reimbursement Denial

- a) A grantee may request reconsideration of a reimbursement denial by sending a written reconsideration request to the IEMA manager of the EMA grant program within 15 days after ~~receipt of written notice of~~ the reimbursement denial. The reconsideration request shall include:
 - 1) Specific identification of the item or submission for which reimbursement was denied;
 - 2) The basis for the requested reconsideration; and
 - 3) Documentation or exhibits to support the requested reconsideration.
- b) Upon receipt of the reconsideration request, the manager of the EMA grant program shall review the original decision, the reconsideration request and all relevant documentation or exhibits. The manager of the EMA grant program shall notify the grantee in writing of his or her reconsideration decision and rationale ~~within 10 days after receipt of the reconsideration request.~~
- c) If the grantee seeks further review of the reimbursement decision, the grantee may request a final reconsideration by the Director of IEMA by sending a written reconsideration request to the Director of IEMA within 15 days after receipt of

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the EMA manager's decision in subsection (b). The Director shall issue a final reimbursement decision ~~within 10 days after receipt of the final reconsideration request.~~

- d) ~~Notwithstanding the time frames set forth in this Section, if a reconsideration request received by IEMA in accordance with the time frames established in this Section has not reached final resolution by December 15 following the end of the federal fiscal year, the reimbursement shall be granted.~~

(Source: Amended at 42 Ill. Reg. 15933, effective July 31, 2018)

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- 1) Heading of the Part: Procedures for Informational and Quasi-Legislative Public Hearings
- 2) Code Citation: 35 Ill. Adm. Code 164
- 3) Section Number: 164.201 Adopted Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Section 4 of the Illinois Environmental Protection Act. [415 ILCS 5/4], and Section 5-10(a) of the Illinois Administrative Procedure Act [5 ILCS 100].
- 5) Effective Date of Rule: August 1, 2018
- 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 is on file in the Illinois Environmental Protection Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 14851; December 8, 2017
- 10) Has JCAR issued a Statement of Objection to this rulemaking? 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? None were made.
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments are intended to address a final rule promulgated by USEPA revising the public notice provisions of the New Source Review, Title V and Outer Continental Shelf permit programs. (See 81 Federal Register 71613). The final rule removes the mandatory requirement to provide public notice of a draft permit (as well as certain other program actions) through publication in a

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newspaper. Instead, the final rule requires e-notice for some actions and allows e-notice for others. Accordingly, the Illinois EPA is revising its own rules to allow for e-notice where applicable including those regarding notice of informational hearings. These amendments also update statutory and regulatory references.

- 16) Information and questions regarding this adopted rule shall be directed to:

Charles Matoesian, Assistant Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19726
Springfield IL 62794-9276

217/782-5544

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

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF ADOPTED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER I: ENVIRONMENTAL PROTECTION AGENCY

PART 164

PROCEDURES FOR INFORMATIONAL AND QUASI-LEGISLATIVE PUBLIC HEARINGS

SUBPART A: INTRODUCTION

Section	
164.101	Purpose
164.102	Applicability

SUBPART B: PROCEDURES FOR INFORMATIONAL PUBLIC HEARINGS

Section	
164.201	Notice
164.202	Hearing Officer
164.203	Conduct of Hearing
164.204	Questions
164.205	Written Submissions

SUBPART C: HEARING RECORD

Section	
164.301	Contents
164.302	Access

SUBPART D: RESPONSE TO HEARING

Section	
164.401	Summary and Agency Statement

AUTHORITY: Implementing and authorized by Section 4 of the Environmental Protection Act [425 ILCS 5] and Section 5-10(a) of the Illinois Administrative Procedure Act [5 ILCS 100].

SOURCE: Adopted and codified at 7 Ill. Reg. 372, effective January 10, 1983; amended at 42 Ill. Reg. 15986, effective August 1, 2018.

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SUBPART B: PROCEDURES FOR INFORMATIONAL PUBLIC HEARINGS

Section 164.201 Notice

- a) Notice of a hearing under ~~this Part~~~~these procedures~~ shall be given at least 30 days before the hearing.
- b) The notice shall include:
 - 1) The date, time, and place of the hearing;
 - 2) The purpose of the hearing;
 - 3) Identification of the Agency ~~Bureau~~~~division~~ sponsoring the hearing and any other sponsor if the hearing is jointly sponsored;
 - 4) A reference to the particular ~~Sections~~~~sections~~ of the statutes and rules involved;
 - 5) The name, address, and telephone number of a contact person from whom additional information regarding the hearing may be obtained;
 - 6) A statement regarding the submission of written comments;
 - 7) A statement that a copy of the procedural rules governing the hearing is available upon request; and
 - 8) Other information as determined by the Agency or required by law.
- c) Notice of the hearing shall be given by prominent placement at a dedicated page on the Agency's website. The notice shall remain on the Agency's website for the duration of the public comment period. If the Agency's website is unavailable for a prolonged period of time, the comment period will be extended for an equivalent amount of time. Notice of hearing shall also be given as follows:~~by advertisement in a newspaper of general circulation in the affected geographical area or by notice in the Illinois Register.~~

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- 1) If, pursuant to the Act or other applicable law, newspaper notice is required for the matter at issue, notice shall be by advertisement in a newspaper of general circulation in the affected geographical area;
 - 2) If the Director of the Agency or his/her designee determines, for a particular matter, that additional notice would serve the interests of the public or of the Agency, notice shall be by advertisement in a newspaper of general circulation in the affected geographical area or by notice in the Illinois Register. In making this determination, the Agency shall consider public interest.
- d) Notice will also be provided to:
- 1) Interested or affected persons and organizations of which the Agency is aware or who have requested notification of public hearings or of Agency actions relating to the subject matter of the hearing.
 - 2) Other persons as determined by the Agency or as required by law.

(Source: Amended at 42 Ill. Reg. 15986, effective August 1, 2018)

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- 1) Heading of the Part: Procedures for Permit and Closure Plan Hearings
- 2) Code Citation: 35 Ill. Adm. Code 166
- 3) Section Number: 166.130 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Section 4 of the Illinois Environmental Protection Act. [415 ILCS 5/4], and Section 5-10(a)(i) of the Illinois Administrative Procedure Act [5 ILCS 100].
- 5) Effective Date of Rule: August 1, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rule contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Illinois Environmental Protection Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 14856; December 8, 2017
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Minor wording/verbiage changes were made to subsections (c)(5) and (d)(10).
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments are intended to address a final rule promulgated by USEPA revising the public notice provisions of the New Source Review, Title V and Outer Continental Shelf permit programs. (See 81 Federal Register

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71613). The final rule removes the mandatory requirement to provide public notice of a draft permit (as well as certain other program actions) through publication in a newspaper. Instead, the final rule requires e-notice for some actions and allows e-notice for others. Accordingly, the Illinois EPA is revising its own rules to allow for e-notice where applicable. These amendments also update statutory and regulatory references.

16) Information and questions regarding this adopted rule shall be directed to:

Charles Matoesian, Assistant Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19726
Springfield IL 62794-9276

217/782-5544

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCYPART 166
PROCEDURES FOR PERMIT AND CLOSURE PLAN HEARINGSSUBPART A: INFORMATIONAL PERMIT AND
CLOSURE PLAN HEARINGS

Section	
166.101	Purpose
166.110	Applicability
166.120	Definitions
166.130	Notice
166.140	Hearing Officer
166.150	Hearing Board
166.160	Conduct of Hearing
166.170	Questions
166.180	Contents of the Record
166.190	Access to the Record
166.191	Closure of the Record
166.192	Contents of Responsiveness Summary
166.193	Severability

SUBPART B: CONTESTED CASE PERMIT HEARINGS

Section	
166.201	Purpose
166.202	Applicability
166.203	Definitions
166.210	Commencement of a Contested Case Permit Hearing
166.220	Notice
166.221	Form of Documents
166.222	Filing of Documents
166.223	Service of Documents and Proof of Service
166.224	Motions
166.225	Computation of Time
166.226	Pre-Hearing Conferences

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166.227	Discovery
166.228	Admissions
166.230	Hearing Officer
166.235	Intervention
166.240	Conduct of the Hearing
166.250	Rules of Evidence
166.255	Burden of Proof
166.260	Testimony and Cross-Examination of Witnesses
166.265	Official Notice
166.270	Records in Other Proceedings
166.275	Documentary Evidence
166.276	Exhibits
166.280	Transcript of Hearing
166.285	Proposed Finding of Fact and Conclusions of Law
166.290	Proposal for Decision
166.291	Contents of the Record
166.292	Decision in Contested Case
166.295	Sanctions
166.296	Ex parte Consultations
166.297	Right to Legal Counsel

AUTHORITY: Implementing and authorized by Section 4 of the Environmental Protection Act [415 ILCS 5] and Section 5-10(a)(i) of the Illinois Administrative Procedure Act [5 ILCS 100].

SOURCE: Adopted and codified at 7 Ill. Reg. 7084, effective June 15, 1983; old Part repealed, new Part adopted at 11 Ill. Reg. 16550, effective October 15, 1987; amended at 42 Ill. Reg. 15991, effective August 1, 2018.

SUBPART A: INFORMATIONAL PERMIT AND
CLOSURE PLAN HEARINGS

Section 166.130 Notice

- a) Notice of hearing shall be given at least 45 days before the date of hearing by prominent placement at a dedicated page on the Agency's website~~placed in a public newspaper in the area in which the facility for which the permit or closure plan is requested is located or as otherwise required by law.~~ The notice shall remain on the Agency's website for the duration of the public comment period. If the Agency's website is unavailable for a prolonged period of time, the comment

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period will be extended for an equivalent amount of time. If, pursuant to the Act or other applicable law, newspaper notice is required for the type of permit or closure plan at issue, notice shall also be given by advertisement in a newspaper of general circulation in the affected geographical area.

- b) If the Director of the Agency or his/her designee determines, for a particular permit or closure plan, that additional notice would serve the interests of the public or of the Agency, notice shall also be by advertisement in a newspaper of general circulation in the affected geographical area or by notice in the Illinois Register. In making this determination, the Agency shall consider public interest.~~Notice shall be published once weekly for three successive weeks, and the first notice of a hearing shall be given at least 45 days before the date of the hearing.~~
- c) A copy of the Notice and the closure plan or proposed permit and fact sheet shall be provided by electronic mail or mailed to:
- 1) The State's attorney of the county in which the facility is located;
 - 2) The Chairman of the County Board of the county in which the facility is located;
 - 3) Each member of the General Assembly from the legislative district in which the facility is located;
 - 4) The chief executive officer and the clerk of each municipality, any portion of which is within three miles of the facility; and
 - 5) Persons on a mailing list developed by the Agency that~~which~~ includes those who requested ~~in writing~~ to be included on such a list; ~~and~~
- d) The notice shall include the following information:
- 1) The date, time, and place of the public hearing;
 - 2) The purpose of the hearing;
 - 3) The name and address of each permit or closure plan applicant and the location or address of the facility for which the permit or closure plan is

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sought;

- 4) The type of permit sought and the applicable federal and State state regulations ~~thatwhich~~ require or authorize the granting of ~~thesuch~~ permit or closure plan by the Agency;
- 5) A brief description of the activities or operations at the facility for which the permit is requested;
- 6) Identification of the Agency BureauDivision sponsoring the hearing, and any other sponsor if the hearing is jointly sponsored;
- 7) The name of any waterway to which any discharge is to be made and a short description of the location of each such discharge on the waterway under any proposed NPDES permit, if applicable;
- 8) A statement of issues to be considered;
- 9) The name, address, and telephone number of the Agency contact person from whom additional information regarding the hearing may be obtained; and
- 10) A statement of applicable Pollution Control Board rules governingwhich ~~govern~~ the issuance of the permit or closure plan ~~thatwhich~~ is the subject of the hearing.

(Source: Amended at 42 Ill. Reg. 15991, effective August 1, 2018)

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- 1) Heading of the Part: Public Participation in the Air Pollution Control Permit Program
- 2) Code Citation: 35 Ill. Adm. Code 252
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
252.201	Amendment
252.204	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 4, 9.1(d), 9.1(e), 39, 39.1(c) and 39.1(d) of the Environmental Protection Act [415 ILCS 5/4, 9.1(d), 9.1(e), 39, 39.1(c) and 39.1(d)].
- 5) Effective Date of Rules: August 1, 2018
- 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 is on file in the Illinois Environmental Protection Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 41 Ill. Reg. 14862; December 8, 2017.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Significant clarifications have been added.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments are intended to address a final rule promulgated by USEPA revising the public notice provisions of the New Source Review, Title V and Outer Continental Shelf permit programs. (See 81 Federal Register

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71613). The final rule removes the mandatory requirement to provide public notice of a draft permit (as well as certain other program actions) through publication in a newspaper. Instead, the final rule requires e-notice for some actions and allows e-notice for others. Accordingly, the Illinois EPA is revising its own rules to allow for e-notice where applicable to conform with federal standards. These amendments also update statutory and regulatory references.

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

Charles Matoesian, Assistant Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19726
Springfield IL 62794-9276

217/782-5544

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

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TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCYPART 252
PUBLIC PARTICIPATION IN THE
AIR POLLUTION CONTROL PERMIT PROGRAM

SUBPART A: INTRODUCTION

Section	Purpose
252.101	Purpose
252.102	Applicability
252.103	Application for a Prevention of Significant Deterioration Permit
252.104	Definitions
252.105	Consolidation

SUBPART B: PROCEDURES FOR PUBLIC REVIEW

Section	Purpose
252.201	Notice and Opportunity to Comment
252.202	Draft Permit
252.203	Fact Sheet and Statement of Basis
252.204	Availability of Documents
252.205	Opportunity for Public Hearing
252.206	Procedures for Public Hearings

SUBPART C: USEPA REVIEW AND OBJECTION PROCEDURES

Section	Purpose
252.301	USEPA Review and Objection

SUBPART D: AGENCY ACTION

Section	Purpose
252.401	Final Permit Action

AUTHORITY: Implementing and authorized by Sections 4, 9.1(d), 9.1(e), 39, 39.1(c) and 39.1(d) of the Environmental Protection Act [415 ILCS 5/4, 9.1(d), 9.1(e), 39, 39.1(c) and

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39.1(d)].

SOURCE: Adopted at 4 Ill. Reg. 10, p. 246, effective February 22, 1980; former Part repealed and new Part adopted at 8 Ill. Reg. 8197, effective June 1, 1984; amended at 17 Ill. Reg. 9684, effective June 10, 1993; amended at 22 Ill. Reg. 19253, effective October 13, 1998; amended at 42 Ill. Reg. 15997, effective August 1, 2018.

SUBPART B: PROCEDURES FOR PUBLIC REVIEW

Section 252.201 Notice and Opportunity to Comment

- a) The Agency shall issue a notice for the issuance of any permit described in Section 252.102 of this Part and renewal of any operating permit described in Section 252.102 of this Part, and permit actions described in Section 252.103 of this Part.
- b) The notice shall be givense to:
 - 1) The public, by prominent placement at a dedicated page on the Agency's website. The notice shall remain on the Agency's website for the duration of the public comment period. If the Agency's website is unavailable for a prolonged period of time, the comment period will be extended for an equivalent amount of time. Notice shall also be by advertisement in a newspaper of general circulation in the area where the source is located if either: at least one time, by display advertisement in a newspaper of general circulation in the area where the source is located;
 - A) The Director of the Agency or his/her designee determines, for a particular permit, that additional notice would serve the interests of the public or of the Agency. In making this determination, the Agency shall consider public interest; or
 - B) Pursuant to the Act or other applicable law, notice is required to be published in a newspaper for the type of permit at issue;
 - 2) Local government air pollution control offices within Illinois that are in the area affected by the source;
 - 3) The chief executives of the municipality and county in which the source is

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to be located, including the mayor or president, clerk, county board chairman, county clerk, and state's attorney;

- 4) Members of the General Assembly from the legislative district in which the source is located;
 - 5) Any state whose air quality may be affected and ~~that~~which is contiguous to Illinois or ~~which~~is within 50 miles of the source;
 - 6) Other officials and agencies identified in 40 CFR 51.24(g)(iv) (1983), for PSD sources only;
 - 7) The permit applicant; and
 - 8) Persons on the public participation mailing list for the air pollution control permit program.
- c) The notice shall include:
- 1) The name and address of the applicant and the source, and the name and address of the Agency;
 - 2) The location of the source if different from the applicant's address;
 - 3) The activity or activities involved in the permit action;
 - 4) For a proposed significant modification, a description of the change in the amount or character of the emissions ~~that~~which may result from the modification;
 - 5) The preliminary decision of the Agency to grant the permit;
 - 6) For the issuance of a PSD permit, the degree of ambient air increment consumed by the project;
 - 7) For a case-by-case MACT determination pursuant to ~~section~~Section 112(g) and ~~Section 112~~(j) of the CAA, a description of the emission limitation or work practice standard in the draft permit that constitutes MACT;

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- 8) The location of the documents available for public review;
- 9) A request for written comments on the Agency's draft proposed permit;
- 10) The date ~~the comment period closed by which comments must be postmarked;~~
- 11) Instructions on how to request a public hearing if a decision to hold a hearing has not already been made pursuant to Section 252.205(a) or (b); and
- 12) The name, address, and telephone number of the Agency contact person from whom the public may obtain additional information.

(Agency Note: Material properly claimed as trade secret or confidential pursuant to Sections 7 and 7.1 of the Act and 2 Ill. Adm. Code ~~Part~~ 1827 will not be subject to public disclosure under this Part. An applicant claiming a trade secret shall provide, in addition to the complete application, a copy of the application for public notice in which the material claimed as trade secret has been deleted.)

- d) The notice to the permit applicant shall also include the draft permit and fact sheet or statement of basis required by Section 252.203 ~~of this Part~~.
- e) The notice shall provide for a 30-day public comment period. The Agency may extend the comment period on written request if any applicable statutory period for the Agency decision, as prescribed in Section 39 of the Act, allows for an extension.

(Source: Amended at 42 Ill. Reg. 15997, effective August 1, 2018)

Section 252.204 Availability of Documents

- a) Copies of the following documents shall be made available for public inspection during the public comment period:
 - 1) The public notice;

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- 2) The fact sheet or statement of basis;
 - 3) The draft permit; and
 - 4) The permit application, including any compliance plans.
- b) A copy of the draft permit shall be placed at a dedicated page on the Agency's website for the duration of the public comment period. Copies of the other documents listed in subsection (a) shall be available for review at~~Copies of the documents shall be placed in:~~
- 1) The Bureau of Air's~~Division of Air Pollution Control's~~ offices at 1021 North Grand Avenue East~~1340 North Ninth Street~~, Springfield IL, ~~Illinois~~ 62794-9276; and
 - 2) The Bureau of Air's~~Division of Air Pollution Control's~~ regional ~~or district~~ office closest to the location of the source.
- c) All documents listed in subsection (a) ~~above~~ shall also be available in accordance with procedures of the Agency and of the Pollution Control Board adopted pursuant to 35 Ill. Adm. Code 130+20, and Sections 7 and 7.1 of the Act.

(Source: Amended at 42 Ill. Reg. 15997, effective August 1, 2018)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: General Administrative Provisions
- 2) Code Citation: 89 Ill. Adm. Code 101
- 3) Section Number: 101.50 Adopted Action:
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Rule: August 1, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any materials incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 41 Ill. Reg. 13526; November 13, 2017
- 10) Has JCAR issued a Statement of Objection to this rulemaking? 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 changes were requested.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking updates the Department of Healthcare and Family Services - Office of Inspector General's (HFS-OIG) address, phone number, email and website. This rulemaking also updates the timeframe in which the HFS-OIG must respond and process fraud complaints.
- 16) Information and questions regarding this adopted rule shall be directed to:

Christopher Gange

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

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

email: HFS.Rules@Illinois.gov

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER a: GENERAL PROVISIONS

PART 101

GENERAL ADMINISTRATIVE PROVISIONS

Section

101.1	Incorporation By Reference
101.10	Applicability
101.20	Definitions
101.30	Assistance Programs
101.40	Assistance Program Restrictions
101.50	Reporting Suspected Fraud or Abuse

AUTHORITY: Implementing Articles I, II and VIII A, and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I, II and VIII A, and 12-13].

SOURCE: Filed and effective December 30, 1977; emergency amendment at 2 Ill. Reg. 5, p. 194, effective January 23, 1978, for a maximum of 150 days; emergency amendment at 2 Ill. Reg. 19, p. 108, effective May 1, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 25, p. 50, effective June 24, 1978; amended at 2 Ill. Reg. 33, p. 27, effective August 17, 1978; amended at 3 Ill. Reg. 43, p. 196, effective October 15, 1979; emergency amendment at 4 Ill. Reg. 1, p. 78, effective January 1, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 23, p. 80, effective May 23, 1980; amended at 5 Ill. Reg. 1369, effective January 29, 1981; peremptory amendments at 5 Ill. Reg. 10072, 10076, and 10079, effective October 1, 1981; amended at 5 Ill. Reg. 12728, effective November 1, 1981; codified at 7 Ill. Reg. 5195; amended at 13 Ill. Reg. 3897, effective March 17, 1989; emergency amendment at 19 Ill. Reg. 10220, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15676, effective November 3, 1995; emergency amendment at 21 Ill. Reg. 8638, effective July 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13619, effective October 1, 1997; amended at 22 Ill. Reg. 6991, effective April 1, 1998; amended at 26 Ill. Reg. 2039, effective February 1, 2002; emergency amendment at 36 Ill. Reg. 10176, effective July 1, 2012 through June 30, 2013; amended at 37 Ill. Reg. 10152, effective June 27, 2013; amended at 42 Ill. Reg. 16004, effective August 1, 2018.

Section 101.50 Reporting Suspected Fraud or Abuse

- a) Any suspected fraud or abuse related to the Medical Assistance, Children's Health Insurance, Covering All Kids Health Insurance, Child Support Enforcement, Aid

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to the Aged, Blind and Disabled, Temporary Assistance to Needy Families, SNAP and Child Care Programs, and ~~all~~ other programs administered by the Department of Human Services, the Department on Aging, or the Department of Healthcare and Family Services, should be reported to the Office of the Inspector General (HFS-OIG):

- 1) in person or by U.S. Mail to the Office of Inspector General, Department of Healthcare and Family Services, 2200 Churchill Road, A-1404 North Fifth Street, Springfield, Illinois 62702;
- 2) or by:
 - A) toll free telephone to the Office of Inspector General at 1-844-453-7283 (1-844-ILFRAUD)217/524-6037; or
 - ~~B) toll free telephone to HFS/DHS at 800/252-8903; or~~
 - B) e-mail at hfs.oig.fraudhotline@illinois.gov~~hfs.oigwebmaster@illinois.gov~~; or
 - C) online at: www.illinois.gov/hfs/oig
http://www.state.il.us/agency/oig/reportfraud.asp.
- b) Referrals
 - 1) Referrals of suspected fraud or abuse, as explained in subsection (a), by ~~on the part of~~ providers, contractors, State or other governmental employees, recipients of services or any other person will be accepted.
 - 2) Referrals may be made anonymously.
 - 3) All referrals, other than anonymous referrals, will be acknowledged, either in writing, by telephone, by e-mail or in person, within 45~~30~~ calendar days after receipt of the referral.
- c) Evaluations
 - 1) All referrals of suspected fraud or abuse will be evaluated within 90~~60~~

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calendar days after receipt of the referral to determine what, if any, follow up action is appropriate.

- 2) Factors considered during the evaluation of any referral include, but are not limited to:
 - A) source of the allegation;
 - B) quality of the evidence of wrongdoing;
 - C) potential loss to the program; and
 - D) availability of investigative and other resources necessary for successful follow up on the referral.
- 3) Follow up actions include, but are not limited to, the following measures:
 - A) ~~If the HFS-OIG's~~ When the evaluation identifies possible criminal or civil fraud violations of the Medical Assistance Program or the Children's Health Insurance Program or the Covering All Kids Health Insurance Program by a medical provider or contractor, ~~then a~~ the referral ~~will~~ shall be sent to the Medicaid Fraud Control Unit of the Illinois State Police for ~~its~~ review for possible criminal investigation.
 - B) When the evaluation identifies possible criminal or civil fraud violations of any program by a recipient of services or other private citizen and is eligible for follow up action, the Office of Inspector General may initiate an investigation. Should the investigation establish evidence of a criminal or civil fraud violation, the case may be referred to the appropriate United States Attorney, the Office of Attorney General or the appropriate State's Attorney for prosecutorial consideration.
 - C) When the evaluation identifies possible administrative violation and is eligible for follow up action, the Office of Inspector General may initiate a review to determine the appropriate administrative action. Administrative actions include, but are not limited to:

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- i) claims analysis;
- ii) audit;
- iii) peer review;
- iv) recipient restriction;
- v) eligibility review; or
- vi) administrative hearing.

(Source: Amended at 42 Ill. Reg. 16004, effective August 1, 2018)

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- 1) Heading of the Part: Rules of Practice in Administrative Hearings
- 2) Code Citation: 74 Ill. Adm. Code 310
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
310.10	Amendment
310.20	Amendment
310.30	Amendment
310.40	Amendment
310.80	Amendment
310.90	Amendment
310.100	Amendment
310.110	Amendment
310.120	Amendment
310.130	Amendment
310.150	Amendment
310.160	Amendment
310.170	Amendment
310.180	Amendment
310.190	Amendment
310.220	Amendment
310.230	Amendment
310.231	New Section
310.232	New Section
310.233	New Section
310.240	Amendment
310.251	New Section
- 4) Statutory Authority: Authorized by Sections 15.4 and 19 of the Cemetery Care Act [760 ILCS 100/15.4 and 760 ILCS 100/19]; Section 3a of the Illinois Funeral or Burial Funds Act [225 ILCS 45/3a]; Sections 9 and 24 of the Illinois Pre-Need Sales Act [815 ILCS 390/9 and 815 ILCS 390/24]; and Section 7 of the Crematory Regulation Act [410 ILCS 18/7]. Implementing Section 5-10(a)(i) of the Illinois Administrative Procedure Act [5 ILCS 100/5-10(a)(i)].
- 5) Effective Date of Rules: August 1, 2018
- 6) Does this rulemaking contain an automatic repeal date? No

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- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules, including any incorporated by reference, is on file in the state Comptroller's office at 325 West Adams, Springfield IL 62704 and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 3818; March 2, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Yes, there were a few minor changes. The changes are:
- In Section 310.100(d), "conduct to the Illinois Rules of Professional Conduct (Article VIII - Illinois Rules of Professional Conduct of 2010 - Effective January 1, 2010)" was changed to "conduct to Article VIII. Illinois Rules of Professional Conduct of 2010."
- In Section 310.180(a), "require in evaluating the Findings of Law and Fact and the recommendations for" was changed to "require in evaluating the Findings of Fact and Conclusions of Law Findings of Law and Fact and the recommendations for."
- In Section 310.321(b), "However, an Officer of the Comptroller member may communicate with other members of the Office of the Comptroller, and an Office of the Comptroller member or hearing officer may have the aid and advice of one or more personal assistants" was changed to "However, an Officer of the Comptroller employee may communicate with other employees of the Office of the Comptroller, and an Office of the Comptroller employee or hearing officer may have the aid and advice of one or more personal assistants."
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of the Rulemaking: This rulemaking amends the Office of the Comptroller's Rules of Practice in Administrative Hearings, not updated since adopted in 1987, to change the citation references to the Illinois Revised Statutes to the Illinois

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Compiled Statutes, to make the language gender-neutral, and to reflect legislative changes and new legislation that broaden the application of administrative hearings, including the Cemetery Care Act, the Illinois Funeral or Burial Funds Act, the Illinois Pre-Need Sales Act, and the Crematory Regulation Act.

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

Adam Alstott
Deputy General Counsel
Illinois State Comptroller
325 West Adams
Springfield IL 62704

217/558-5157

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

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TITLE 74: PUBLIC FINANCE
CHAPTER II: COMPTROLLERPART 310
RULES OF PRACTICE IN ADMINISTRATIVE HEARINGS

Section	
310.10	Applicability
310.20	Definitions
310.30	Institution of a Contested Case by the Department
310.40	Institution of a Contested Case by Petitioner
310.50	Joinder
310.60	Form of Papers
310.70	Service
310.80	Notice
310.90	Prehearing Negotiations
310.100	Representation
310.110	Failure to Appear
310.120	Amendment, Withdrawal of Complaints and Petitions for Hearing
310.130	Requirement of an Answer
310.140	Discovery
310.150	Subpoenas
310.160	Prehearing Conference
310.170	Hearings
310.180	Hearing Officers
310.190	Burden of Proof
310.200	Documents
310.210	Motions
310.220	Evidence
310.230	Adverse Witness
310.231	Ex Parte Communications
310.232	Stay of Contested Case Hearings for Military Service
310.233	Expenses and Attorney's Fees
310.240	Reports of Hearings and Record in Contested Cases
310.250	Requests for Rehearing
310.251	Waiver
310.260	Severability

AUTHORITY: Implementing Section 5-10(a)(i) of the Illinois Administrative Procedure Act [5

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ILCS 100] and authorized by Sections 15.4 and 19 of the Cemetery Care Act [760 ILCS 100], Section 3a of the Illinois Funeral or Burial Funds Act [225 ILCS 45], Sections 9 and 24 of the Illinois Pre-Need Sales Act [815 ILCS 390], and Section 7 of the Crematory Regulation Act [410 ILCS 18].

SOURCE: Adopted at 11 Ill. Reg. 1837, effective January 13, 1987; amended at 42 Ill. Reg. 16010, effective August 1, 2018.

Section 310.10 Applicability

This Part shall apply to ~~all~~ hearings conducted under the jurisdiction of the Comptroller, in accordance with the Cemetery Care Act [760 ILCS 100], the Illinois Funeral or Burial Funds Act [225 ILCS 45], the Illinois Pre-Needs Sales Act [815 ILCS 390], and the Crematory Regulation Act [410 ILCS 18].

(Source: Amended at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.20 Definitions

The definitions below have the following meanings:

"Comptroller" means the Comptroller of the State of Illinois.

"Contested Case" means an adjudicatory proceeding in which the individual legal rights, duties or privileges of a party are required by law to be determined by the Office of the Comptroller only after an opportunity for a hearing. [5 ILCS 100/1-30]

"Department" means ~~any~~the Department ~~of Special Audits~~ within the Office of the Comptroller.

"Director" means the Director of the Department or duly appointed Acting Director, or, in ~~the Director's~~ absence from the State or in any event of ~~the Director's~~ incapacity to act, ~~the Director's~~ next immediate subordinate officer within the Department.

"Hearing" means any hearing of a contested case authorized to be held by the Comptroller.

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"Hearing Officer" means the presiding officer at the initial hearing and each continuation of that hearing.

"Licensee" means any holder of a license issued by the Comptroller, or any applicant ~~for a license~~ therefor.

"Licensing" includes the Office of the Comptroller process respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license. [5 ILCS 100/140]

"Order" means an Office of the Comptroller action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one or more specific persons. [5 ILCS 100/1-50]

"Party" means each person or entity named or admitted as a party or properly seeking and entitled as of right to be admitted as a party. [5 ILCS 100/1-55]

"Person" means any individual, partnership, corporation, association, or public or private organization of any character. [5 ILCS 100/1-60]

"Petitioner" is a party who, by written petition or application, seeks relief or licensure under any provision of the Statutes of the State of Illinois or any rule, ~~regulation~~, order or determination of the Comptroller.

"Respondent" is a person, firm, association or corporation against whom a complaint or petition is filed or to whom an order or complaint is directed by the Comptroller initiating a proceeding.

(Source: Amended at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.30 Institution of a Contested Case by the Department

- a) A contested case is instituted by the Department when a Complaint and ~~notice~~ Notice are: ~~mailed to the licensee's last known address, postage prepaid;~~
- 1) deposited with the U.S. Postal Service by regular, certified or registered mail, postage prepaid, addressed to the licensee's last known address;
 - 2) or delivered to the licensee by personal service.

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- b) A Complaint shall be in writing, be signed by the Director, and ~~shall~~ include a clear statement of the acts or omissions alleged to violate a statute or rule, and citation of the statute or rule.
- c) A ~~notice~~Notice shall be in writing, ~~and~~ shall contain the date, time, place and nature of the hearing to be held, shall refer to the Comptroller's Rules of Practice, and shall comply with the ~~notice~~Notice requirements of Section 310.80 ~~of this Part.~~
- d) In addition, prior to refusing to issue, revoking, or suspending a license, the Comptroller shall institute a contested case as provided in this Section.
- e) *Unless precluded by law, disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default. [5 ILCS 100/10-25]*

(Source: Amended at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.40 Institution of a Contested Case by Petitioner

- a) A contested case is instituted by a petitioner when a Petition for Hearing is mailed to the Comptroller, Attention: Legal Department~~Director of Special Audits~~.
- b) In a case ~~in which~~where a petitioner is seeking restoration of a license ~~that~~which was revoked or suspended, the Petition for Hearing shall be in writing, signed by the petitioner, and shall set forth:
- 1) The number of the certificate ~~that~~which was suspended or revoked;
 - 2) The docket number of the case;
 - 3) The date on which the suspension or revocation was ordered;
 - 4) Whether an order has been entered appointing a Receiver and, if so, whether that order has been appealed;
 - 5) Whether the order ~~that~~which suspended or revoked the license was appealed ~~and, or~~ if so, whether a stay of the imposition of the Comptroller's order was granted by any reviewing court;

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- 6) All dates and types of employment held since the date of the Comptroller's order;
 - 7) Any arrests or convictions since the date of the Comptroller's order; and
 - 8) Date and disposition of any other petitions for restoration filed since the date of the Comptroller's order.
- c) In a case ~~in which~~^{where} a petitioner seeks to contest a decision by the Comptroller to deny his ~~or her~~ application for licensure, the Petition for Hearing ~~shall~~^{will} be in writing, signed by the petitioner, and ~~shall~~^{will} state with specificity the particular reasons why the applicant believes that the action by the Comptroller to deny licensure was incorrect.
- d) Upon receipt by the Comptroller of a properly completed Petition for Hearing (eg., completed in accordance with this Section or Sections 310.30, 310.60 and 310.80), a case will be docketed, and notice ~~will be~~ sent to the petitioner setting forth the date, time, and place of hearing.
- e) *Unless precluded by law, disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default. [5 ILCS 100/10-25]*

(Source: Amended at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.80 Notice

- a) Notice shall include:
 - 1) A statement of the time, place and nature of the hearing;
 - 2) A statement of the legal authority, and jurisdiction under which the hearing is held;
 - 3) *Except where a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted, the consequences of a failure to respond, and the official file or other reference number. [5 ILCS 100/10-25(a)(4)]*~~*Except where a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted.*~~

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~~(Ill. Rev. Stat. 1985, ch. 127, par. 1010)~~

- 4) *The names and mailing addresses of the hearing officer, all parties, and all other persons to whom the Office of the Comptroller gives notice, unless otherwise confidential by law. [5 ILCS 100/10-25(a)(5)]*
- b) The licensee will be given at least 10~~ten~~ days notice prior to the first date set for the preliminary hearing or hearings, as the case may be. Once ~~such~~ notice is given, it will thereafter be the responsibility of the licensee to become acquainted with subsequent hearing dates.
- c) Nothing in this Section will prevent the Comptroller from scheduling a hearing within 10~~ten~~ days, upon the agreement of the parties.
- d) Any contention that improper notice was given will be deemed waived unless it is raised by the licensee prior to argument on any other motion; or, if no other motions are presented, prior to the commencement of opening statements.
- e) Proper notice is given when a notice is deposited with the U.S. Postal Service, by regular, certified or registered mail, postage prepaid, addressed to the licensee's last known address, or is delivered to the licensee by personal service. ~~Proper notice is given by depositing a Notice with the U.S. Postal Service, either by certified or registered mail, or by the personal service, to the last known address of the licensee.~~

(Source: Amended at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.90 Prehearing Negotiations

The Department and the Respondent may stipulate to facts and may agree to enter written orders conditioned upon the Comptroller's acceptance. The signature of the Comptroller shall signify consent to the agreement. ~~If the agreement is acceptable to the Comptroller, he shall signify his consent with his signature.~~ The~~Such~~ signed agreement shall be considered the Conclusions of Law and Findings of Fact. If the Comptroller rejects the agreement, the Respondent shall ~~then~~ be entitled to a hearing on the merits.

(Source: Amended at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.100 Representation

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- a) A party may be represented by an attorney who is licensed in Illinois. Attorneys who appear in a representative capacity must file written notice of appearance setting forth:
- 1) The name, address and telephone number of the attorney;
 - 2) The name and address of the party represented; and
 - 3) An affirmative statement indicating that the attorney is licensed in Illinois.
- b) An attorney may withdraw from employment as a representative only upon written notice to the Comptroller ~~that~~which states his or her specific reasons for withdrawal~~therefor~~.
- c) Any individual may appear on his or her own behalf.
- d) Attorneys appearing before the Comptroller or hearing officer shall conform their conduct to Article VIII of the Illinois Supreme Court Rules (Illinois Rules of Professional Conduct of 2010)~~the Illinois Code of Professional Responsibility, (Ill. Rev. Stat. 1985, ch. 110A Canon I et seq.)~~ In the event there is behavior ~~that~~which substantially impairs the administration of the Acts or the conduct of the hearing, the Comptroller or hearing officer shall take the following actions in a progressive manner:
- 1) Substitution of written argument in place of oral argument;
 - 2) Exclusion of an attorney from the proceeding;
 - 3) Suspension or revocation of an attorney's right to appear before the Comptroller or hearing officer.
- e) If any of the ~~above~~ actions described in subsection (d) are taken by the Comptroller or hearing officer, it shall be done as a matter of record, and the Comptroller or hearing officer shall state for the record the specific reasons for that action~~therefor~~.

(Source: Amended at 42 Ill. Reg. 16010, effective August 1, 2018)

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Section 310.110 Failure to Appear

Failure to appear at the time and place set for hearing shall be deemed a waiver of the right to present evidence. After presentation by the Department of an offer of proof that the licensee was given proper notice, the Comptroller shall enter ~~an~~his order or the hearing officer shall make its recommendation. ~~When~~Where a petitioner fails to appear, the Petition for Hearing shall be dismissed.

(Source: Amended at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.120 Amendment, Withdrawal of Complaints and Petitions for Hearing

- a) The complaint may be amended at any time. An amended Complaint may be filed in the same manner as a Complaint, or it may be presented to the Comptroller or hearing officer during the course of the hearing. A continuance shall be granted whenever the amendment materially alters the Complaint, and ~~when~~where the licensee demonstrates that he ~~or~~ she would otherwise be unable to properly prepare an Answer to the Amended Complaint or prepare his ~~or her~~ case. "Materially altered" means the addition of a new issue of law or allegation of fact ~~that~~which may affect the decision to which the party has not had an opportunity to respond. Continuances will be granted for no more than 30 days.
- b) A Complaint or Petition for Hearing may be withdrawn at any time prior to the hearing by the party who initiated it. After a hearing has begun, a Complaint may be withdrawn only upon written notice to the Comptroller or hearing officer.

(Source: Amended at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.130 Requirement of an Answer

- a) In all contested cases instituted by the Department, the licensee shall file an Answer within ~~10~~ten days ~~after~~of the date on which the Complaint was filed. The Answer shall be in writing, signed by the licensee or his ~~or her~~ representative, and shall contain a specific response to each allegation in the Complaint. The response shall either admit or deny the allegation, or shall state that the licensee has insufficient information to admit or deny the allegation.
- b) Any Answer ~~that~~which states that the licensee has insufficient information to admit or deny the allegation shall be accompanied by an affidavit attesting to the

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truth of this assertion.

- c) On motion by the Department, the Comptroller or hearing officer will cause to be issued a ~~notice~~Notice to plead or be held in default. If, within 15 days after issuance of ~~the notices~~such Notice, the Respondent does not answer or otherwise file a responsive Pleading, ~~the Respondent~~he will be held in default.

(Source: Amended at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.150 Subpoenas

- a) The Comptroller will issue subpoenas for the attendance of witnesses or production of books, records, documents or other evidence.
- b) Any licensee or petitioner seeking issuance of a subpoena ~~shall~~will apply in writing to the Comptroller, setting forth facts ~~that~~which purport to demonstrate that the subpoena is relevant to the disputed matter and is required. Upon refusal by the Comptroller to issue any subpoena, the licensee will be entitled to a hearing before the Comptroller or hearing officer, to be conducted as a matter of record.
- c) Service of subpoenas shall be as provided in 735 ILCS 5/2-1101 (Illinois Code of Civil Procedure). ~~Payment~~Ill. Rev. Stat. 1985, Par. 110A, par. 11, and payment of witness fees and expenses shall be as provided in the Illinois Circuit Courts Act, 705 ILCS 35/4.3 (the Illinois Circuit Courts Act)~~Ill. Rev. Stat. 1985, ch. 53, par. 6.~~

(Source: Amended at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.160 Prehearing Conference

- a) After a case is instituted, upon the written motion of either party, or on ~~his or her~~its own motion, the Comptroller or the hearing officer shall direct the parties to attend a prehearing conference. The prehearing conference may be conducted by telephone at the discretion of the hearing officer.
- b) Unless waived by the parties, the conference will be conducted as a matter of record. Participation by the Director, the Comptroller or a hearing officer will not affect ~~his or her rights~~his right to participate in a subsequent hearing on the

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matter.

- c) The purposes of the conference include:
- 1) Simplification of issues;
 - 2) Limitation of issues;
 - 3) Negotiating admissions or stipulations;
 - 4) Limitation of witnesses or evidence;
 - 5) Exchange of exhibits; or
 - 6) Discussion of any other matter ~~that~~which may aid in efficient disposition of the case.

(Source: Amended at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.170 Hearings

The sequence to be followed for all contested cases is as follows:

- a) Preliminary Hearing. The preliminary hearing may be conducted by telephone at the discretion of the hearing officer. The purpose is to set a date on which all parties expect to be prepared, and to rule on any preliminary motions ~~that~~which are presented. This may be eliminated by agreement of the parties and the Comptroller or hearing officer.
- b) Prehearing Conference – Optional. The purposes are set out in Section 310.160. The prehearing conference may be conducted by telephone at the discretion of the hearing officer.
- c) Hearings
 - 1) Preliminary matters – Motion, attempts to narrow issues or limit evidence.
 - 2) Opening Statements – ~~The~~the party bearing the burden of proof proceeds first.

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- 3) Case in Chief – Evidence and witnesses are presented by the party bearing the burden of proof. As witnesses' testimony is completed, they are subject to cross-examination.
 - 4) Defense – Evidence and witnesses may be presented by the opposing parties.
 - 5) Closing Statements – The party bearing the burden of proof proceeds first, then the opposing party, then a final word by the party bearing the burden of proof.
 - 6) Hearing Officer Report and Recommendation – Described in Section 310.240.
- d) The location of the hearing will be determined by the Comptroller or hearing officer. Requests to change the location will be decided by the Comptroller or the hearing officer, with consideration given to the locations of the parties and their abilities to travel.

(Source: Amended at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.180 Hearing Officers

- a) In any contested case, the Comptroller may employ any attorney, licensed to practice in Illinois, to serve as hearing officer. The hearing officer may be empowered to conduct the hearing, administer oaths, question witnesses, make rulings on motions and objections, or ~~to~~ submit suggested Findings of Fact and Conclusions of Law to the Comptroller at the conclusion of the case. The hearing officer shall provide the Comptroller such legal counsel as the Comptroller~~he~~ may require in evaluating the Findings of Fact and Conclusions of Law ~~and Fact~~ and the recommendations for decision.
- b) It shall not be a bar to assignment as a hearing officer that the attorney is also an employee of the Comptroller.
- c) Any hearing officer shall not have direct involvement with the case or have an interest in the decision to be reached. Mere familiarity with the facts shall not disqualify a hearing officer. A hearing officer may be disqualified for bias or

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conflict of interest. An adverse ruling, in and of itself, shall not constitute bias or conflict of interest.

(Source: Amended at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.190 Burden of Proof

- a) The burden of proof rests with the Department in all cases instituted by the Department by the filing of a Complaint. A recommendation for an order may be made by the hearing officer or an order entered by the Comptroller only when~~where~~ the Department establishes by a preponderance of the clear and convincing~~clear and convincing~~ evidence that the allegations of the Complaint are true.
- b) The burden of proof in all cases instituted by the filing of a Petition for Hearing rests with the petitioner. The petitioner must prove by a preponderance of the evidence that the license should be granted or restored, as the case may be.

(Source: Amended at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.220 Evidence

- a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. Except as otherwise provided in this Section, the rules of evidence and privilege as applied in civil cases in the circuit courts of this State shall be followed. Evidence not admissible under those rules of evidence may be admitted unless precluded by statute, if it is of a type commonly relied upon by reasonably prudent men in the conduct of their affairs. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form. Subject to the evidentiary requirements of this Section, a party may conduct cross-examination required for a full and fair disclosure of the facts. Notice may be taken of matters of which the circuit courts of this State may take judicial notice. In addition, notice may be taken of generally recognized technical or scientific facts within the Office of the Comptroller's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. The agency's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the

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evidence. [5 ILCS 100/10-40] ~~Except as otherwise provided herein, the rules of evidence applicable to all contested cases will be the rules of evidence which are applicable in civil cases in the State of Illinois.~~

- b) Hearsay is not admissible. In addition to any other exceptions to the hearsay rule ~~that~~which exists in Illinois, a statement shall be admitted if it has circumstantial guarantees of trustworthiness, and if the probative value of the statement outweighs any prejudice resulting from an inability to cross-examine the declarant.
- c) Statements ~~that Are Not~~which are not Hearsay~~hearsay~~:
- 1) Prior ~~Statement~~statement by ~~Witness~~witness. The declarant testifies at the trial or hearing and is subject to cross-examination concerning the statement, and the statement is:
 - A) inconsistent with ~~the declarant's~~his testimony, and was given under oath subject to the penalty of perjury at a trial, hearing, or other proceeding, or in a deposition; ~~or~~
 - B) consistent with ~~the declarant's~~his testimony and is offered to rebut an express or implied charge against ~~the declarant~~him of recent fabrication or improper influence or motive; or
 - C) one of identification of a person made after perceiving ~~the person~~him; ~~or~~
 - 2) Admission by ~~Party-Opponent~~party opponent. The statement is offered against a party and is:
 - A) ~~the party's~~his own statement in either ~~an~~his individual or a representative capacity; ~~or~~
 - B) a statement of which ~~the party~~he has manifested ~~an~~his adoption or belief in its truth; ~~or~~
 - C) a statement by a person authorized by ~~the party~~him to make a statement concerning the subject; ~~or~~

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- D) a statement by ~~the party's~~ agent or servant concerning a matter within the scope of ~~the party's agent or servant's~~ agency or employment, made during the existence of the relationship; or
- E) a statement by a co-conspirator of a party during the course and in furtherance of the conspiracy.

(Source: Amended at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.230 Adverse Witness

- a) Any party or witness may be called as an adverse witness. In such a case, examination of the witness will be allowed as if under cross-examination.
- b) A witness called in good faith, whose testimony surprises the party calling the witness,~~who surprises the party calling him by his testimony,~~ can be examined as if under cross-examination, and the testimony of the witness may be impeached by prior statements.

(Source: Amended at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.231 Ex Parte Communications

- a) Except in the disposition of matters that the Office of the Comptroller is authorized by law to entertain or dispose of on an ex parte basis, Office of the Comptroller Department heads, employees and hearing officers shall not, after notice of hearing in a contested case or licensing to which the procedures of a contested case apply under the Act, communicate, directly or indirectly, in connection with any issue of fact, with any person or party, or in connection with any other issue with any party or the representative of any party, except upon notice and opportunity for all parties to participate.
- b) However, an Office of the Comptroller employee may communicate with other employees of the Office of the Comptroller, and an Office of the Comptroller employee or hearing officer may have the aid and advice of one or more personal assistants.
- c) An ex parte communication received by any Office of the Comptroller Department head, employee or hearing officer shall be made a part of the record

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of the pending matter, including all written communications, all written responses to the communications, and a memorandum stating the substance of all oral communications and all responses made and the identity of each person from whom the ex parte communication was received.

- d) Communications regarding matters of procedure and practice, such as the format of pleadings, number of copies required, manner of service, and status of proceedings, are not considered ex parte communications under this Section. [5 ILCS 100/10-60]

(Source: Added at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.232 Stay of Contested Case Hearings for Military Service

- a) "Military Service" means any full-time training or duty, no matter how described under federal or State law, for which a service member is ordered to report by the President, Governor of a state, commonwealth, or territory of the United States, or other appropriate military authority.

"Service Member" means a resident of Illinois who is a member of any component of the U.S. Armed Forces or the National Guard of any state, the District of Columbia, a commonwealth, or a territory of the United States.

- b) In a contested case in which a named party is a service member who has entered military service, for a period of 14 days that follow the conclusion of military service, the administrative law judge shall, upon motion made by or on behalf of the service member, stay the hearing for a period of 90 days if the service member's ability to appear at the hearing is materially affected by his or her military service.

- c) In order to be eligible for the benefits granted to service members under this Section, a service member must demonstrate that his or her military service has been in excess of 29 consecutive days and has materially affected his or her ability to attend the hearing by submitting to the hearing officer a letter from the service member's commanding officer stating that the service member's military duty has prevented the service member from appearing at the hearing and that military leave has not been authorized. The service member must also provide the hearing officer with an approximate date of availability.

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- d) *Additional stays of the contested case hearing shall be permitted at the discretion of the hearing officer if all of the requirements of this Section are met.*
- e) *A violation of this Section constitutes a civil rights violation under the Illinois Human Rights Act [775 ILCS 5]. All proceeds from the collection of any civil penalty imposed under this subsection shall be deposited into the Illinois Military Family Relief Fund. [5 ILCS 100/10-63]*

(Source: Added at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.233 Expenses and Attorney's Fees

- a) *In any contested case initiated by the Office of the Comptroller that does not proceed to court for judicial review and on any issue for which a court does not have jurisdiction to make an award of litigation expenses under Illinois Supreme Court Rule 137, any allegation made by the Office without reasonable cause and found to be untrue shall subject the Office to the payment of the reasonable expenses, including reasonable attorney's fees, actually incurred in defending against that allegation by the party against whom the case was initiated. A claimant may not recover litigation expenses when the parties have executed a settlement agreement that, while not stipulating liability or violation, requires the claimant to take correction action or pay a monetary sum.*
- b) *The claimant shall make a demand for litigation expenses to the Office. If the claimant is dissatisfied because of the Office's failure to make any award or because of the insufficiency of the Office's award, the claimant may petition the Court of Claims for the amount deemed owed. If allowed any recovery by the Court of Claims, the claimant shall also be entitled to reasonable attorney's fees and the reasonable expenses incurred in making a claim for the expenses incurred in the administrative action. The Court of Claims may reduce the amount of the litigation expenses to be awarded under this Section, or deny an award, to the extent that the claimant engaged in conduct during the course of the proceeding that unduly and unreasonably protracted the final resolution of the matter in controversy.*
- c) *In any case in which a party has any administrative rule invalidated by a court for any reason, including but not limited to the Office's exceeding its statutory authority or the Office's failure to follow statutory procedures in the adoption of the rule, the court shall award the party bringing the action the reasonable*

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expenses of the litigation, including reasonable attorney's fees. [5 ILCS 100/10-55]

(Source: Added at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.240 Reports of Hearings

- a) In every contested case conducted before a hearing officer, the hearing officer will file a written report ~~that~~^{which} contains his or her Findings of Facts and Conclusions of Law with respect to the allegations contained in the Complaint or Petition for Hearing and his or her Recommendation to the Comptroller.
- b) In every contested case conducted before the Comptroller, separate Findings of Fact and Conclusions of Law shall be stated in a written report in support of the Order of the Comptroller.
- c) Decisions and Orders
 - 1) *A final decision or order adverse to a party (other than the Office of the Comptroller) in a contested case shall be in writing or stated in the record. A final decision shall include Findings of Fact and Conclusions of Law, separately stated. Findings of Fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with this subsection (c)(1), a party submitted proposed Findings of Fact, the decision shall include a ruling upon each proposed finding. Parties or their agents appointed to receive service of process shall be notified either personally or by registered or certified mail of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to his or her attorney of record.*
 - 2) *All orders shall specify whether they are final and subject to the Administrative Review Law [735 ILCS 5/Art. III]. Every final order shall contain a list of all parties of record to the case, including the name and address of the officer entering the order and the addresses of each party, as known to the officer, where the parties may be served with pleadings, notices, or service of process for any review or further proceedings. Every final order shall also state whether the rules of the Office of the*

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Comptroller require any motion or request for reconsideration and cite the rule for the requirement. [5 ILCS 100/10-50]

- d) The record in a contested case shall include the following:
- 1) All pleadings (including all notices and responses to pleadings), motions, and rulings.
 - 2) All evidence received.
 - 3) A statement of matters officially noticed.
 - 4) Any offers of proof, objections, and rulings on offers of proof and objections.
 - 5) Any proposed findings and exceptions.
 - 6) Any decision, opinion, or report by the hearing officer.
 - 7) All memoranda or data submitted to the hearing officer in connection with the hearing officer's consideration of the case that are inconsistent with Section 310.170(d).
 - 8) Any communication prohibited by Section 310.170(d). No such communication shall form the basis for any finding of fact.
- e) Oral proceedings or any part of those proceedings shall be recorded stenographically or by other means that will adequately insure the preservation of the testimony or oral proceedings and shall be transcribed on the request of any party.
- f) Findings of Fact shall be based exclusively on the evidence and on matters officially noticed. [5 ILCS 100/10-35]

(Source: Amended at 42 Ill. Reg. 16010, effective August 1, 2018)

Section 310.251 Waiver

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Compliance with any or all of the provisions of these rules concerning contested cases may be waived by written stipulation of all parties. [5 ILCS 100/10-70]

(Source: Added at 42 Ill. Reg. 16010, effective August 1, 2018)

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- 1) Heading of the Part: Freedom of Information
- 2) Code Citation: 2 Ill. Adm. Code 601
- 3) Section Number: 601.200 Adopted Action:
Amendment
- 4) Statutory Authority: Implementing and authorized by Section 3 (g) of the Freedom of Information Act [5 ILCS 140/3 (g)] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].
- 5) Effective Date of Rule: August 1, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) The adopted rule is on file at the Auditor General's Springfield Office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: None. No such notice was published since these are required rules in accordance with 5 ILCS 100/5-15 and "may be adopted, amended, or repealed by filing a certified copy with the Secretary of State. . ." without publication of proposed rules.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No. These rules are required rules in accordance with 5 ILCS 100/5-15 and do not require review by JCAR.
- 11) Differences between Proposal and Final Version: None. No such notice was published since these are required rules in accordance with 5 ILCS 100/5-15 and "may be adopted, amended, or repealed by filing a certified copy with the Secretary of State. . ." without publication of proposed rules.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No. These rules are required rules in accordance with 5 ILCS 100/5-15 and do not require review by JCAR.
- 13) Will this rulemaking replace an emergency rule currently in effect? No

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- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: E-mail address and phone number need to be updated.
- 16) Information and questions regarding this adopted rule shall be directed to:

Katie Antonacci
Office of the Auditor General
740 E. Ash St.
Springfield IL 62703

217/782-6046
(TTY) 888/261-2887

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

OFFICE OF THE AUDITOR GENERAL

NOTICE OF ADOPTED AMENDMENT

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE C: CONSTITUTIONAL OFFICERS
CHAPTER V: AUDITOR GENERAL

PART 601
FREEDOM OF INFORMATION

SUBPART A: INTRODUCTION

- Section
- 601.100 Summary and Purpose
- 601.110 Definitions

SUBPART B: PROCEDURES FOR REQUESTING PUBLIC RECORDS

- Section
- 601.200 Person to Whom Requests are Submitted
- 601.210 Form and Content of Requests

SUBPART C: PROCEDURES FOR RESPONSE TO REQUESTS FOR PUBLIC RECORDS

- Section
- 601.300 Time for Response
- 601.310 Types of Responses

SUBPART D: PROCEDURES FOR APPEAL OF A DENIAL

- Section
- 601.400 Appeal of a Denial (Repealed)
- 601.410 Auditor General's Response to Appeal (Repealed)

SUBPART E: PROCEDURES FOR PROVIDING PUBLIC RECORDS TO REQUESTERS

- Section
 - 601.500 Inspection of Records
 - 601.510 Copies of Public Records
 - 601.520 Materials Immediately Available
- 601.APPENDIX A Request for Public Records (Repealed)

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601.APPENDIX B	Fee Schedule for Duplication and Certification of Public Records (Repealed)
601.APPENDIX C	Approval of Request for Public Records (Repealed)
601.APPENDIX D	Denial of Request for Public Records (Repealed)
601.APPENDIX E	Partial Approval of Request for Public Records (Repealed)
601.APPENDIX F	Deferral of Response to Request for Public Records (Repealed)
601.APPENDIX G	FOIA Appeal/Auditor General's Response (Repealed)

AUTHORITY: Implementing and authorized by Section 3(g) of the Freedom of Information Act [5 ILCS 140/3(g)] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Adopted at 9 Ill. Reg. 1027, effective January 16, 1985; amended at 18 Ill. Reg. 7739, effective May 9, 1994; amended at 19 Ill. Reg. 4995, effective March 17, 1995; amended at 34 Ill. Reg. 11459, effective August 13, 2010; amended at 42 Ill. Reg. 16032, effective August 1, 2018.

SUBPART B: PROCEDURES FOR REQUESTING PUBLIC RECORDS

Section 601.200 Person to Whom Requests are Submitted

Requests for public records shall be submitted to the Freedom of Information Officer of the Office of the Auditor General. Requests for public records may be submitted by mail, e-mail, hand delivery or facsimile, directed to the FOI Officer, as follows:

FOI Officer
Office of the Auditor General
Iles Park Plaza
740 East Ash
Springfield, Illinois 62703-3154
[217-782-6046](tel:(217)782-6046)~~(217)782-6698~~ (phone)
(888)261-2887 (TTY)
(217)785-8222 (facsimile)
oag.auditor@illinois.gov~~auditor@mail.state.il.us~~

(Source: Amended at 42 Ill. Reg. 16032, effective August 1, 2018)

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- 1) Heading of the Part: Sexual Assault Emergency Treatment Code
- 2) Code Citation: 77 Ill. Adm. Code 545
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
545.20	Amendment
545.25	Amendment
545.60	Amendment
545.61	New Section
545.95	Amendment
- 4) Statutory Authority: Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70]
- 5) Effective Date of Rules: August 2, 2018
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 6577; April 13, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? 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 changes were made.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking implements PA 99-801, with regard to written consent for the release of sexual assault evidence to law enforcement for testing, and PA 99-173, which strikes language on written collaborative agreements for advanced practice nurses and delegated authority for physician assistants.

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

Erin Conley
Rules Coordinator
Illinois 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

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETYPART 545
SEXUAL ASSAULT SURVIVORS
EMERGENCY TREATMENT CODE

Section

545.10	Applicability
545.20	Definitions
545.25	Incorporated and Referenced Materials
545.30	Application of Rules (Repealed)
545.35	Development and Approval of Plans
545.40	Program Administration (Repealed)
545.50	Areawide Sexual Assault Treatment Plans
545.60	Treatment of Sexual Assault Survivors
545.61	Submitting Sexual Assault Evidence to Law Enforcement
545.65	Transfer of Sexual Assault Survivors
545.67	Compliance Review
545.70	Requirements of Sexual Assault Transfer Plans (Repealed)
545.80	Approval of a Sexual Assault Treatment Plan (Repealed)
545.90	Approval of a Sexual Assault Transfer Plan (Repealed)
545.95	Emergency Contraception
545.100	Written Notice to Sexual Assault Survivors
545.APPENDIX A	Sexual Assault Treatment Plan Form
545.APPENDIX B	Sexual Assault Transfer Plan Form
545.APPENDIX C	Emergency Contraception Protocols

AUTHORITY: Implementing and authorized by the Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70].

SOURCE: Filed December 30, 1977; rules repealed and new rules adopted at 5 Ill. Reg. 1139, effective January 23, 1981; codified at 8 Ill. Reg. 16334; amended at 11 Ill. Reg. 1589, effective February 1, 1987; amended at 12 Ill. Reg. 20790, effective December 1, 1988; emergency amendment at 26 Ill. Reg. 5151, effective April 1, 2002, for a maximum of 150 days; emergency expired August 28, 2002; amended at 27 Ill. Reg. 1567, effective January 15, 2003; amended at 33 Ill. Reg. 14588, effective October 9, 2009; amended at 34 Ill. Reg. 12214, effective August 4,

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2010; amended at 41 Ill. Reg. 14980, effective November 27, 2017; amended at 42 Ill. Reg. 16036, effective August 2, 2018.

Section 545.20 Definitions

Act – the Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70].

Advanced practice nurse or APN – a person who has met the qualifications of a certified nurse midwife (CNM); certified nurse practitioner (CNP); certified registered nurse anesthetist (CRNA); or clinical nurse specialist (CNS) and has been licensed by the Department of Financial and Professional Regulation, as defined in the Nurse Practice Act. (Section 50-5 of the Nurse Practice Act)

Ambulance provider – an individual or entity that owns and operates a business or service using ambulances or emergency medical services vehicles to transport emergency patients. (Section 1a of the Act)

Areawide sexual assault treatment plan or areawide plan – a plan, developed by the hospitals in the community or area to be served, which provides for hospital emergency services to sexual assault survivors that shall be made available by each of the participating hospitals. (Section 1a of the Act)

Caregiver – any person who is legally responsible for providing care to the patient or who renders support to the patient.

Department – the Department of Public Health. (Section 1a of the Act)

Drug-facilitated sexual assault – the use of a chemical submissive agent in the commission of a sex offense, given without consent of the victim, that produces relaxant effects, ~~including~~ blackouts, coma, impaired judgment, ~~and~~ or loss of coordination.

Emergency contraception – medication as approved by the federal Food and Drug Administration (FDA) that can significantly reduce the risk of pregnancy if taken within 72 hours after sexual assault. (Section 1a of the Act)

Follow-up healthcare – healthcare services related to a sexual assault, including laboratory services and pharmacy services, rendered within 90 days after the initial visit for hospital emergency services. (Section 1a of the Act)

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Forensic services – the collection of evidence pursuant to a statewide sexual assault evidence collection program administered by the Department of State Police, using the Illinois State Police Sexual Assault Evidence Collection Kit. (Section 1a of the Act)

Health care professional – a physician, a physician assistant, or an advanced practice nurse. (Section 1a of the Act)

Hospital – has the meaning given to that term in the Hospital Licensing Act. (Section 1a of the Act)

Hospital emergency services – health care delivered to outpatients within or under the care and supervision of personnel working in a designated emergency department of a hospital, including, but not limited to, care ordered by such personnel for a sexual assault survivor in the emergency department. (Section 1a of the Act)

Illinois State Police Sexual Assault Evidence Collection Kit – a prepackaged set of materials and forms to be used for the collection of evidence relating to sexual assault. The standardized evidence collection kit for the State of Illinois shall be the Illinois State Police Sexual Assault Evidence Collection Kit. (Section 1a of the Act)

Law enforcement agency having jurisdiction – the law enforcement agency in the jurisdiction where an alleged sexual assault or sexual abuse occurred. (Section 1a of the Act)

Nurse – a person licensed under the Nurse Practice Act. (Section 1a of the Act)

Physician – a person licensed to practice medicine in all its branches as defined in the Medical Practice Act of 1987. (Section 1a of the Act)

Physician assistant – any person not a physician who has been certified as a physician assistant by the National Commission on the Certification of Physician Assistants or equivalent successor agency and performs procedures under the supervision of a physician as defined in the Physician Assistant Practice Act of 1987. (Section 4 of the Physician Assistant Practice Act of 1987)

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Sexual assault – an act of nonconsensual sexual conduct or sexual penetration, as defined in Section 11-0.1 of the Criminal Code of 2012, including, without limitation, acts prohibited under Sections 11-1.20 through 11-1.60 of the Criminal Code of 2012. (Section 1a of the Act)

Sexual assault nurse examiner – a registered nurse who has completed a sexual assault nurse examiner (SANE) training program that meets the Forensic Sexual Assault Nurse Examiner Education Guidelines established by the International Association of Forensic Nurses. (Section 6.4(c) of the Act)

Sexual assault survivor or survivor – a person who presents for hospital emergency services in relation to injuries or trauma resulting from a sexual assault. (Section 1a of the Act)

Sexual assault transfer plan – a written plan developed by a hospital and approved by the Department, which describes the hospital's procedures for transferring sexual assault survivors to another hospital in order to receive emergency treatment. (Section 1a of the Act)

Sexual assault treatment plan – a written plan developed by a hospital that describes the hospital's procedures and protocols for providing hospital emergency services and forensic services to sexual assault survivors who present themselves for such services, either directly or through transfer from another hospital. (Section 1a of the Act)

Transfer hospital – a hospital that provides only transfer services to sexual assault survivors, pursuant to an Areawide Sexual Assault Treatment Plan.

Transfer services – the appropriate medical screening examination and necessary stabilizing treatment prior to the transfer of a sexual assault survivor to a hospital that provides hospital emergency services and forensic services to sexual assault survivors pursuant to a sexual assault treatment plan or areawide sexual assault treatment plan. (Section 1a of the Act)

Treatment hospital – a hospital that provides hospital emergency treatment services and forensic evidence collection to sexual assault survivors, pursuant to a sexual assault treatment plan or areawide sexual assault treatment plan.

Unauthorized personnel – all individuals whose presence in the examination room

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is not desired or required either by the hospital ~~and~~/or by the survivor (e.g., representatives of the media).

Voucher – a document generated by a hospital at the time the sexual assault survivor receives hospital emergency and forensic services that a sexual assault survivor may present to providers to cover the cost of any follow-up healthcare. (Section 1a of the Act)

(Source: Amended at 42 Ill. Reg. 16036, effective August 2, 2018)

Section 545.25 Incorporated and Referenced Materials

- a) The following materials are referenced in this Part:
 - 1) State of Illinois Statutes:
 - A) Sexual Assault Survivors Emergency Treatment Act [410 ILCS 70].
 - B) Hospital Licensing Act [210 ILCS 85].
 - C) Criminal Code of ~~2012+1961~~ [720 ILCS 5].
 - D) Crime Victims Compensation Act [740 ILCS 45].
 - E) Criminal Identification Act [20 ILCS 2630].
 - F) Code of Criminal Procedure of 1963 [725 ILCS 5].
 - G) Illinois Public Aid Code [305 ILCS 5].
 - H) Illinois Insurance Code [215 ILCS 5].
 - I) Medical Practice Act of 1987 [225 ILCS 60].
 - J) Emergency Medical Treatment Act [210 ILCS 70].
 - K) Nurse Practice Act [225 ILCS 65].

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- L) Consent by Minors to Medical Procedures Act [410 ILCS 210].
 - M) AIDS Confidentiality Act [410 ILCS 305].
 - N) Physician Assistant Practice Act of 1987 [225 ILCS 95].
- 2) State of Illinois Rules
- A) Department of Public Health, Rules of Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).
 - B) [Department of Public Health, Hospital Licensing Requirements \(77 Ill. Adm. Code 250\).](#)
 - CB) Healthcare and Family Services, Hospital Services (89 Ill. Adm. Code 148).
- 3) Federal Statute
Emergency Medical Treatment and Active Labor Act (EMTALA) (42 USC 1395dd).
- 4) Recover/Rebuild: Crime Victims Assistance, which may be obtained from the Office of the Attorney General, 500 S. Second Street, Springfield, Illinois 62706.
- b) The following materials are incorporated in this Part:
- 1) Federal Guidelines
 - A) Sexually Transmitted Diseases Treatment Guidelines, 2006, Centers for Disease Control and Prevention, Morbidity and Mortality Weekly Report (MMWR), August 4, 2006, Vol. 55 (RR 11); updated April 13, 2007; Fluoroquinolones No Longer Recommended for Treatment of Gonococcal Infections, Vol. 56, No. 14. Available from the Centers for Disease Control and Prevention, 1600 Clifton Rd., Atlanta, Georgia 30333.
 - B) Antiretroviral Postexposure Prophylaxis After Sexual, Injection Drug Use, or Other Nonoccupational Exposure to HIV in the

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United States, Morbidity and Mortality Weekly Report (MMWR), January 21, 2005, Vol. 54 (RR 02). Available from the Centers for Disease Control and Prevention, 1600 Clifton Rd., Atlanta, Georgia 30333.

- 2) Association Standards
Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient, American College of Emergency Physicians, June 1999. Available from the American College of Emergency Physicians, Post Office Box 619911, Dallas, Texas 75261-9911.
- c) All incorporations by reference of federal guidelines and association standards refer to the guidelines and standards in effect on the date specified and do not include any later editions or amendments.

(Source: Amended at 42 Ill. Reg. 16036, effective August 2, 2018)

Section 545.60 Treatment of Sexual Assault Survivors

- a) *Every hospital providing hospital emergency services and forensic services to sexual assault survivors shall comply with the federal Emergency Medical Treatment and Active Labor Act and, as minimum requirements for such services, provide, with the consent of the sexual assault survivor, and as ordered by the attending physician, an advanced practice nurse ~~who has a written collaborative agreement with a collaborating physician that authorizes provision of emergency services or~~ who possesses clinical privileges recommended by the hospital medical staff and granted by the hospital, as authorized by the Nurse Practice Act, or a physician assistant ~~who has been delegated authority to provide hospital emergency services and forensic services,~~ the following:*
 - 1) *Appropriate medical examinations and laboratory tests required to ensure the health, safety, and welfare of a sexual assault survivor or which may be used as evidence in a criminal proceeding against a person accused of the sexual assault, or both. Records of the results of such examinations and tests shall be maintained by the hospital and made available to law enforcement officials upon the request of the sexual assault survivor.* (Section 5(a) of the Act) Examinations and tests shall include, but not be limited to:

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- A) A general physical examination;
- B) Evaluation and ~~or~~ treatment for sexually transmitted infections in accordance with the guidelines of the Centers for Disease Control and Prevention titled Sexually Transmitted Diseases Treatment Guidelines, or the standards of the American College of Emergency Physicians titled Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient (see Section 545.25);
- C) Evaluation and possible treatment for HIV exposure in accordance with the guidelines of the Centers for Disease Control and Prevention titled Sexually Transmitted Diseases Treatment Guidelines, or the recommendations titled Antiretroviral Postexposure Prophylaxis After Sexual, Injection Drug Use, or Other Nonoccupational Exposure to HIV in the United States, or the standards of the American College of Emergency Physicians titled Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient. Testing for HIV shall be conducted in accordance with the AIDS Confidentiality Act; and
- D) Pregnancy test for females of childbearing age;
- 2) *Appropriate oral and written information concerning the possibility of infection, sexually transmitted disease and pregnancy resulting from sexual assault (Section 5(a) of the Act);*
- 3) *Medically and factually accurate written and oral information about emergency contraception; the indications and ~~contraindications~~~~se~~~~counter-~~~~indications~~ and risks associated with the use of emergency contraception; and a description of how and when sexual assault survivors may be provided emergency contraception upon the written order of a physician, ~~a licensed~~ advanced practice nurse, or a ~~licensed~~ physician assistant (Section 2.2(b) of the Act);*
- 4) *Appropriate oral and written information concerning accepted medical procedures, medication, and possible contraindications of such medication available for the prevention or treatment of infection or disease resulting from sexual assault (Section 5(a) of the Act);*

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- 5) *An amount of medication for treatment at the hospital and after discharge as is deemed appropriate by the attending physician, an advanced practice nurse, or a physician assistant and consistent with the hospital's current approved protocol for sexual assault survivors. (Section 5(a) of the Act);*
- 6) *An evaluation of the sexual assault survivor's risk of contracting human immunodeficiency virus (HIV) from sexual assault. When HIV prophylaxis is deemed appropriate, an initial dose or doses of HIV prophylaxis, along with written and oral instructions indicating the importance of timely follow-up health care, shall be given to the survivor. (Section 5(a) of the Act) In developing policies on risk assessment of HIV exposure and on HIV prophylaxis, hospitals shall consider the guidelines of the Centers for Disease Control and Prevention (CDC) titled Sexually Transmitted Diseases Treatment Guidelines, or the CDC recommendations titled Antiretroviral Postexposure Prophylaxis After Sexual, Injection Drug Use, or Other Nonoccupational Exposure to HIV in the United States, or the Standards of the American College of Emergency Physicians titled Evaluation and Management of the Sexually Assaulted or Sexually Abused Patient;*
- 7) *Written and oral instructions indicating the need for follow-up examinations and laboratory tests one to two weeks after the sexual assault to determine the presence or absence of sexually transmitted disease (Section 5(a) of the Act);*
- 8) *Appropriate referral to a physician. The survivor shall be referred for follow-up health care and ~~for~~ monitoring of medication given or prescribed at the time of the initial hospital emergency visit as may be deemed appropriate by the attending physician, advanced practice nurse, or physician assistant;*
- 9) *Referral by hospital personnel for appropriate counseling. (Section 5(a) of the Act) Initial referral should be to a community-based rape crisis center, if ~~such~~ a center is available, or referral to other counseling shall be provided;*
- 10) *The brochure "After Sexual Assault", published by the Illinois Coalition*

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Against Sexual Assault and the Illinois Department of Public Health, and the pamphlet "[Crime Victim Rights in Illinois](#)~~Recover/Rebuild: Crime Victims Assistance~~", published by the Illinois Office of the Attorney General;

- 11) Information on drug-facilitated sexual assault testing, including an explanation of the comprehensive scope of a drug screen and the limited time frame within which evidence can be collected; and
 - 12) Information regarding evidence collection, and the process and use of evidence in criminal investigation/cases.
- b) *Any person who is a sexual assault survivor who seeks emergency hospital services and forensic services or follow-up healthcare under the Act shall be provided such services without the consent of any parent, guardian, custodian, surrogate, or agent. (Section 5(b) of the Act)*
- c) The hospital shall develop a *uniform system for recording results of medical examinations and all diagnostic tests performed in connection with the examination to determine the condition and necessary treatment of sexual assault survivors. The results shall be preserved in a confidential manner as part of the hospital record of the sexual assault survivor. (Section 6.1 of the Act)* The medical record shall include the information required in this subsection (c):
- 1) The medical record shall indicate if the sexual assault survivor changed clothes, bathed or douched, defecated, urinated, ate, smoked, or performed oral hygiene between the time of the sexual assault and the time of the examination.
 - 2) The medical record shall indicate presence of all indications of trauma, major or minor, that may be used in a criminal proceeding (e.g., cuts, scratches, bruises, red marks, any minor signs of trauma). Photographs of indications of trauma may be taken for evidentiary purposes with the written consent of the sexual assault survivor or the survivor's parent or guardian if the survivor is under 13 years of age. If the survivor is under 13 years of age and the parent or guardian is not immediately available, photographs may be taken and shall be released to law enforcement personnel and State's Attorney staff with written consent of a parent, guardian, or law enforcement officer, or the Department of Children and

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Family Services.

- 3) The medical record shall not reflect any conclusions regarding whether a crime (e.g., criminal sexual assault, criminal sexual abuse) occurred.
 - 4) Medical history shall include brief, general information concerning possible injury; drug allergies; and, for female patients, a detailed gynecological history, including: whether the patient knows or believes that she is pregnant, history of prior gynecological surgery such as hysterectomy or tubal ligation, history of contraceptive use, history of cancer, and any prior genital injury or trauma.
 - 5) The medical record shall indicate the presence of any and all persons during the examination process.
 - 6) The medical record shall document the compliance with each procedure required by subsection (f) of this Section.
 - 7) The medical record shall indicate whether a report was filed with the Department of Children and Family Services, or whether the Department on Aging or the Department of Public Health was contacted.
 - 8) The medical record shall include a completed emergency department record.
 - 9) The medical record shall indicate whether the Illinois State Police Sexual Assault Evidence Collection Kit was completed.
- d) All medical records for sexual assault survivors shall be maintained through a filing system that allows for immediate accessibility during Department surveys. This filing system may be maintained electronically.
- e) ~~The Illinois State Police Sexual Assault Evidence Collection Kit shall be used in the manner prescribed by the information contained in the Evidence Collection Kit.~~
- 1) ~~With the survivor's consent, the Evidence Collection Kit shall be completed if the survivor presents himself/herself within seven days after the sexual assault.~~

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- 2) ~~If the Evidence Collection Kit is not collected by law enforcement promptly after completion, or law enforcement has not yet obtained the survivor's consent to release the Evidence Collection Kit, hospital staff shall store it in a safe location for at least two weeks.~~
- ef) Procedures to ensure the welfare and privacy of the survivor shall be followed and shall include, but not be limited to, the following:
- 1) A member of the health care team shall respond within minutes to move the survivor to a closed environment to ensure privacy. Health care personnel shall refer to survivors by code to avoid embarrassment.
 - 2) If, for any reason, the survivor is incapable of receiving oral and written information required in subsection (a) of this Section, the information shall be given to the caregiver/guardian.
 - 3) All unauthorized personnel, including law enforcement personnel, shall remain outside the examination room during the medical examination. If a survivor who is in the custody of law enforcement officers exhibits behavior that may cause physical harm to herself/himself or hospital staff, the staff shall request that law enforcement officers be posted outside the examination room door.
 - 4) The hospital shall offer to call a friend or family member and a sexual assault~~rape~~ crisis advocate, where available, to accompany the survivor.
- fg) ~~When~~*Where* a minor is the victim of a predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse or criminal sexual abuse, as provided in Sections 11-1.20 through 11-1.60~~12-13 through 12-16~~ of the Criminal Code of ~~2012~~1961, the consent of the minor's parent or legal guardian need not be obtained to authorize a hospital, physician or other medical personnel to furnish medical care or counseling related to the diagnosis or treatment of any disease or injury arising from such offense. The minor may consent to such counseling, diagnosis or treatment as if the minor had reached his or her age of majority. Such consent shall not be voidable, nor subject to later disaffirmance, because of minority. (Section 3**(b)** of the Consent by Minors to Medical Procedures Act [410 ILCS 210/3])

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- ~~h) *A sexual assault evidence collection kit may not be released by a hospital without the written consent of the sexual assault survivor. In the case of a survivor who is a minor 13 years of age or older, evidence and information concerning the sexual assault may be released at the written request of the minor. If the survivor is a minor who is under 13 years of age, evidence and information concerning the sexual assault may be released at the written request of the parent, guardian, investigating law enforcement officer, or Department of Children and Family Services. If the survivor is an adult who has a guardian of the person, a health care surrogate, or an agent acting under the health care power of attorney, then consent of the guardian, surrogate, or agent is not required to release evidence and information concerning the sexual assault. If the adult is unable to provide consent for the release of evidence and information and a guardian, surrogate, or agent under a health care power of attorney is unavailable or unwilling to release the information, then an investigating law enforcement officer may authorize the release. Any health care professional, including any physician, advanced practice nurse, physician assistant, nurse, or sexual assault nurse examiner, and any health care institution, including any hospital, who provides evidence or information to a law enforcement officer pursuant to a written request as specified in this subsection (h) is immune from any civil or professional liability that might arise from those actions, with the exception of willful or wanton misconduct. The immunity provision applies only if all the requirements of this Section and Section 6.4 of the Act are met. (Section 6.4 of the Act)*~~
- g) All hospitals that provide emergency medical services to sexual assault survivors shall comply with the Crime Victims Compensation Act, the Consent by Minors to Medical Procedures Act and any local ordinances, municipal codes, rules, or regulations that may apply to the treatment of sexual assault survivors.
- h) All hospitals shall comply with the reporting procedures for sexual assault survivors required by Section 3.2 of the Criminal Identification Act.
- i) *Nothing in this Section creates a physician-patient relationship that extends beyond discharge from the hospital emergency department. (Section 5(c) of the Act)*
- j) The hospital shall take all reasonable steps to secure the patient's written informed consent to or refusal of the examination and treatment.

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(Source: Amended at 42 Ill. Reg. 16036, effective August 2, 2018)

Section 545.61 Submitting Sexual Assault Evidence to Law Enforcement

- a) The Illinois State Police Sexual Assault Evidence Collection Kit shall be used in the manner prescribed by the information contained in the Evidence Collection Kit.
- 1) With the survivor's consent, as prescribed by subsection (b), the Evidence Collection Kit shall be completed if the survivor presents himself or herself for hospital emergency services within seven days after the sexual assault.
 - 2) If the Evidence Collection Kit is not collected by law enforcement upon completion, the hospital shall comply with subsection (c).
- b) Written Consent to the Release of Sexual Assault Evidence for Testing
- 1) Upon the completion of hospital emergency services and forensic services, the health care professional providing the forensic services shall provide the patient the opportunity to sign a written consent to allow law enforcement to submit the sexual assault evidence for testing. The written consent shall be on a form included in the sexual assault evidence collection kit and shall include whether the survivor consents to the release of information about the sexual assault to law enforcement.
 - A) A survivor 13 years of age or older may sign the written consent to release the evidence for testing.
 - B) If the survivor is a minor who is under 13 years of age, the written consent to release the sexual assault evidence for testing may be signed by the parent, guardian, investigating law enforcement officer, or Department of Children and Family Services.
 - C) If the survivor is an adult who has a guardian of the person, a health care surrogate, or an agent acting under a health care power of attorney, the consent of the guardian, surrogate, or agent is not required to release evidence and information concerning the sexual assault or sexual abuse. If the adult is unable to provide

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consent for the release of evidence and information and a guardian, surrogate, or agent under a health care power of attorney is unavailable or unwilling to release the information, then an investigating law enforcement officer may authorize the release.

D) Any health care professional, including any physician, advanced practice nurse, physician assistant, nurse, or sexual assault nurse examiner, and any health care institution, including any hospital, who provides evidence or information to a law enforcement officer under a written consent, as specified in this subsection (b), is immune from any civil or professional liability that might arise from those actions, with the exception of willful or wanton misconduct. The immunity provision applies only if all of the requirements of this Section are met.

2) The hospital shall keep a copy of a signed or unsigned written consent form in the patient's medical record pursuant to Section 250.1510 of the Hospital Licensing Requirements.

3) If a written consent to allow law enforcement to test the sexual assault evidence is not signed at the completion of hospital emergency services and forensic services, the hospital shall include the following information in its discharge instructions:

A) The sexual assault evidence will be stored for five years from the completion of an Illinois State Police Sexual Assault Evidence Collection Kit, or five years from the age of 18 years, whichever is longer;

B) A person authorized to consent to the testing of the sexual assault evidence may sign a written consent to allow law enforcement to test the sexual assault evidence at any time during that five-year period for an adult victim, or until a minor victim turns 23 years of age by:

i) Contacting the law enforcement agency having jurisdiction, or, if unknown, the law enforcement agency contacted by the hospital under Section 3.2 of the Criminal Identification

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Act; or

ii) By working with an advocate at a rape crisis center;

C) The name, address, and phone number of the law enforcement agency having jurisdiction, or, if unknown, the name, address, and phone number of the law enforcement agency contacted by the hospital under Section 3.2 of the Criminal Identification Act; and

D) The name and phone number of a local rape crisis center. (Section 6.5 of the Act)

c) Submission of Sexual Assault Evidence

1) As soon as practicable, but in no event more than four hours after the completion of hospital emergency services and forensic services, the hospital shall make reasonable efforts to determine the law enforcement agency having jurisdiction where the sexual assault occurred. The hospital may obtain the name of the law enforcement agency with jurisdiction from the local law enforcement agency.

2) Within four hours after the completion of hospital emergency services and forensic services, the hospital shall notify the law enforcement agency having jurisdiction that the hospital is in possession of sexual assault evidence and the date and time the collection of evidence was completed. The hospital shall document the notification in the patient's medical records and shall include the agency notified, the date and time of the notification, and the name of the person who received the notification. This notification to the law enforcement agency having jurisdiction satisfies the hospital's requirement to contact its local law enforcement agency under Section 3.2 of the Criminal Identification Act.

3) If the law enforcement agency having jurisdiction has not taken physical custody of sexual assault evidence within five days after the first contact by the hospital, the hospital shall renotify the law enforcement agency having jurisdiction that the hospital is in possession of sexual assault evidence and the date the sexual assault evidence was collected. The hospital shall document the renotification in the patient's medical records

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and shall include the agency notified, the date and time of the notification, and the name of the person who received the notification.

- 4) If the law enforcement agency having jurisdiction has not taken physical custody of the sexual assault evidence within 10 days after the first contact by the hospital and the hospital has provided renotification under subsection (b)(3), the hospital shall contact the State's Attorney of the county where the law enforcement agency having jurisdiction is located. The hospital shall inform the State's Attorney that the hospital is in possession of sexual assault evidence, the date the sexual assault evidence was collected, the law enforcement agency having jurisdiction, and the dates, times and names of persons notified under subsections (b)(2) and (b)(3). The notification shall be made within 14 days after the collection of the sexual assault evidence. (Section 6.6 of the Act)

(Source: Added at 42 Ill. Reg. 16036, effective August 2, 2018)

Section 545.95 Emergency Contraception

- a) *Every hospital providing services to sexual assault survivors in accordance with a plan approved under Section 545.35 of this Part must develop a protocol for providing emergency contraception information and treatment to sexual assault survivors. (Section 2.2(b) of the Act)*
- b) *The Department shall approve the protocol if it finds that the implementation of the protocol would provide sufficient protection for survivors of sexual assault and if the protocol provides for the following as soon as possible and, in any event, no later than 12 hours after the sexual assault survivor presents himself or herself at the hospital for emergency care:*
- 1) *~~Medically~~medically and factually accurate written and oral information about emergency contraception;*
 - 2) *~~The~~the indications and counter-indications and risks associated with the use of emergency contraception;*
 - 3) *~~A~~ description of how and when victims may be provided emergency contraception upon the written order of a physician, a licensed advanced practice nurse ~~who has a written collaborative agreement with a~~*

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~~collaborating physician that authorizes prescription of emergency contraception or~~ who possesses clinical privileges recommended by the hospital medical staff and granted by the hospital as authorized by the Nurse Practice Act, *or a licensed physician assistant* ~~who has been delegated authority to prescribe emergency contraception~~ (Section 2.2(b) of the Act); and

- 4) ~~Appropriate~~Appropriate referral to a physician.
- c) *The hospital shall implement the protocol upon approval by the Department.*
(Section 2.2(b) of the Act)
- d) The Department shall produce medically and factually accurate written materials that all treatment hospitals shall provide to each female sexual assault survivor of childbearing age.

(Source: Amended at 42 Ill. Reg. 16036, effective August 2, 2018)

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- 1) Heading of the Part: Commercial Driver Training Schools
- 2) Code Citation: 92 Ill. Adm. Code 1060
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1060.5	Amendment
1060.20	Amendment
1060.50	Amendment
1060.120	Amendment
1060.181	Amendment
1060.200	Amendment
- 4) Statutory Authority: 625 ILCS 5/6-419
- 5) Effective Date of Rules: August 3, 2018
- 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 Department's Division of Driver's Services, and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 42 Ill. Reg. 4512, March 9, 2018
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Difference between Proposal and Final version: Section 1060.120(a)(4) has been revised to more closely correspond to statute.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking corrects a citation, removes a paragraph regarding possession of written tests by commercial driving school owners and

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instructors, clarifies offenses the Secretary of State may consider when determining issuing a commercial school owner or instructor license, defines "defined time frame course" and "sequential module course" and provides requirements for each type of course, includes additional information to be included in course content regarding interaction with law enforcement and includes human trafficking in course content for commercial driver's license instruction.

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

Jennifer Egizii
Office of the Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield IL 62723

217/557-4462

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

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1060
COMMERCIAL DRIVER TRAINING SCHOOLS

Section	
1060.5	Definitions
1060.10	Unlicensed Person May Not Operate Driver Training School
1060.20	Requirements for School Licenses
1060.30	Driver Training School Names
1060.40	Refund of Application Fees
1060.50	School Locations and Facilities
1060.60	Driver Training School Student Instruction Record
1060.70	Driver Training School Course of Instruction
1060.71	Adult Driver Education Course Certification
1060.72	Adult Driver Education Classroom Instruction
1060.80	Driver Training School Contracts
1060.90	Inspection of School Facilities
1060.100	Licenses
1060.110	Safety Inspection of Driver Training School Motor Vehicles
1060.120	Requirements to Obtain and Retain a Driver Training Instructor's License
1060.130	Examination for Driver Training Instructor
1060.140	Temporary Permit
1060.150	Driver Training School Responsibility for Employees
1060.160	Solicitation of Students and Pupils for Commercial Driver Training Instruction
1060.170	Hearings
1060.180	Teen Accreditation
1060.181	Teen Accreditation Classroom and Behind-the-Wheel Requirements
1060.190	Denial, Cancellation, Suspension, and Revocation of Commercial Driver Training School's License, Teen Accreditation, CDL Accreditation, and Instructor's License
1060.200	Commercial Driver's License and/or Endorsement and/or Accreditation
1060.210	Driver Training School Responsibility for Employees (Recodified)
1060.220	Solicitation of Students and Pupils for Commercial Driver Training Instruction (Recodified)
1060.230	Hearings (Recodified)
1060.240	Teen Accreditation (Recodified)
1060.250	Denial, Cancellation, Suspension, and Revocation of Commercial Driver Training

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1060.260 School's License and Instructor's License (Recodified)
Commercial Driver's License and/or Endorsement and/or Restriction
Accreditation (Recodified)

AUTHORITY: Implementing Article IV of the Illinois Driver Licensing Law of the Illinois Motor Vehicle Code [625 ILCS 5/Ch. 6, Art. IV] and authorized by Section 2-104(b) of the Illinois Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed March 2, 1972; codified at 6 Ill. Reg. 12697; transferred from 23 Ill. Adm. Code 252.50 (State Board of Education) pursuant to Section 5-80(d) of the Illinois Administrative Procedure Act [5 ILCS 100/5-80(d)] and Section 6-411 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411] at 11 Ill. Reg. 1631, effective December 31, 1986; amended at 11 Ill. Reg. 17244, effective October 13, 1987; amended at 12 Ill. Reg. 13203, effective August 1, 1988; amended at 12 Ill. Reg. 19756, effective November 15, 1988; amended at 14 Ill. Reg. 8658, effective May 18, 1990; recodified at 17 Ill. Reg. 20006, effective November 3, 1993; amended at 18 Ill. Reg. 7788, effective May 9, 1994; amended at 20 Ill. Reg. 3861, effective February 14, 1996; amended at 22 Ill. Reg. 22069, effective December 2, 1998; emergency amendment at 24 Ill. Reg. 8403, effective June 2, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15443, effective October 5, 2000; amended at 25 Ill. Reg. 6409, effective April 26, 2001; amended at 26 Ill. Reg. 15020, effective October 1, 2002; emergency amendment at 28 Ill. Reg. 398, effective December 22, 2003, for a maximum of 150 days; emergency expired May 19, 2004; amended at 28 Ill. Reg. 11925, effective July 26, 2004; amended at 30 Ill. Reg. 11377, effective June 14, 2006; amended at 31 Ill. Reg. 16008, effective November 16, 2007; amended at 33 Ill. Reg. 15811, effective October 27, 2009; amended at 34 Ill. Reg. 19099, effective November 22, 2010; amended at 37 Ill. Reg. 4295, effective March 20, 2013; amended at 37 Ill. Reg. 18893, effective November 5, 2013; amended at 38 Ill. Reg. 12566, effective July 1, 2014; amended at 42 Ill. Reg. 16056, effective August 3, 2018.

Section 1060.5 Definitions

For purposes of this Part, the following definitions shall apply:

"Administrator" – any individual who is employed by or acts on behalf of a high school who administers a State approved high school driver education program.

"Adult Driver Education Course" – a six hour classroom or online course of driver education for persons ages 18, 19 or 20 offered by an adult driver education course provider.

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"Adult Driver Education Course Provider" or "Provider" – an entity certified by the Secretary of State to provide an adult driver education course in a classroom setting, which also may be certified to offer an adult driver education course online.

"Branch Office" – an office of a commercial driver training school in a distinct location from the main office, but that conducts business under the name and as a part of the school as provided in IVC Article IV and that meets the requirements of Section 1060.50.

"Business Day" – any day that the Office of the Secretary of State Commercial Driver School Division is open, i.e., Monday through Saturday, excluding State holidays.

"Cancellation" – the without prejudice annulment or termination by formal action of the Secretary of a driver training school's license or a driver training school instructor's license because of some error or defect in the license or because the licensee is in some form of violation of any of the requirements in the Illinois Vehicle Code or Illinois Administrative Code. The annulment or termination shall not be subject to renewal or restoration, except that an application for a new license shall be presented and acted upon by the Secretary after the licensee demonstrates compliance with the provisions of this Part for which the cancellation was issued.

"CDL Accreditation" – the accreditation of a commercial driver training school by the Department that allows the school to offer instruction to students who wish to obtain a CDL and/or endorsement.

"CDL Study Guide" – a study guide, compiled by the Secretary of State from information contained in the Illinois Vehicle Code and 49 CFR 383, that is designed to aid drivers in preparing for a CDL examination.

"Commercial Driver's License" or "CDL" – a license issued by a state or other jurisdiction, in accordance with the standards contained in 49 CFR 383 (2008; this incorporation includes no later amendments or editions), to an individual, which authorizes the individual to operate a certain class of commercial motor vehicle as defined in IVC Section 1-111.6.

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"Commercial Driver Training School" – an entity licensed by the Secretary of State to engage in the business of giving instruction for a fee in the driving of motor vehicles or in the preparation of an applicant for examination given by the Secretary of State for a driver's license or permit.

"Commercial Driver Training Section" – a unit of the Department of Driver Services that oversees the licensing of commercial driving schools and the instructors in commercial driver training schools.

"Commercial Motor Vehicle" or "CMV" – a motor vehicle used in commerce, except those referred to in Section 6-500(6)(B) of the Illinois Vehicle Code, designed to transport passengers or property if:

the vehicle has a Gross Vehicle Weight Rating (GVWR) of 26,001 pounds or more or such a lesser GVWR as subsequently determined by federal regulations (49 CFR 383 (2008)); or

any combination of vehicles with a Gross Combination Weight Rating (GCWR) of 26,001 pounds or more, provided the GVWR of any vehicle or vehicles being towed is 10,001 pounds or more; or

the vehicle is designed to transport 16 more persons; or

the vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 CFR 172, subpart F (2008). [625 ILCS 5/6-500].

"Defined Time Frame Course" – A Teenage Accredited 30 Hour Classroom Course that must be distributed regularly over a minimum period of 4 complete weeks and must have definite starting and completion dates. Students may not be absent for more than 4 class sessions (8 clock hours) of the course.

"Department" – Department of Driver Services within the Office of the Secretary of State.

"Endorsement" – an indication on the driver's license that the driver has qualified to operate certain types and/or combinations of vehicles, and/or carry specified cargo.

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"Enhanced Instruction Report" – a report submitted on a form prescribed by the Department showing the name, address, and number of behind-the-wheel instruction periods taken for every student who has had 25 hours of behind-the-wheel instruction.

"Fraud" – includes anything calculated to deceive, whether it be a single act or combination of circumstances, whether the suppression of truth or the suggestion of what is false, whether it be by direct falsehood or by innuendo, by speech or by silence.

"Gross Vehicle Weight Rating" or "GVWR" – the value specified by the manufacturer or manufacturers as the maximum loaded weight of a single vehicle. The GVWR of a combination of vehicles (commonly referred to as the "Gross Combination Weight Rating" or "GCWR") is the GVWR of the power unit plus the GVWR of the towed unit or units. In the absence of a value specified by the manufacturer, GCWR is determined by adding the GVWR of the power unit and the total weight of the towed unit and any load on the unit. [625 ILCS 5/1-124.5]

"Hazardous Materials" – any material that has been designated as hazardous under 49 USC 5103 and is required to be placarded under subpart F of 49 CFR 172 (2008) or any quantity of a material listed as a select agent or toxin in 42 CFR 73 (2008).

"Illinois Vehicle Code" or "Vehicle Code" or "IVC" – 625 ILCS 5.

"Instruction Record" – records kept by the instructor to reflect the number of hours a pupil in a commercial driver training school attends behind-the-wheel and classroom instruction as provided in IVC Section 6-418.

"Main Office" – the primary office of the commercial driver training school that is designed solely for conducting the business of the school as provided in Article IV of the Illinois Driver Licensing Law of the Illinois Vehicle Code.

"Misrepresentation" – a false statement of a substantive fact, or any conduct that leads to a belief of a substantive fact material to proper understanding of the matter in hand, made with intent to deceive or mislead.

"Physical Facilities" – the building and items that constitute part of the building,

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including the telephone and the furniture.

"Questionnaires" – any and all written examinations and/or forms, including but not limited to the "Illinois Driver's License Written Examination Basic and Classification "D"" and "Identification of Signs, Shapes and Colors" forms.

"Restriction" – the notation on a driver's license or permit indicating requirements deemed applicable to the licensee by the Department to assure safe operation of a motor vehicle.

"Revocation" – the termination by formal action of the Secretary of a commercial driver training school's license or a commercial driver training school instructor's license. The termination shall be subject to renewal or restoration identical to the provisions for revocation of a driver's license as provided in IVC Section 1-176.

"Sequential Module Course" – A Teenage Accredited 30 Hour Classroom Course that students must take in the proper sequential order indicated in the school's classroom content curriculum submitted to and approved by the Secretary of State. The course must be completed within 9 months after the first classroom session attended.

"Sex and Drug Related Offenses" – offenses of criminal sexual assault [720 ILCS 5/12-13], aggravated criminal sexual assault [720 ILCS 5/12-14], criminal sexual abuse [720 ILCS 5/12-15], aggravated criminal sexual abuse [720 ILCS 5/12-16], juvenile pimping [720 ILCS 5/11-19.1], soliciting for a juvenile prostitute [720 ILCS 5/11-15.1], unauthorized manufacture or delivery of a controlled substance, including counterfeit drugs [720 ILCS 570/401], sale, delivery or exchange of instruments used for illegal drug use or abuse [720 ILCS 5/22-51], delivery of a controlled substance, including counterfeit and look alike substances [720 ILCS 570/407], manufacture or delivery of cannabis [720 ILCS 550/5], delivery of cannabis [720 ILCS 550/7], the production of the cannabis plant [720 ILCS 550/8], illegal possession in a motor vehicle of any controlled substance or any cannabis [625 ILCS 5/6-206(a)(28)], the criminal transmission of HIV [720 ILCS 5/12-16.2], exploitation of a child [720 ILCS 5/11-19.2], controlled substance trafficking [720 ILCS 570/401.17], cannabis trafficking [720 ILCS 550/5.1], delivery of cannabis on school grounds [720 ILCS 550/5.2], calculated criminal cannabis conspiracy [720 ILCS 550/9], calculated criminal drug conspiracy [720 ILCS 570/405], and criminal drug conspiracy [720 ILCS 570/405.1].

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"Short Review Course" – a course offered by commercial driver training schools to pupils who have previously held or currently hold a valid driver's license and that does not meet the requirement of 6 hours of classroom instruction and 6 hours behind-the-wheel instruction.

"Surety Bond" – a written obligation whereby a person assumes liability for another person's debts or defaults of obligation.

"Suspension" – the procedures for temporary withdrawal of a commercial driver training school's license or commercial driver training school instructor's license identical to the provisions for the suspension of a driver's license as provided in IVC Section 1-204.

"Teen Accreditation" – the accreditation of a commercial driver training school by the Department that allows the school to offer instruction to pupils under age 18.

(Source: Amended at 42 Ill. Reg. 16056, effective August 3, 2018)

Section 1060.20 Requirements for School Licenses

- a) The Secretary of State shall not issue, or shall deny, cancel, suspend or revoke, a driver training school license:
 - 1) Unless the applicant has at least one motor vehicle owned or leased in the name of the driver training school or school owner indicated on the license, and registered by the Secretary of State Vehicle Services Department, that has been safety inspected and insurance certified as required pursuant to IVC Section 6-402(d) ~~in subsection (e)~~ for use by the school for driver training purposes and driving instruction.
 - 2) Unless the applicant has at least one person who is employed by or associated with the school and who is licensed or qualified to be licensed by the Department as a driver training instructor for that school.
 - 3) Unless the physical facilities meet the requirements of this Part.
 - 4) Unless the applicant is of good moral character as required pursuant to IVC Section 6-402(a). In making a determination of good moral

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character, the Department is not limited to, but may consider, the following:

- A) Whether the applicant has been convicted of a felony or a misdemeanor. The Department shall consider:
 - i) The relationship of any crime of which the applicant has been convicted to the ability to operate a driver training school;
 - ii) The length of time that has elapsed since the applicant's last criminal conviction;
 - iii) Whether the applicant successfully completed any sentence imposed with the convictions;
 - iv) Whether the applicant has multiple convictions for felony or misdemeanor offenses.
- B) If the person has been indicted, formally charged or otherwise charged with a felony or a misdemeanor, the license shall be either denied or cancelled.
 - i) If the person whose commercial driver training school license has been denied or cancelled under this Part is adjudicated "guilty" by the court systems, the denial or cancellation previously entered on his/her record in accordance with Section 1060.190(b) shall stand. This action does not preclude further suspension and/or revocation of the commercial driver training school license under another Section of this Part or the IVC.
 - ii) If the person whose commercial driver training school license has been denied or cancelled under this Part is adjudicated "not guilty" by the court systems, the denial or cancellation previously entered on the license in accordance with Section 1060.190(b) shall be rescinded. This action does not preclude further suspension and/or revocation of the commercial driver training school license

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under another Section of this Part or the IVC.

- iii) If the person whose commercial driver training school license has been denied or cancelled under this Part is granted a disposition of "court supervision" by the court systems, the denial or cancellation previously entered on the license in accordance with Section 1060.190(b) shall be rescinded. This action does not preclude further suspension and/or revocation of the commercial driver training school license under another Section of this Part or the IVC.
- 5) To any licensed school owner who, during the course of any and all interaction with students:
 - A) engaged in activity that puts the student in danger; or
 - B) engaged in reckless behavior; or
 - C) failed to maintain a professional relationship with students at all times.
 - b) Only one driver training school license shall be issued to any individual, group, association, partnership or corporation, and the Department shall deny the application of any driver training school if any of the applicants are unqualified or are already licensed or have made application for another driver training school license.
 - c) The applicant shall not be a current salaried or contractual employee of the Secretary of State, as mandated by the guidelines of the Secretary of State's Office policy manual that states that an employee shall not advocate or promote specific professional or commercial services to the public in matters under the jurisdiction of the Office of the Secretary of State.
 - d) No accreditation program shall remain in operation if properly qualified personnel are not available or if other changes occur that would reduce its qualifications. Exception: in the event of fire, flood or other catastrophe, the school may temporarily continue to operate with facilities that are not up to standards only for the duration of the courses that have been started, if the Director of the

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Department consents. A Secretary of State employee shall determine that no health or safety hazard exists in violation of any local ordinance or State or federal law or regulation before the Director of the Department shall give consent. No new course can be started until facilities meet the minimum requirements for licensing.

- e) No driver training school shall operate in the State of Illinois unless it provides and files with the Department a continuous surety bond in the principal sum of \$10,000 for a non-accredited school, \$40,000 for a CDL or teenage accredited school, \$60,000 for a CDL accredited and teenage accredited school, \$50,000 for a CDL or teenage accredited school with three or more licensed branches, \$70,000 for a CDL accredited and teenage accredited school with three or more licensed branches, underwritten by a company authorized to do business in the State of Illinois, for the protection of the contractual rights of students as provided in IVC Section 6-402(e). All bonds filed pursuant to this provision shall be in substantially the following form:

Know All Persons by These Presents, That We, _____,
 _____, of
 _____,
 hereinafter referred to as Principal and _____, a
 corporation organized and existing to do business in the State of Illinois, for the
 use and benefit of all persons who may be damaged by breach of this bond, as
 Obligees, in the penal sum of \$10,000 for a non-accredited school, \$40,000 for
 a CDL or teenage accredited school, \$60,000 for a CDL accredited and teenage
 accredited school, \$50,000 for a CDL or teenage accredited school with three or
 more licensed branches, \$70,000 for a CDL accredited and teenage accredited
 school with three or more licensed branches, lawful money of the United States
 of America, for the payment of which sum, well and truly to be made, we bind
 ourselves, our executors, administrators, successors and assigns, firmly by these
 presents. The condition of this obligation is such that the principal has made
 application for a license or permit to the State of Illinois for the purpose of
 exercising the vocation of a driver training school. If the Principal faithfully
 complies with the Illinois Vehicle Code and all rules and regulations that have
 been or may hereafter be in force concerning the license or permit, and shall
 save and keep harmless the Obligees from all loss or damage that may be
 sustained as a result of the issuance of the license or permit to the Principal, this
 obligation shall be void; otherwise, this obligation shall remain in full force and
 effect. The bond will expire but may be continued by renewal certificate signed

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by Principal and Surety. The Surety may at any time terminate its liability by giving 30 days written notice to the Commercial Driver Training Section of the Department, 650 Roppolo Drive, Elk Grove Village, Illinois 60007, and the Surety shall not be liable for any default after that 30 day notice period, except for defaults occurring prior thereto.

Signed, Sealed and Dated this _____ day of _____, 20__.

Principal _____

Surety _____

By _____
Attorney-in-fact

- f) Upon receipt of a properly executed application for a driver training school license, or driver training instructor's license, the Department shall investigate the qualifications of the applicant, and authorized representatives shall inspect the school property and equipment to determine whether the application should be granted or denied.
- g) An owner or manager shall not engage in fraudulent activity as defined in Section 1060.5.
- h) An owner or employee of a commercial driver training school shall not have been declared to have engaged in fraudulent activity within the 5 years prior to making application.
- i) Licenses shall be issued by the Department.
- ~~j) An owner shall not have possession of questionnaires used by the Driver Services Department in conjunction with administering driver's license examinations. This includes questionnaires purposely or inadvertently obtained from any Secretary of State employee or any individual acting on behalf of the Secretary of State.~~
- j) An owner shall not knowingly use unlicensed instructors for the purpose of classroom or behind the wheel instruction.
- k) An owner or applicant shall not be employed as an administrator and/or teacher of a State-approved high school driver education program.

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- ~~l)~~ An owner of a commercial driver training school that provides motorcycle instruction shall not provide any person with an Illinois Department of Transportation Rider Education Course Completion Card.
- ~~m)~~ An individual whose commercial driver training school license has been denied, cancelled, suspended or revoked pursuant to this Part may request an administrative hearing pursuant to 92 Ill. Adm. Code 1001.

(Source: Amended at 42 Ill. Reg. 16056, effective August 3, 2018)

Section 1060.50 School Locations and Facilities

- a) Each driver training school must comply with IVC Section 6-409. In addition, the branch classroom shall be identified as such by a permanent sign which indicates the location of the main office and classroom and which is reasonably visible to the general public from outside the branch classroom.
- b) The established place of business of each driver training school shall comply with IVC Section 6-406 and, in addition:
- 1) The main office and each branch office shall have a minimum of 150 square feet of office space;
 - 2) Each school facility must post, in a conspicuous place, on or near the permanent school sign, the days and regular hours, on file with the Secretary of State, when open. A school shall not be deemed open for business unless at least one authorized representative of the school is present; and
 - 3) The main office and each branch office of the driver training school may be in the same building with another business, providing the other business being conducted is legal and that the business has its own entrance.
- c) The established place of business or branch office, branch classroom or advertised address of any driver training school shall comply with all restrictions contained in IVC Section 6-405(b).

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- d) Each established main office and branch office facility must maintain a place of business which shall be open to the general public during posted hours on file with the Secretary of State, a minimum of 8 hours per week. The 8 hours must be on Monday through Friday between the hours of 7 a.m. and 5 p.m.
- e) The classroom facility shall contain the following:
 - 1) Sufficient seating facilities and writing surfaces for students;
 - 2) Charts, diagrams, traffic control devices, or pictures relating to the operation of motor vehicles and traffic laws;
 - 3) Blackboards or other forms of illustrative devices which are visible from all seating areas;
 - 4) Textbooks, reference books and pamphlets relating to the proper operation of motor vehicles and traffic laws;
 - 5) Adequate fire extinguishers in operable condition as required pursuant to IVC Section 6-406(c).
- f) Each main classroom or branch classroom shall have:
 - 1) a minimum of 300 square feet of classroom space and the main classroom shall be within close proximity of the main office facility;
 - 2) installed a heating and ventilating system adequate to maintain a comfortable room temperature for the occupants;
 - 3) installed an adequate lighting system so as to provide sufficient lighting for the occupants.
- g) A driver training school that has an established place of business and a main classroom facility may operate a branch classroom, provided it meets all requirements of the main classroom.
 - 1) Upon receipt by the Department of a written request to open a branch classroom or branch office, an authorized representative of the Department shall inspect the branch office or branch classroom, and, if it complies

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with the provisions of IVC Section 6-406(e) and this Part, the Department shall issue the appropriate license, which must be displayed in a visibly prominent place in the branch facility.

- 2) When a branch facility is to be closed, the driver training school shall return the branch facility's license to the Secretary of State in a timely manner.

(Source: Amended at 42 Ill. Reg. 16056, effective August 3, 2018)

Section 1060.120 Requirements to Obtain and Retain a Driver Training Instructor's License

- a) The Secretary of State shall not issue [a driver training instructor's license to](#), or shall deny, cancel, suspend or revoke, a driver training instructor's license [of](#):
 - 1) [AnyTo any](#) person who:
 - A) has not held a valid driver's license for any 2 year period preceding the date of application for an instructor's license;
 - B) intends to instruct in L and/or M classification, as defined in 92 Ill. Adm. Code 1030.30(e) and (f); and
 - C) has not held the representative classification for 3 consecutive years immediately prior to the date of application;
 - 2) [AnyTo any](#) person who has been convicted of 3 or more offenses against traffic regulations governing the movement of traffic within the 2 year period immediately preceding the date of application for an instructor's license;
 - 3) [AnyTo any](#) person who has had 2 or more convictions of a violation that caused an auto accident within the 2 year period immediately preceding the date of application for an instructor's license;
 - 4) [AnyTo any](#) person:
 - A) who has been convicted, [within 10 years prior to the date of](#)

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application, of:

- i) driving under the influence of alcohol and/or other drugs, pursuant to IVC Section 11-501~~;~~;
 - ii) leaving the scene of ~~ana-fatal~~ accident involving death or personal injuries, pursuant to IVC Section 11-401~~;~~;
 - iii) reckless homicide, pursuant to Section 9-3 of the Criminal Code of 2012 [720 ILCS 5]~~;~~;
 - iv) reckless driving, pursuant to IVC Section 11-503~~;~~~~or~~
 - v) any sex or drug related offense; or
 - vi) a similar provision of a local ordinance or a similar provision of the law of any other state or territory of the United States within 10 years prior to the date of application; or
- B) ~~to any person~~ with more than one of these convictions;
- 5) ~~AnyTo any~~ person who has failed to pass the written, vision, or road test required by the Department for applicants for a driver training instructor's license;
- 6) ~~AnyTo any~~ person who is physically unable to safely operate a motor vehicle or to safely instructor train others in the operation of a motor vehicle as determined by a licensed physician pursuant to IVC Section 6-411(d). An application/medical examination form provided by the Secretary of State shall be completed by the applicant and physician. The physician's medical examination form shall contain the applicant's ability to safely operate a motor vehicle. The form shall also contain an indication of the person's eyesight, hearing, mental alertness, reflexes, and whether the person has normal use of his/her limbs and feet. The physician must also provide his/her address and the date and place of the examination. Those persons who are solely classroom instructors shall comply with subsection (d);

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- 7) AnyTo any person who fails to properly and fully complete an application for a license or otherwise indicates that he/she is unqualified to receive a driver training instructor's license;
- 8) AnyTo any person who is not employed or associated with a driver training school licensed by the Department as required pursuant to IVC Section 6-417;
- 9) AnyTo any person who is currently a salaried or contractual employee of the Secretary of State, as mandated by the guidelines of the Secretary of State's Office policy manual that states that an employee shall not advocate or promote specific professional or commercial services to the public in matters under the jurisdiction of the Office of the Secretary of State;
- 10) AnyTo any person who fails to supply a complete set of fingerprints to the Department as required pursuant to IVC Section 6-411(b);
- 11) AnyTo any person who is not at least 21 years of age and a resident of the State of Illinois;
- 12) AnyTo any person who has failed to comply with the provisions of this Part pursuant to IVC Section 6-411(d);
- 13) AnyTo any person who is not of good moral character as required pursuant to IVC Section 6-411(a). In making a determination of good moral character, the Department is not limited to, but may consider the following:
 - A) If the person has been convicted of a felony or misdemeanor. The Department shall consider:
 - i) The relationship of any crime of which the person has been convicted to the ability to operate a driver training school;
 - ii) The length of time that has elapsed since the owner's last criminal conviction;

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- iii) Whether the applicant successfully completed any sentence imposed with the convictions;
 - iv) Whether the applicant has multiple convictions for felony or misdemeanor offenses.
- B) If the person has been indicted or formally or otherwise charged with a felony or a misdemeanor, the license shall be either denied or cancelled.
- i) If the person whose commercial driver training school instructor license has been denied or cancelled under this Part is adjudicated "guilty" by the court systems, the denial or cancellation previously entered on his/her record in accordance with Section 1060.190(b) shall stand. This action does not preclude further suspension and/or revocation of the commercial driver training school instructor license under another Section of this Part or the IVC.
 - ii) If the person whose commercial driver training school instructor license has been denied or cancelled under this Part is adjudicated "not guilty" by the court systems, the denial or cancellation previously entered on the license in accordance with Section 1060.190(b) shall be rescinded. This action does not preclude further suspension and/or revocation of the commercial driver training school instructor license under another Section of this Part or the IVC.
 - iii) If the person whose commercial driver training school instructor license has been denied or cancelled under this Part is granted a disposition of "court supervision" by the court systems, the denial or cancellation previously entered on the license in accordance with Section 1060.190(b) shall be rescinded. This action does not preclude further suspension and/or revocation of the commercial driver training school instructor license under another Section of this Part or the IVC;

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- 14) ~~AnyTo any~~ person whose suspension under IVC Section 11-501.1, 11-501.6, ~~or 11-501.8, 11-501.9~~ or a similar provision of a local ordinance, or a similar provision of the law of any other state or territory of the United States has terminated within 10 years prior to the date of application; or to any person with more than one of ~~these~~~~the above~~ suspensions ~~under IVC Section 11-501.1 or 11-501.6~~;
- 15) ~~AnyTo any~~ person who has not completed a 30-hour course or an equivalent college or university course approved by the Director of the Department.
- A) Any person possessing a current and valid commercial driver training instructor's license, or who is renewing a commercial driver training license issued by the Secretary of State's Office, shall be exempt from this requirement.
- B) A driver training school whose instructor provides training to individuals under the age of 18 years is exempt from this requirement and must complete the mandatory 48 hour course as required in Section 1060.180;
- 16) ~~AnyTo any~~ person currently licensed by the Secretary of State as a Third Party Certification Program Safety Officer;
- 17) ~~AnyTo any~~ instructor or applicant who is an administrator and/or teacher of a State-approved high school driver education program;
- 18) ~~AnyTo any~~ currently licensed instructor who has been convicted of violating IVC Section 11-507 or to an applicant who has been convicted of violating IVC Section 11-507 within 10 years prior to the date of application.
- b) No driver training instructor shall provide behind-the-wheel instruction in a vehicle that is classified higher than the classification of the instructor's driver's license. An instructor may hold two classifications: one classification from Classes A, B, C and D, and one classification from Classes L and M, as defined in 92 Ill. Adm. Code 1030.30. An instructor holding a Class A commercial driver's license may teach students to drive all Class A, B, C and D vehicles. An

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instructor holding a Class B commercial driver's license may teach students to drive all Class B, C and D vehicles. An instructor holding a Class C commercial driver's license may teach students to drive all Class C and D vehicles. However, an instructor holding a non-commercial driver's license may only teach students who do not require a commercial driver's license. An instructor holding a Class M license may teach students to drive all Class L and M vehicles.

- c) Any person who is physically unable to safely operate a motor vehicle but meets all other requirements to be a driver training instructor shall be able to teach only the classroom portion of the driver training course upon receipt of a doctor's statement indicating the person is physically able to teach in the classroom. The person shall also pass the vision test, as provided in 92 Ill. Adm. Code 1030.70, the written test, as provided in 92 Ill. Adm. Code 1030.80, and the highway safety sign test, and shall submit all applicable fees as set out in IVC Section 6-411 before being issued an instructor's license for classroom instruction only.
- d) All instructors who have ceased to be employed or associated with the designated school on their license must submit a new complete instructor's license application and application fee before being licensed to instruct at another school or in the same school after such cessation.
- e) If a driver training instructor license is not renewed within one year after the previous year's expiration date, the applicant shall be required to take examinations pursuant to Section 1060.130.
- f) An instructor shall not engage in fraudulent activity as defined in Section 1060.5.
- g) During any and all interaction with students, an instructor:
 - 1) shall not engage in activity that puts the student in danger;
 - 2) shall not engage in reckless behavior; and
 - 3) shall maintain a professional relationship with students at all times.
- h) ~~An instructor shall not have possession of questionnaires used by the Driver Services Department in conjunction with administering driver's license examinations. This includes questionnaires purposely or inadvertently obtained from any Secretary of State employee or any individual acting on behalf of the~~

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- ~~h)j)~~ An individual whose commercial driver training school instructor license has been cancelled pursuant to this Part may request an administrative hearing pursuant to 92 Ill. Adm. Code 1001.
- ~~i)j)~~ An instructor of a commercial driver training school that provides motorcycle instruction shall not provide any person with an Illinois Department of Transportation Rider Education Course Completion Card.

(Source: Amended at 42 Ill. Reg. 16056, effective August 3, 2018)

Section 1060.181 Teen Accreditation Classroom and Behind-the-Wheel Requirements

- a) Course Objectives. The educational objectives of driver education shall include, but not be limited to, promoting respect for and encouraging observance of traffic laws and traffic safety responsibilities of drivers and citizens, reducing traffic violations, reducing traffic-related injuries, deaths and economic losses, and motivating continuing development of traffic related competencies through education, including, but not limited to, Illinois traffic law, risk management, driver attitudes, courtesy skills, evasive driving techniques and informing participants about the effects of alcohol and other drugs on driving ability.
- b) Classroom Instruction – For Persons under the Age of 18
- 1) General Provisions
- A) Classroom instruction shall consist of a minimum of 30 hours of instruction.
- B) Classroom courses are limited to two hours per day, per student.
- C) No more than one classroom course may be taught during the same time period in the same classroom. The number of students in each classroom session shall not exceed 30 students, except if the size of the classroom exceeds 350 square feet, a maximum of 35 students shall be allowed.~~No course enrollment shall exceed 30 students, except that, if the size of the classroom exceeds 350 square feet, a maximum of 35 students shall be allowed.~~

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- D) ~~Each student shall be informed prior to the time instruction begins of any fees or charges made for enrollments or registration, tuition, use of equipment, text and reference materials, supplies, and any service, equipment or materials provided by the commercial driving school. Each classroom course must be distributed regularly over a minimum period of four complete weeks and must have definite starting and completion dates. No more than one classroom course may be taught during the same time period in the same classroom. Late registrations shall not be accepted beyond the third day of the course, at which time the course must be closed to further enrollments.~~
- E) ~~Each student shall be enrolled in either a Defined Time Frame Course or a Sequential Course. A Secretary of State enrollment form listing all students enrolled in each and every classroom course, including the times and dates the class will meet, shall be sent to the Commercial Driver Training School Division within 3 days after the third day of classroom instruction. A certificate will not be issued to any student whose name has not been submitted on this form, signed by an authorized representative of the commercial driving school.~~
- F) ~~Instruction for each student in the classroom course shall take place on the dates, times and locations designated on the Secretary of State enrollment form unless the course is cancelled and the student is refunded any fees already paid.~~
- G) ~~Late registrants and absentees shall be given make-up instruction and assignments. No school shall permit a student to be absent from more than 4 class sessions without requiring the student to re-enroll in a later course and to start over.~~
- H) ~~Each student shall be informed prior to the time instruction begins of any fees or charges made for enrollments or registration, tuition, use of equipment, text and reference materials, supplies, and any service, equipment or materials provided by the commercial driving school.~~

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- 2) Defined Time Frame Course
- A) A listing of all students enrolled in each and every Defined Time Frame Course, including the times and dates the class will meet, shall be submitted, in a manner prescribed by the Secretary of State, to the Commercial Driver Training School Section, within 3 days after the third day of classroom instruction. A certificate of completion shall not be issued to any student whose name has not been submitted.
- B) Each Defined Time Frame Course must be distributed regularly over a minimum period of four complete weeks and must have definite starting and completion dates. Late registrations shall not be accepted beyond the third day of the course, at which time the course must be closed to further enrollments.
- C) No Defined Time Frame Course enrollment shall exceed 30 students, except that, if the size of the classroom exceeds 350 square feet, a maximum of 35 students shall be allowed.
- D) Late registrants and absentees shall be given make-up instruction and assignments. No school shall permit a student to be absent from more than 4 class sessions (8 clock hours) without requiring the student to re-enroll in a later course and to start over.
- E) Instruction for each student in a Defined Time Frame Course shall take place on the dates, times and locations designated on the Secretary of State enrollment form unless the course is cancelled and the student is refunded any fees already paid.
- 3) Sequential Module Course
- A) Students enrolled in a Sequential Module Course must take the 30 hours of classroom instruction in the proper sequential order indicated in the school's classroom content curriculum submitted and approved by the Secretary of State, pursuant to 92 Ill. Adm. Code 1060.181(b)(4).

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- B) Students enrolled in a Sequential Module Course must complete the 30 hours of classroom instruction within 9 months after the first classroom session attended.
- C) The name of each student, start date and location of the first Sequential Module Course classroom session attended by the student shall be submitted, in a manner prescribed by the Secretary of State, to the Commercial Driver Training School Section, within 3 days after the third day of the first Sequential Module Course classroom session.

4)2) Required Course of Instruction – General

- A) Each teen-accredited driver training school shall submit to the Secretary of State a copy of its classroom course content, which must, at a minimum, include the course content set forth in subsection (b)(64), which shall be reviewed by the Commercial Driver Training School Division of the Department of Driver Services. If the classroom course content meets the requirements, it will be approved by the Department.
- B) Accredited teen driver training schools must follow the approved classroom course content submitted to the Director of the Department at the time of application for licensure. The Department shall determine compliance with this provision by unannounced inspections of the driver training schools, which shall occur, at a minimum, once every two months.
- C) If a driver training school wishes to substantially change the classroom course content, a copy of its revised course content must be submitted in duplicate to the Commercial Driver Training School Division for approval. After review, the Commercial Driver Training School Division will send a letter to the driver training school informing the school of whether its revised classroom course content has been approved.
- D) A regular schedule of classroom testing shall be followed to measure the comprehension level of students. Students may not be given credit for the driver education course unless they score an

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average of 75% or more on all tests. Test questions may be short answer, multiple choice, essay or a combination of these. Criteria for passing or failing the course must be evident to the students and successful completion clearly defined.

5)3) Instructional Materials

- A) A textbook on driver education must be in the possession of each student for the duration of the course, to be used as a regular part of the course content.
- B) Audio-visual materials may be used as a supplement to the instructor's presentation, but not as a replacement, so long as the material relates to driver education. Materials may include, but are not limited to, videos, DVDs and CDs. Reference materials are to be available to the students and their use assured by assignments. All assignments are to be made in advance of due dates and should include outside reading as well as preparation for testing.

6)4) Classroom Course Content. The following topics shall be included in classroom instruction:

- A) Your License to Drive. Objective: familiarization with the process of obtaining an instruction permit and driver's license and the obligations and responsibilities that exist with holding a license:
 - i) classifications of driver's licenses;
 - ii) testing required to obtain a driver's license;
 - iii) suspensions and revocations of driver's licenses;
 - iv) mandatory insurance laws; and
 - v) organ/tissue donation.
- B) Getting Under Way. Objective: locating and identifying the location, purpose and operation of each indicator, gauge and control, thereby operating safely and conserving fuel:

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- i) the view from behind the wheel, learning the controls – instrument panel, indicators, gauges, controls, lights and other signals;
 - ii) controls for safety – safety belts, passive restraints, head restraints and rearview mirrors; and
 - iii) getting ready to drive, adjusting seat and mirrors and starting the engine.
- C) Basic Driving Maneuvers. Objective: defensive driving:
- i) steering;
 - ii) accelerating;
 - iii) braking;
 - iv) changing lanes;
 - v) turning;
 - vi) backing;
 - vii) changing direction;
 - viii) parking;
 - ix) passing; and
 - x) railroad crossings.
- D) Traffic Safety Laws. Objective: familiarization with traffic and vehicle laws and influencing drivers to comply with laws on a voluntary basis:
- i) basic driving rules;

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- ii) right-of-way;
 - iii) speed laws;
 - iv) traffic signs and signals;
 - v) pavement markings;
 - vi) highway markings;
 - vii) how to respond to emergency vehicles, including Scott's Law and [instruction concerning law enforcement procedures for traffic stops, including a demonstration of the proper actions to be taken during a traffic stop and appropriate interactions with law enforcement](#)~~how to interact with law enforcement~~;
 - viii) distracted driving, including, but not limited to, cell phone use, texting, eating;
 - ix) GDL laws, including nighttime driving restrictions and passenger limitations;
 - x) special safety laws – driving under the influence, implied consent, zero tolerance, post-accident responsibilities and duties; and
 - xi) construction and school zones.
- E) Laws of Nature and Driving. Objective: learning about forces that act upon a vehicle and predicting how a vehicle will respond:
- i) understanding gravity, center of gravity, friction, energy of motion, centrifugal force and hydroplaning;
 - ii) stopping distance – perception time and distance, reaction time and distance, and braking distance; and

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- iii) force of impact – factors affecting force of impact, energy-absorbing features in cars and passenger restraint.
- F) Strategy for Driving. Objective: using the Smith System, IPDE process, Zone Control System or any other recognized process for:
- i) identifying problems, predicting outcomes, deciding action and executing decisions;
 - ii) avoiding, separating and handling hazards, managing time, speed and space, and following and stopping distance; and
 - iii) trouble spots, limited visibility, traction and space.
- G) Driving in City Traffic. Objective: identifying and handling city driving hazards:
- i) characteristics of city driving – congestion, reduced speed and cross traffic;
 - ii) incoming traffic, following traffic, tailgaters, intersections, multi-lane roads and one-way streets; and
 - iii) right-of-way situations – pedestrians, emergency vehicles and school buses.
- H) Driving on Highways – objective: adjusting to a variety of traffic patterns, speeds and road conditions:
- i) characteristics of highway driving – less congestion, increased speeds and road conditions;
 - ii) junctions, bridges, railroad crossings and hills;
 - iii) driving on the interstate system – minimum/maximum speeds, entering and exiting the interstate, and opposing or cross traffic; and
 - iv) driving to conserve fuel.

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- I) Sharing the Road with Other Users. Objective: learning special characteristics and needs of other highway users and what to do to avoid conflicts:
 - i) pedestrians, animals and bicyclists;
 - ii) motorcycles and mopeds; and
 - iii) other vehicles, e.g., large trucks and recreational vehicles.

- J) Road Hazards and Vehicle Failures. Objective: identifying hazards and acting to avoid them:
 - i) potential problems – visibility, weather and traction;
 - ii) other emergencies – controlling the vehicle, swerving, skids, collisions and counterskids; and
 - iii) vehicle equipment failure – tires, brakes, accelerators, steering, engine and lights.

- K) Driver Fitness and Highway Safety. Objective: driving maneuvers based on physical and mental condition:
 - i) physical condition – age, fatigue, coordination, vision, disabilities and hearing; and
 - ii) mental condition – alertness, awareness and emotions.

- L) Alcohol, Other Drugs and Driving. Objective: to identify the effects of alcohol and other drugs relating to driving ability:
 - i) drug use and abuse – dangers, cautions and effects;
 - ii) alcohol and the driver – effects;
 - iii) responsibilities as a driver and passenger;

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- iv) driving under the influence, zero tolerance, implied consent, and underage drinking not involving a motor vehicle; and
 - v) possessing, obtaining or using a fraudulent or fictitious driver's license or identification card.
- M) Maintaining a Motor Vehicle. Objective: a well maintained vehicle is safer:
- i) vehicle inspection;
 - ii) preventive maintenance – brakes, tires, steering, suspension and checking under the hood; and
 - iii) fuel economy – vehicle choice, maintenance and driving habits.
- c) Behind-the-Wheel Instruction – For Persons under Age 18
- 1) Each teen-accredited driver training school shall submit to the Secretary of State a copy of its behind-the-wheel course content, which must, at a minimum, include the course content set forth in subsection (c)(10). The course content shall be reviewed by the Commercial Driver Training School Division of the Department of Driver Services. If the classroom course content meets the requirements, it shall be approved by the Department.
 - 2) Behind-the-wheel instruction shall consist of a minimum of six hours of instruction during which the student is the operator of a dual controlled vehicle while the instructor is occupying the front seat and six hours of observation time.
 - 3) Behind-the-wheel instruction shall not begin until the student has completed four hours of the classroom portion of driver education and possesses the basic information required for safe operation of a vehicle in traffic.

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- 4) When engaged in behind-the-wheel instruction, each student must have in his or her possession a valid instruction permit issued by the Secretary of State.
- 5) At least two, but not more than 4, students may occupy the car with an instructor when behind-the-wheel instruction is in progress. Behind-the-wheel instruction shall not exceed 90 minutes per student, per day. (Exception: Students participating in the alternate behind-the-wheel formula set forth in subsection (c)(6) may be provided one two-hour session of behind-the-wheel instruction). Behind-the-wheel lessons must be distributed regularly over a minimum period of two complete weeks.
- 6) Observation time in the car may not be counted as student driving. A parent may request that observers be excluded if the parent has chosen an alternate formula. The alternate formula may substitute one additional hour of behind-the-wheel instruction for 3 hours of observation or 2 additional hours of behind-the-wheel instruction for 6 hours of observation. If an alternate formula is chosen, the student may drive alone with an instructor. The school must maintain on file a parental signature authorizing the student to take an alternate formula for the behind-the-wheel portion of instruction.
- 7) Each student shall receive a minimum of 6 full hours of behind-the-wheel instruction. There can be no allowance for any absences without actual make-up time spent behind-the-wheel. Satisfactory completion denotes that each student has the competencies to be certified by the school for issuance of a certificate.
- 8) Lesson time or practice driving time may not be used to call for, deliver or dismiss other students to their homes or pick-up points.
- 9) Practice driving instruction shall include actual experience in starting, stopping, shifting, turning, backing, parking, steering and emergency situation procedures in a vehicle equipped according to IVC Section 6-410.
- 10) Behind-the wheel instruction shall include demonstration of and instruction in:

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- A) Stopping;
- B) Starting;
- C) Turning;
- D) Backing;
- E) Parking;
- F) Steering.

(Source: Amended at 42 Ill. Reg. 16056, effective August 3, 2018)

Section 1060.200 Commercial Driver's License and/or Endorsement and/or Accreditation

- a) Accreditation of the Program
Each commercial driver training school that desires to offer instruction to those individuals who wish to obtain a CDL and/or endorsement and/or restriction must be accredited by the Secretary of State through the Department of Driver Services before instruction can be offered or advertised.
 - 1) Upon receipt of proper application for accreditation, the Secretary of State shall investigate the program and verify the information contained in the application. A Secretary of State employee shall contact the applicant and make an appointment to inspect the school's facilities. At the time of inspection, the Secretary of State employee shall verify that the school meets the standards for CDL accreditation set forth in this Section 1060.200(b) through (e) in addition to all other applicable Sections within this Part. These standards shall be furnished to the school by the Secretary of State before the visit, if the school requests them. If all qualifications and standards are met, the school shall be accredited to offer instruction on how to operate a vehicle with CDL and/or endorsement and/or restriction classification.
 - 2) The accreditation of each school is renewable upon the expiration date of the school license, provided all qualifications and standards are met and the school has been in compliance with this Part.

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- 3) Only qualified teaching personnel who already possess a CDL and/or endorsement and/or restriction classification may teach the drive portion of instruction.
- b) Required Facilities
- 1) All CDL, endorsement and/or restriction accredited schools must provide all classroom and vehicle facilities and equipment prescribed in IVC Chapter 6, Article IV and Section 1060.50.
 - 2) Those who desire to provide instruction to persons who wish to obtain a CDL, endorsement and/or restriction classified license must additionally provide a vehicle training area, owned or leased by the school. The area must:
 - A) be a minimum of 27,000 square feet;
 - B) be made of a solid surface and be able to accept paint, which includes but is not limited to concrete, asphalt and crushed compacted limestone;
 - C) have adequate lighting, approved by the Secretary of State, which is required for yard instruction to take place after dark;
 - D) have adequate parking space to accommodate all students when in the training area;
 - E) be maintained and be free of disrepair, including, but not limited to, potholes and ruts; and
 - F) contain restroom facilities if the school's main or branch location is not within 100 feet of the training facility.
- c) Required Course of Instruction
- 1) CDL accredited driving schools must administer driving instruction that corresponds to a curriculum provided to the school by the Secretary of State. Each CDL accredited driving school must provide the minimum of 160 hours of instruction in not less than a 4 week period to each student,

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as indicated in the curriculum. A student must complete the 160 hours of instruction within 9 months after starting instruction.

- 2) The following curriculum must be offered to each first time CDL student in a minimum of 4 weeks. Each student must receive 160 hours of CDL instruction as outlined in this subsection (b)(1)(B). The training schedule outlined must follow the Illinois Occupational Skill Standards, Entry-Level Truck Driver Manual (March 1999) endorsed for Illinois by the Illinois Occupational Skill Standards and Credentialing Counsel. This manual is available from the Secretary of State Driver Facility, 650 Roppolo Drive, Elk Grove Village IL 60007.
 - A) Classroom. 40 hours of classroom instruction; this includes, but is not limited to, preparation for the Secretary of State's written examinations and all chapters of this curriculum.
 - B) Range. A minimum of 20 hours of behind-the-wheel instruction. This requires one-on-one instruction with a properly licensed CDL instructor and vehicle on an approved vehicle training area.
 - C) Over the Road. A minimum of 20 hours of behind-the-wheel instruction on public streets and highways. This requires one-on-one instruction with a properly licensed CDL instructor and vehicle.
 - D) Observation. 20 hours of observation experience composed of behind-the-wheel range and over-the-road training.
 - E) Remedial Training. 60 hours of additional classroom training, behind-the-wheel range, and over-the-road training based on each CDL student's specific needs.
- 3) Instructional materials shall be available and shall include a form of video delivery.
- 4) A professional library containing an assortment of reference and textbooks, pamphlets, and other publications, including but not limited to the CDL Study Guide, available for the use of students and teachers.

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- 5) A brush-up course of instruction may be offered to individuals who currently hold or have held a CDL issued under the requirements of 49 CFR 383, as incorporated in Section 1060.5. The school must maintain records that verify students qualify for a brush-up course. This course may be offered on an hourly basis. No brush-up course may be offered to any individual who has never held a CDL.
- 6) Classroom Instruction – CDL, endorsement and/or restriction classification instruction
 - A) A listing of students enrolled in each course shall be sent to the Secretary of State, within 3 days after the third day of classroom instruction, on forms provided by the Secretary of State.
 - B) Classroom instruction shall include subject matter relating to the rules of the road as contained in the CDL Study Guide, safe driving practices, pedestrian safety, defensive driving techniques, behavioral characteristics of drivers, federal regulations relating to the Department of Transportation and CDL standards (49 CFR 383), vehicle insurance, the use of safety devices, ~~and~~ the effects of alcohol and drugs on driving, and information on the human trafficking problem in Illinois [625 ILCS 5/11-216].
 - C) Audio-visual materials shall be used as a supplement to the teacher's presentation, but not as a replacement.
 - D) Student progress is to be periodically evaluated. Criteria for passing or failing the course shall be evident to the student, and successful completion clearly defined.
 - E) Each student shall be informed, prior to the time instruction begins, of the amount of any and all fees or charges made for enrollment or registration, tuition, use of equipment, or materials provided by the CDL, endorsement and/or restriction accredited driver training program.
- 7) Laboratory Instruction – For persons taking instruction for CDL, endorsement and/or restriction classification
 - A) Behind-the-wheel instruction shall not begin until the student is

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enrolled in a classroom program of CDL, endorsement and/or restriction classification driver training and obtains the required knowledge for the safe operation of a vehicle in traffic as provided in 49 CFR 383.110-121.

- B) Each student must have in his/her possession, when engaged in vehicle operation, a valid and properly classified instruction permit or driver's license.
 - C) Practice driving instruction must comply with the curriculum provided by the Office of the Secretary of State, and shall include but not be limited to pre-trip inspection, actual experience in starting, stopping, shifting, turning, backing, docking, parking, steering and emergency situation procedures.
 - D) CDL skills testing for classification A must be given in a representative power unit with a multi-range transmission with no fewer than 9 forward gears and a representative trailer at least 48 feet long with a tandem axle.
- 8) Student Ratio Per Course
- A) The total number of students enrolled in each CDL accredited driving school during any given period shall not exceed 5 students per each currently licensed instructor.
 - B) The total number of students enrolled in each CDL accredited driving school during any given period shall not exceed 6 students for each currently registered CDL vehicle.
- d) Classroom Teacher Qualifications
- 1) Each CDL, endorsement and/or restriction accredited driver training school must have at least one classroom instructor employed by the school who meets the standards of IVC Section 6-411.
 - 2) Required Classroom Teacher Qualifications:
 - A) A driver training instructor teaching the classroom portion of a

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CDL, endorsement and/or restriction accredited course must comply with Sections 1060.120 and 1060.130.

- B) The instructor must possess good physical and mental health, as determined by a physician. An application/physical examination form, provided by the Secretary of State, shall be completed by the instructor and a physician.
 - C) A classroom instructor must pass an objective type instructor written examination based upon the IVC, this Part and the Commercial Motor Vehicle Safety Act of 1986 (49 USC 2704). The written examination shall consist of 125 questions (90 multiple choice and 35 true/false) and the instructor must correctly answer 106 questions to pass.
- e) CDL, Endorsement and/or Restriction Behind-the-Wheel Teacher Qualifications
- 1) Each CDL, endorsement and/or restriction accredited driver training school must have at least one behind-the-wheel instructor employed by the school who meets the standards of IVC Section 6-411.
 - 2) Required Behind-the-Wheel Teacher Qualifications:
 - A) A driver training instructor teaching the behind-the-wheel portion of a CDL, endorsement and/or restriction accredited course must comply with the provisions of Sections 1060.120 and 1060.130 and be licensed in a classification representative of the vehicle in which he or she intends to teach for at least 3 consecutive years immediately prior to application (a one month lapse in renewal will not negate the 3 consecutive years requirement).
 - B) The instructor must possess good physical and mental health, as determined by a physician. An application/physical examination form, provided by the Secretary of State, shall be completed by the instructor and a physician.
 - C) The instructor shall give instruction only in the classification, endorsement and/or restriction in which he/she is licensed.

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- D) A behind-the-wheel instructor must pass an objective type instructor written examination based upon the IVC, commercial school rules and regulations, and the Commercial Motor Vehicle Safety Act of 1986 (49 USC 2704), as provided for in subsection (c)(1)(C). In addition, a behind-the-wheel instructor must pass a practical test regarding his/her ability to drive a vehicle of CDL, endorsement and/or restriction classification (92 Ill. Adm. Code 1030.85).
- f) Student Instruction Records
- 1) Records shall be maintained by schools that document daily attendance, lesson time, and periodic evaluation of each student. Also recorded shall be the dates of classroom instruction, behind-the-wheel instruction and observation time. Students are to be identified by their name, address and other personal information. A driver license number also must be entered on the student record. The records are to be on file in the office of the management for a period of 3 years.
 - 2) The driver school with a CDL, endorsement and/or restriction accreditation must meet all requirements of Section 1060.60.
 - 3) The school and each student must maintain separate but identical logs of the student's behind-the-wheel instruction and observation time. The logs must include the dates of instruction, type of instruction, student/instructor signatures and odometer readings of the vehicles used for instruction.
 - 4) A Secretary of State form shall be used for submitting names of those students who have satisfactorily fulfilled the CDL accreditation course. The form shall be signed by an authorized official of the school.
- g) The Secretary of State shall suspend, revoke, cancel or deny the license and/or accreditation of any driver training school or driver training instructor if the school or instructor fails to comply with this Part or 49 CFR 383.
- h) The Secretary of State may reduce the amount of scheduled skills testing for CDL Accredited schools that have a student failure rate of 45% or greater in the preceding 2 calendar months.

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(Source: Amended at 42 Ill. Reg. 16056, effective August 3, 2018)

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- 1) Heading of the Part: Nursing School Grant Program
- 2) Code Citation: 23 Ill. Adm. Code 1100
- 3)

<u>Section Numbers:</u>	<u>Emergency Actions:</u>
1100.100	Amendment
1100.200	Amendment
1100.300	Amendment
1100.400	Amendment
1100.420	New Section
1100.440	New Section
1100.460	New Section
1100.480	New Section
1100.500	Repealed
1100.600	Repealed
1100.700	Amendment
1100.800	Repealed
1100.900	New Section
- 4) Statutory Authority: Implementing and authorized by Section 9.31 of the Board of Higher Education Act [110 ILCS 205/9.31].
- 5) Effective Date of Rules: August 6, 2018
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: Upon adoption of the identical proposed amendments filed concurrently with this emergency rule.
- 7) Date Filed with the Index Department: August 6, 2018
- 8) A copy of this Emergency Amendment, including any material incorporated by reference, is on file in the Board's principal office and is available for public inspection.
- 9) Reason for Emergency: Emergency amendments are necessary to implement needed changes prior to releasing grant applications for the current fiscal year program. These amendments do not change the intent and standards of the original grant program. Proposed Amendments will be submitted for publication in the *Illinois Register*.

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- 10) A Complete Description of the Subjects and Issues Involved: These amendments address two issues. First, on-going reductions in State funding have hampered the ability to provide grants in the current structure. The original rules were created with an appropriation of \$1.5 million and divided the funding into two categories of grants, expansion and improvement. However, the current funding is 75 percent less which requires a more flexible structure to award grants that will help increase the number of registered nurses graduating in Illinois.
- Second, the priority will be placed on funding proposed partnerships between community colleges and 4-year institutions to help address the call to provide baccalaureate training for registered nurses in regions throughout the State. The partnerships will help to provide students with seamless transitions between institutions.
- 11) Are there any rulemakings to this Part pending? No
- 12) Statement of Statewide Policy Objective: The emergency rule does not create or expand a State mandate as defined in Section 3 of the State Mandates Act [30 ILCS 805/3].
- 13) Information and questions regarding these emergency rules shall be directed to:

Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
1 N. Old State Capitol Plaza, Suite 333
Springfield IL 62701

217/557-7358
email: Helland@ibhe.org
fax: 217/782-8548

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

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NOTICE OF EMERGENCY AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1100

NURSING SCHOOL GRANT PROGRAM

Section

1100.100 Purpose

[EMERGENCY](#)

1100.200 Definitions

[EMERGENCY](#)

1100.300 Eligible Nursing Program

[EMERGENCY](#)

1100.400 Application Process

[EMERGENCY](#)[1100.420 Priorities for Projects Funded](#)[EMERGENCY](#)[1100.440 Use of Award Funds](#)[EMERGENCY](#)[1100.460 Grant Applications](#)[EMERGENCY](#)[1100.480 Award Determinations](#)[EMERGENCY](#)1100.500 Expansion Grants [\(Repealed\)](#)[EMERGENCY](#)1100.600 Improvement Grants [\(Repealed\)](#)[EMERGENCY](#)

1100.700 Award Process

[EMERGENCY](#)1100.800 Audit Requirements [\(Repealed\)](#)[EMERGENCY](#)[1100.900 Financial Reports, Closeout Reports, Performance Reports, and Audits](#)[EMERGENCY](#)

AUTHORITY: Implementing and authorized by Section 9.31 of the Board of Higher Education Act [110 ILCS 205/9.31].

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SOURCE: Emergency rules adopted at 30 Ill. Reg. 17113, effective October 16, 2006, for a maximum of 150 days; adopted at 31 Ill. Reg. 3145, effective February 7, 2007; amended at 35 Ill. Reg. 17458, effective October 14, 2011; emergency amendment at 42 Ill. Reg. 16096, effective August 6, 2018, for a maximum of 150 days.

Section 1100.100 Purpose**EMERGENCY**

The purpose of the Nursing School Grant Program is to address the nursing shortage in Illinois by *increasing the number of nurses graduating from Illinois institutions of higher learning* [110 ILCS 205/9.31]. ~~The Program is comprised of two grant categories: Expansion Grants and Improvement Grants. Grants for both categories shall be awarded on the basis of performance criteria~~ [110 ILCS 205/9.31] and a competitive application process.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 16096, effective August 6, 2018, for a maximum of 150 days)

Section 1100.200 Definitions**EMERGENCY**

"ACEN" means Accreditation Commission for Education in Nursing.

"Baccalaureate Completion Program" means upper division courses and bachelor's degree programs offered by 4-year degree-granting colleges and universities via an online program or at a location geographically convenient to student populations currently being served by an existing institution of higher learning.

"Board" means the Board of Higher Education.

"CCNE" means the Commission on Collegiate Nursing Education.

"Community College" means the public community colleges of this State.

"DFPR" means the Illinois Department of Financial and Professional Regulation or its successor.

"Eligible Nursing Program" means a nursing program at an Illinois institution of higher learning that prepares registered nurses in accordance with Section 1100.300 and offers at least one of the following nursing degree programs:

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"ADN" means an Associate Degree in Nursing. Upon completion of the program, a graduate must be eligible to take the examination (NCLEX-RN) for licensure as a registered nurse.

"BSN" means a Bachelor of Science in Nursing. This program admits pre-licensure students and awards a Bachelor of Science degree in nursing. Upon completion of the program, a graduate must be eligible to take the examination (NCLEX-RN) for licensure as a registered nurse.

"RN-BSN" means a baccalaureate completion program that admits registered nurses and awards a Bachelor of Science degree in nursing.

"MSN Entry" means a Master's of Science in Nursing program for students with bachelor's degrees in other fields who want to transition into nursing. Upon completion of the program, a graduate must be eligible to take the examination (NCLEX-RN) for licensure as a registered nurse.

~~"DFPR" means the Illinois Department of Financial and Professional Regulation or its successor.~~

~~"Expansion Grant" means a competitive grant, renewable for up to three years, under this Part that supports high performing eligible nursing schools for the purpose of expanding nursing program capacity and either increasing the number of students preparing for initial licensure as registered nurses (ADN or BSN) or increasing the number of registered nurses completing baccalaureate completion programs (RN-BSN).~~

~~"Improvement Grant" means an annual competitive grant under this Part that supports eligible nursing schools with the purpose of increasing student retention and improving institutional NCLEX-RN pass rates.~~

"Institution of Higher Learning" means a public or nonpublic institution of higher education located within Illinois that offers associate, baccalaureate or post-baccalaureate degrees and that is authorized to operate in the State of Illinois.

~~"NLNAC" means the National League for Nursing Accrediting Commission.~~

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"NCLEX-RN" means the National Council Licensure Examination-Registered Nurse. Passing the NCLEX-RN is required of candidates for licensure as a Registered Nurse (RN) in Illinois.

"Program" means the Nursing School Grant Program.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 16096, effective August 6, 2018, for a maximum of 150 days)

Section 1100.300 Eligible Nursing Program**EMERGENCY**

Illinois institutions of higher learning offering registered nursing degree programs must meet the following criteria to be eligible to receive a grant under this Part:

- a) ADN programs must:
 - 1) Be approved by DFPR;
 - 2) Be accredited by ACEN~~NLNAC~~; and
 - 3) Have an articulation agreement with at least one institution of higher learning that offers baccalaureate degrees for registered nurses.
- b) BSN programs must:
 - 1) Be approved by DFPR; and
 - 2) Be accredited by CCNE or ACEN~~NLNAC~~.
- c) RN-BSN programs must be accredited by ~~the~~ CCNE or ACEN~~the~~ NLNAC.
- d) MSN Entry program must:
 - 1) Be approved by DFPR; and
 - 2) Be accredited by CCNE or ACEN.

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(Source: Amended by emergency rulemaking at 42 Ill. Reg. 16096, effective August 6, 2018, for a maximum of 150 days)

Section 1100.400 Application Process**EMERGENCY**

- a) Eligible nursing programs will be notified by the Board when funding opportunities and application materials for grant opportunities under this Part are available.
- b) Application materials may be obtained from the Illinois Board of Higher Education, 1 N. Old State Capitol Plaza, Suite #333431 East Adams Street, Second Floor, Springfield IL, Illinois 62701-1404 or the Board's website at www.ibhe.org.
- c) Completed application materials must be signed by the institution's authorized representative and chief executive officer must be received by the Board by the announced deadline for the submission of applications, which shall not be less than 45 days from the announcement and release of application materials. Application materials will be due no later than October 31 of each year.
- d) ~~Grantees maintaining eligibility criteria in accordance with Section 1100.500(b) or Section 1100.600(b) may annually reapply for funding.~~

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 16096, effective August 6, 2018, for a maximum of 150 days)

Section 1100.420 Priorities for Projects Funded**EMERGENCY**

In a given fiscal year, the Program appropriations shall be allocated for projects based on the following order of priority:

- a) Funding for baccalaureate completion programs to facilitate student articulation from an ADN program offered by a community college to a BSN or RN-BSN program;
- b) Funding for continuation of a grant previously awarded under this Part; or

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- c) Funding for a new grant to expand or improve an eligible nursing program.

(Source: Added by emergency rulemaking at 42 Ill. Reg. 16096, effective August 6, 2018, for a maximum of 150 days)

Section 1100.440 Use of Award Funds
EMERGENCY

Acceptable expenditures may include, but are not limited to, the following direct costs:

- a) Hiring additional qualified nursing faculty and staff;
- b) Developing or expanding instructional programs (e.g., online, weekend, evening);
- c) Developing or expanding academic support services or programs;
- d) Securing additional clinical instruction sites;
- e) Improving or increasing spaces for classrooms or laboratories; and
- f) Purchasing equipment and other program-related instructional materials.

(Source: Added by emergency rulemaking at 42 Ill. Reg. 16096, effective August 6, 2018, for a maximum of 150 days)

Section 1100.460 Grant Applications
EMERGENCY

Grant applications under this Part shall include, but need not be limited to, the following items:

- a) Comprehensive description of the proposed use of funds, including evidence of current research and best practices, to support proposed strategies.
- b) Budget by line items, including personal services, contractual services, commodities, equipment, telecommunications, and travel.
- c) Performance measures, including, but not limited to, the following:
- 1) Number of degrees conferred (three-year trend);

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- 2) First-year retention rate (three-year trend based on 30 semester hours or equivalent);
 - 3) NCLEX-RN pass rate for first-time test takers in comparison to the national average for the previous calendar year as reported by DFPR; and
 - 4) Job placement within 6 months after degree completion (three-year trend).
- d) Statement of institutional support and sustainability of grant-funded activities.
 - e) Plans for close-out reports.
 - f) Uniform Application for State Grant Assistance completed and signed by authorized representative.

(Source: Added by emergency rulemaking at 42 Ill. Reg. 16096, effective August 6, 2018, for a maximum of 150 days)

Section 1100.480 Award Determinations
EMERGENCY

- a) The grant awards for eligible nursing programs shall be determined using a competitive process to review applications. The Board's standards for approval include, but are not limited to, the following criteria, considerations and weightings:
 - 1) Evidence of effective program goals and performance measures (25%);
 - 2) Proposed use of funds and budget justification demonstrating an effective use of program resources (25%);
 - 3) Evidence of institutional support and sustainability of grant-funded activities (10%); and
 - 4) Evidence of an effective plan to evaluate progress (15%).
- b) Grant funding is subject to Program appropriations.

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(Source: Added by emergency rulemaking at 42 Ill. Reg. 16096, effective August 6, 2018, for a maximum of 150 days)

Section 1100.500 Expansion Grants (Repealed)
EMERGENCY

- a) ~~In a given fiscal year, the amount of the Program appropriation or allocation to support Expansion Grants shall be based on the following order of priority:~~
 - 1) ~~Funding for renewal grants;~~
 - 2) ~~Funding for grants in year one of a three-year grant cycle; or~~
 - 3) ~~A combination of renewal and first-year grants the Board deems appropriate to maximize the grant awards.~~

- b) ~~Eligibility Criteria~~
 - 1) ~~ADN and BSN programs must meet both of the following criteria:~~
 - A) ~~NCLEX-RN pass rate for first-time test takers must be equal to or greater than the national average for the previous calendar year as reported by DFPR.~~
 - B) ~~Program attrition rate must be equal to or less than 15 percent.~~
 - 2) ~~RN-BSN programs must have a program attrition rate equal to or less than 15 percent.~~

- e) ~~Grant applications for Expansion Grants under this Part shall include, but need not be limited to, the following:~~
 - 1) ~~Comprehensive description of the proposed use of funds in accordance with subsection (e), including evidence of current research and best practices to support proposed strategies.~~
 - 2) ~~Budget by line item, including personal services, contractual services, commodities, equipment, telecommunications, travel, and audit.~~

BOARD OF HIGHER EDUCATION

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- 3) ~~Performance measures, including, but not limited to, the following:~~
 - A) ~~Eligibility criteria in accordance with subsection (b);~~
 - B) ~~First-year retention rate;~~
 - C) ~~Job placement within 6 months of degree completion; and~~
 - D) ~~Number of degrees conferred (three-year trend).~~
 - 4) ~~Statement of institutional support and sustainability of grant-funded activities.~~
 - 5) ~~Evaluation plan.~~
 - 6) ~~Program audit and an interim evaluation report from the previous year, if the applicant received an Expansion Grant under this Part.~~
- d) Awards
- 1) ~~The grant awards for eligible nursing programs shall be determined using a competitive process to review applications that shall include, but need not be limited to, the following criteria:~~
 - A) ~~Evidence of effective program goals and performance measures;~~
 - B) ~~Proposed use of funds and budget justification demonstrating an effective use of program resources;~~
 - C) ~~An effective evaluation plan including reliable measures of performance and program outcomes;~~
 - D) ~~Evidence of institutional support and sustainability of grant-funded activities; and~~
 - E) ~~Number of completed applications received in accordance with subsection (c).~~

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- ~~2) The number and amount of grant awards is subject to the Program appropriation or allocation.~~
- e) ~~Use of Grant Funds. Expansion Grant funds shall be used to expand capacity and increase the number of students preparing for careers as registered nurses. Acceptable expenditures may include, but are not limited to, the following:~~
 - ~~1) Hiring additional qualified nursing faculty;~~
 - ~~2) Developing or expanding instructional programs (e.g., online, weekend, evening);~~
 - ~~3) Developing or expanding academic support programs;~~
 - ~~4) Securing additional clinical instruction sites;~~
 - ~~5) Increasing classroom space;~~
 - ~~6) Purchasing equipment and other program related instructional materials; and~~
 - ~~7) Evaluation, dissemination of program results, and program audit.~~
- ~~f) Grantees may annually reapply for funding.~~
- ~~g) Grantees must submit a final evaluation report.~~

(Source: Repealed by emergency rulemaking at 42 Ill. Reg. 16096, effective August 6, 2018, for a maximum of 150 days)

Section 1100.600 Improvement Grants (Repealed)**EMERGENCY**

- ~~a) In a given fiscal year, the amount of the Program appropriation or allocation directed to Improvement Grants is the remainder after the Expansion Grant determination.~~
- ~~b) Eligibility Criteria~~

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- 1) ~~ADN and BSN programs must meet at least one of the following criteria:~~
 - A) ~~NCLEX RN pass rate for first-time test takers must be less than the national average for the previous calendar year as reported by DFPR.~~
 - B) ~~Program attrition rate must be greater than 15 percent.~~
- 2) ~~RN-BSN programs must have a program attrition rate greater than 15 percent.~~
- e) ~~Grant applications for Improvement Grants under this Part shall include, but need not be limited to, the following:~~
 - 1) ~~Comprehensive description of the proposed use of funds in accordance with subsection (e), including evidence of current research and best practices to support proposed strategies.~~
 - 2) ~~Budget by line item, including personal services, contractual services, commodities, equipment, telecommunications, travel, and audit.~~
 - 3) ~~Performance measures, including, but not limited to, the following:~~
 - A) ~~Eligibility criteria in accordance with subsection (b);~~
 - B) ~~First-year retention rate;~~
 - C) ~~Job placement within 6 months after degree completion; and~~
 - D) ~~Number of degrees conferred (three-year trend).~~
 - 4) ~~Statement of institutional support and sustainability of grant-funded activities.~~
 - 5) ~~Evaluation plan.~~
 - 6) ~~Program audit from the previous year, if the applicant received an Improvement Grant.~~

BOARD OF HIGHER EDUCATION

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- d) Awards
 - 1) ~~The grant awards for eligible nursing programs shall be determined using a competitive process to review applications that shall include, but need not be limited to, the following criteria:~~
 - A) ~~Evidence of effective program goals and performance measures;~~
 - B) ~~Proposed use of funds and budget justification demonstrating an effective use of program resources;~~
 - C) ~~An effective evaluation plan including reliable measures of performance and program outcomes;~~
 - D) ~~Evidence of institutional support and sustainability of grant funded activities; and~~
 - E) ~~Number of completed applications received in accordance with subsection (c).~~
 - 2) ~~The number and amount of grant awards is subject to the Program appropriation.~~
- e) ~~Use of Grant Funds. Improvement Grant funds may be used to support strategies aimed at increasing student retention and improving graduation rates and institutional NCLEX-RN pass rates.~~
 - 1) ~~Acceptable expenditures may include, but are not limited to, the following:~~
 - A) ~~Developing or expanding academic support services to improve student retention and increase graduation rates and NCLEX-RN pass rates;~~
 - B) ~~Improving existing classroom space;~~
 - C) ~~Purchasing equipment and other instructional materials necessary to improve instructional quality; and~~

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- ~~D) Program audit.~~
- ~~2) Improvement Grants shall not be used to hire faculty.~~
- ~~f) Grantees may apply annually for funding.~~
- ~~g) Grantees must submit an evaluation report.~~

(Source: Repealed by emergency rulemaking at 42 Ill. Reg. 16096, effective August 6, 2018, for a maximum of 150 days)

Section 1100.700 Award Process**EMERGENCY**

- a) Board staff shall review application materials and make recommendations to the Board for approval.
- b) Once grants are awarded by the Board, the Board shall notify each applicant in writing concerning its application.
- c) The Board shall enter the uniform Grant Agreement, provided by the Grant Accountability and Transparency Unit (GATU) pursuant to the Grant Accountability and Transparency Act (GATA) [30 ILCS 708], ~~establish a grant agreement~~ with those institutions awarded a grant under this Part that specifies the terms and conditions of the grant.

(Source: Amended by emergency rulemaking at 42 Ill. Reg. 16096, effective August 6, 2018, for a maximum of 150 days)

Section 1100.800 Audit Requirements (Repealed)**EMERGENCY**

- ~~a) All grantees are required to provide an annual program audit to the Board.~~
- ~~b) After the initial program year (fiscal year 2007), applications must include a program audit of grant funds received in the previous year.~~
- ~~c) Program audits must be performed by an external auditor who is registered as a public accountant by DFPR.~~

BOARD OF HIGHER EDUCATION

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- d) ~~Program audits must include a statement of revenues and expenditures to verify the use of grant funds. Grant funds not expended as identified by the audit shall be refunded to the State.~~
- e) ~~In the event that a grant recipient does not reapply for a grant under this Part in a subsequent year, a program audit must be submitted to verify the use of grant funds.~~
- f) ~~The cost of a program audit is an allowable use of grant funds.~~

(Source: Repealed by emergency rulemaking at 42 Ill. Reg. 16096, effective August 6, 2018, for a maximum of 150 days)

Section 1100.900 Financial Reports, Closeout Reports, Performance Reports, and Audits
EMERGENCY

- a) Financial reports, annual reports, closeout reports, performance reports, and audits shall meet the requirements of GATA (44 Ill. Adm. Code 7000) and this Section. Grant recipients shall:
 - 1) File quarterly financial reports with the Board describing the expenditures of funds. The first report shall cover the first three months after the award is approved. Reports are to be filed in the format determined by the Board.
 - 2) Submit a closeout report within 60 calendar days following the end of the fiscal year. In the event that the agreement is terminated prior to the end of the fiscal year, the 60 day period starts on the date of termination. The report is to be submitted in the format determined by the Board.
 - 3) Submit a final financial report within 180 days after the end of the fiscal year. The report is a statement of costs and revenues for the grant project and is signed by the authorized representative. The report is to be provided in the format determined by the Board.
 - 4) Submit a performance report within 60 calendar days following the end of the fiscal year. In the event that the agreement is terminated prior to the end of the fiscal year, the 60 day period starts on the date of termination.

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The performance measures are proposed by the grantee and may be adjusted by the Board in consultation with the grantee. The report is to be provided in the format determined by the Board.

5) In the event that the grant award meets or exceeds the threshold amounts for a required audit, the performance of an audit must comply with the terms of the Grant Agreement and GATA.

b) Deadlines may be extended at the discretion of the Board, except as provided in subsection (a)(1).

(Source: Added by emergency rulemaking at 42 Ill. Reg. 16096, effective August 6, 2018, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of July 31, 2018 through August 6 2018. The rulemakings are scheduled for the August 14, 2018 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>
9/12/18	<u>Department of Revenue</u> , Service Occupation Tax (86 Ill. Adm. Code 140)	5/25/18 42 Ill. Reg. 8445	8/14/18
9/12/18	<u>Department of Revenue</u> , Electronic Filing of Returns or Other Documents (86 Ill. Adm. Code 760)	5/25/18 42 Ill. Reg. 8484	8/14/18
9/12/18	<u>Healthcare and Family Services</u> , Medical Assistance Programs (89 Ill. Adm. Code 120)	9/29/18 41 Ill. Reg. 11849	8/14/18
9/12/18	<u>Department of Revenue</u> , Cannabis and Controlled Substances Tax Act (Repealer) (86 Ill. Adm. Code 428)	6/1/18 42 Ill. Reg. 8769	8/14/18
9/12/18	<u>Department of Revenue</u> , Telecommunications Excise Tax (86 Ill. Adm. Code 495)	6/1/18 42 Ill. Reg. 8810	8/14/18
9/14/18	<u>Department of Revenue</u> , Invest in Kids Act (86 Ill. Adm. Code 1000)	4/20/18 42 Ill. Reg. 7488	8/14/18

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Enterprise Zone and High Impact Business Programs
- 2) Code Citation: 14 Ill. Adm. Code 520
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
520.610	Amendment
520.650	Amendment
520.910	Amendment
520.940	New Section
520.1010	Amendment
520.1040	New Section
- 4) Date Notice of Proposed Amendments published in the *Illinois Register*: 42 Ill. Reg. 10709; June 22, 2018
- 5) Reason for Withdrawal: Upon a further review conducted by the Department, it has been determined that several unintended consequences may occur as a result of these changes, in particular, as it relates to the provisions concerning a designated High Impact Business's failure to maintain eligibility. For instance, failure to notify the Department that a Company is not in good standing with the Illinois Secretary of State within 30 days after the occurrence of the event may prove problematic in that a delay in notice may occur within the Illinois Secretary of State's Office or the Office may mistakenly identify an incorrect organization in their determination of good standing. Such instances, while not common, have been known to occur. Additionally, failure to notify the Department that the business is the subject of an investigation by any State or federal regulatory, law enforcement, or legal authority would seemingly encompass a number of routine legal proceedings, of which companies with High Impact Business designations are often subject to. The Department will continue to review and assess the potential impact of the withdrawn rule changes and consider a submission of altered rules pertaining to this subject matter.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

1. Statute requiring agency to publish information concerning Private Letter Rulings and General Information Letters in the *Illinois Register*:

Name of Act: Illinois Department of Revenue Sunshine Act

Citation: 20 ILCS 2515/1

2. Summary of information:

Index of Department of Revenue Sales and Miscellaneous Tax Private Letter Rulings and General Information Letters issued for the Second Quarter of 2018. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. *General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act.* (See 2 Ill. Adm. Code 1200.120)

The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

Coal Mining Equipment
Local Taxes
Miscellaneous
Nexus
Rental Purchase Agreement Tax

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of \$1.00 per opinion plus 50¢ per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.tax.illinois.gov/.

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for \$3.00.

3. Name and address of person to contact concerning this information:

Beverly Langenfeld
Legal Services Office
101 West Jefferson Street MC 5-500
Springfield IL 62794

217/782-2844

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2018 SECOND QUARTER SALES & MISCELLANEOUS TAX SUNSHINE INDEX

COAL MINING EQUIPMENT

ST 18-0011-GIL 04/03/2018 The Retailers' Occupation Tax Act does not apply to sales of coal exploration, mining, off highway hauling, processing, maintenance and reclamation equipment. The exemption also applies to individual replacement parts for such equipment. See 86 Ill. Adm. Code 130.350. (This is a GIL.)

LOCAL TAXES

ST 18-0005-PLR 06/14/2018 The occupation of selling is comprised of the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price. Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. 86 Ill. Adm. Code 270.115. (This is a PLR.)

MISCELLANEOUS

ST 18-0017-GIL 05/07/2018 This letter discusses the application of Metropolitan Pier and Exposition Authority Retailers' Occupation Tax to sales of food, alcoholic beverages, and soft drinks sold on boats and other watercraft. See 70 ILCS 210/13. (This is a GIL.)

NEXUS

ST 18-0015-GIL 04/13/2018 This letter addresses nexus, construction contractors, and sales for resale. See *Quill Corp. v. North Dakota*, 112 S.Ct. 1904 (1992); 86 Ill. Adm. 130.1940; 86 Ill. Adm. Code 130.2075; and 86 Ill. Adm. 130.1405. (This is a GIL)

DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

ST 18-0016-GIL 05/15/2018 This letter responds to a question regarding nexus. See *Quill Corp. v. North Dakota*, 112 S. Ct. 1904 (1992). (This is a GIL.)

PREPAID SALES TAX

ST 18-0013-GIL 04/05/2018 This letter describes the manner in which prepaid sales tax on motor fuel is collected and remitted. See 86 Ill. Adm. Code 130.551. (This is a GIL.)

ST 18-0014-GIL 04/09/2018 This letter describes the manner in which prepaid sales tax on motor fuel is collected and remitted. See 35 ILCS 120/2d. (This is a GIL.)

RENTAL PURCHASE AGREEMENT TAX

ST 18-0012-GIL 04/05/2018 In general, items that are subject to the State 1% sales tax rate are not intended to be covered by the 6.25% Rental Purchase Agreement Occupation and Use Tax. See 35 ILCS 180/1 et seq. (This is a GIL.)

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 42, Issue 33 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.

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