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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 2020

Issue#	Rules Due Date	Date of Issue
1	December 23, 2019	January 3, 2020
2	December 30, 2019	January 10, 2020
3	January 6, 2020	January 17, 2020
4	January 13, 2020	January 24, 2020
5	January 21, 2020	January 31, 2020
6	January 27, 2020	February 7, 2020
7	February 3, 2020	February 14, 2020
8	February 10, 2020	February 21, 2020
9	February 18, 2020	February 28, 2020
10	February 24, 2020	March 6, 2020
11	March 2, 2020	March 13, 2020
12	March 9, 2020	March 20, 2020
13	March 16, 2020	March 27, 2020
14	March 23, 2020	April 3, 2020
15	March 30, 2020	April 10, 2020
16	April 6, 2020	April 17, 2020
17	April 13, 2020	April 24, 2020
18	April 20, 2020	May 1, 2020
19	April 27, 2020	May 8, 2020
20	May 4, 2020	May 15, 2020
21	May 11, 2020	May 22, 2020
22	May 18, 2020	May 29, 2020

23	May 26, 2020	June 5, 2020
24	June 1, 2020	June 12, 2020
25	June 8, 2020	June 19, 2020
26	June 15, 2020	June 26, 2020
27	June 22, 2020	July 6, 2020
28	June 29, 2020	July 10, 2020
29	July 6, 2020	July 17, 2020
30	July 13, 2020	July 24, 2020
31	July 20, 2020	July 31, 2020
32	July 27, 2020	August 7, 2020
33	August 3, 2020	August 14, 2020
34	August 10, 2020	August 21, 2020
35	August 17, 2020	August 28, 2020
36	August 24, 2020	September 4, 2020
37	August 31, 2020	September 11, 2020
38	September 8, 2020	September 18, 2020
39	September 14, 2020	September 25, 2020
40	September 21, 2020	October 2, 2020
41	September 28, 2020	October 9, 2020
42	October 5, 2020	October 16, 2020
43	October 13, 2020	October 23, 2020
44	October 19, 2020	October 30, 2020
45	October 26, 2020	November 6, 2020
46	November 2, 2020	November 13, 2020
47	November 9, 2020	November 20, 2020
48	November 16, 2020	November 30, 2020
49	November 23, 2020	December 4, 2020
50	November 30, 2020	December 11, 2020
51	December 7, 2020	December 18, 2020
52	December 14, 2020	December 28, 2020

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Illinois Cooperative Work Study Program

2) Code Citation: 23 Ill. Adm. Code 1015

3)

Section Numbers:	Proposed Actions:
1015.10	Amendment
1015.20	Amendment
1015.30	Amendment
1015.50	Amendment
1015.60	Amendment
1015.70	Amendment

4) Statutory Authority: Implementing and authorized by Section 3 of the Illinois Cooperative Work Study Program Act [110 ILCS 225].

5) A Complete Description of the Subjects and Issues Involved: The proposed amendments incorporate the requirements of the Grants Accountability and Transparency Act (GATA). The GATA requirements include: adding new terminology; referencing the GATA rules for recipient qualification and use of uniform grant agreements; removing some of the requirements that have since been incorporated into the new uniform grant agreement; and referencing GATA rules on interest earned, audit requirements, and post-award requirements. These proposed amendments incorporate new statutory requirements and Board criteria.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: The proposed rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3].

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

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*, with:

Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
1 N. Old State Capitol Plaza, Suite 333
Springfield IL 62701-1377

217/557-7358
fax: 217/782-8548
helland@ibhe.org

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis: No adverse impact

15) Regulatory Agenda on which this rulemaking was summarized: January 2019

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

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1015
ILLINOIS COOPERATIVE WORK STUDY PROGRAM

Section
1015.10 Purpose
1015.20 Definitions
1015.30 Eligible Applicants
1015.40 Selection of Projects for Grants
1015.50 Grant Application Procedures
1015.60 Grant Criteria
1015.70 Post-Award~~Audit~~ Requirements

AUTHORITY: Implementing and authorized by Section 3 of the Illinois Cooperative Work Study Program Act [110 ILCS 225].

SOURCE: Adopted at 16 Ill. Reg. 4496, effective March 9, 1992; amended at 44 Ill. Reg. _____, effective _____.

Section 1015.10 Purpose

The program provides~~*The purpose of the Illinois Cooperative Work Study Program is to provide a program of*~~ *financial assistance to support student cooperative work study programs in higher education to benefit students academically and financially, reduce reliance on loans, enhance public-private sector partnerships, and encourage students to seek permanent employment in Illinois.* (Section 3 of the Act~~Public Act 87-513 (the Act), adopted September 13, 1991, effective September 13, 1991~~)

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1015.20 Definitions

"Act" means Illinois Cooperative Work Study Program Act [110 ILCS 225].

~~"Administrative costs" means costs other than student wages and salaries, items that go into the hands of students, cost reimbursements to students, and the cost of~~

~~audits.~~

"Board" means the Illinois Board of Higher Education. (Section 2 of the Act)

"Cooperative Work Study ~~work study~~" means an academically related work and study experience with business, industry, government or other agencies and organizations. Cooperative work study may include, but is not limited to, summer internships, clinical placements, internships and work experiences during the academic year. (Section 2 of the Act)

"Direct Costs" means costs that can be directly assigned to activities conducted under this Part relatively easily, with a high degree of accuracy.

"GATA" means the Grant Accountability and Transparency Act [30 ILCS 708]. GATA rules are cross-referenced in this Part.

"GATA Rule" means 44 Ill. Adm. Code 7000.

"GATU" means the Grant Accountability and Transparency Unit within the Illinois Governor's Office of Management and Budget.

"Grant Period" or "Period of Performance" means the time during which the awardee may incur new obligations to carry out the work authorized. The Board will include the start and end dates in the Grant Agreement.

"Illinois Resident Student~~resident student.~~" means ~~To qualify as~~ an Illinois resident student meeting~~,~~ one of the following two requirements ~~must be met~~:

> At least one parent, step-parent, or court appointed guardian must reside in Illinois; or
>
> The emancipated (self-supporting) student must have lived in Illinois, in some capacity other than as a student at an Illinois public or nonpublic institution of higher education, for a period of 12 consecutive months immediately prior to the enrollment.

"Indirect Facilities and Administrative Costs" means those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted without effort

disproportionate to the results achieved.

"Nonpublic Institution~~institution~~ of Higher Education~~higher education~~" means an Illinois educational organization, other than a public institution of higher education, that provides a minimum of an organized two-year program at the private junior college level or higher and that operates in conformity with standards substantially equivalent to those of the public institutions of higher education. (Section 2 of the Act)

"Performance Goal" means a target level of performance expressed as a tangible, measurable objective or as a qualitative standard, value or rate. A performance goal includes a performance indicator, a target, and a time period, and must be expressed in an objective, quantifiable or measurable form when possible. When necessary, the Board and an awardee shall use an alternative performance goal (such as a set of milestones) described in a way that makes it possible to discern whether progress is being made toward that goal.

"Program" means the Illinois Cooperative Work Study Program.

"Public Institution~~institution~~ of Higher Education~~higher education~~" means the University of Illinois, Southern Illinois University, Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University~~the several universities and colleges under the governance of the Board of Governors of State Colleges and Universities, the several Regency Universities under the jurisdiction of the Board of Regents~~, the public community colleges of this State, and any other public universities, colleges and community colleges now or hereafter established or authorized by the General Assembly. (Section 2 of the Act)

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1015.30 Eligible Applicants

Eligible applicants are public and not-for-profit nonpublic ~~and public~~ institutions of higher education based in Illinois.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Section 1015.50 Grant Application Procedures

a) At any time that grant funds become available or that the Board has reason to believe that grant funds may become available, the Board shall notify in writing the chief executive officer of every public and not-for-profit nonpublic institution of higher education in the State of Illinois of the availability or projected availability of the grant~~such~~ funds.

1) The~~Such~~ notice shall contain, at a minimum, the following information:

A~~1~~) The deadline for the submission of applications, which ~~deadline~~ shall not be less than 45 days from the date of sending the~~mailing of such~~ notice; ~~and~~

B~~2~~) The date the ~~which such~~ grants will be made and the deadline for the completion of grant projects; and~~, which deadline shall not be more than two years.~~

C) This State-funded program is subject to GATA. GATA rules are cross-referenced in this Part.

2) The application materials must include the Uniform Grant Application provided by GATU and signed by an authorized representative (see GATA Rule Section 7000.330).

b) Grant project proposals shall contain, at a minimum:

1) Synopsis;

2) Statement of goals and specific objectives consistent with Section 1015.40;

3) Detailed description of the proposed project, including activities, completion schedule, operating procedures, and justification for funding;

4) The amounts~~amount(s)~~ and sources~~source(s)~~ of matching contributions earmarked for the project;

5) Performance goals~~Evaluation procedures~~ to determine the effectiveness of

the project; and

6) Proposed budget amount for the matching funds~~, including audit, which is an allowable expenditure of grant funds~~. Indirect facilities and administrative costs and direct costs are disallowed for this program.~~Administrative costs are not an allowable expenditure of grant funds.~~

c) The Board staff shall review application documents of all institutions for compliance with the application and eligibility requirements. The Board staff may request additional documents or a meeting between its staff and institutional representatives to discuss questions about application documents. If the~~In the event that~~ material submitted by an applicant institution is incomplete or not of sufficient detail to provide an understanding of the proposed project or its justification, the Board staff shall~~will~~ request additional information for clarification or substantiation.

d) Once grants are awarded, the~~The~~ Board staff shall notify each applicant in writing concerning its application.~~whether or not it received a grant.~~

e) Application information and materials may be obtained from the~~and shall be submitted to:Illinois Cooperative Work Study Program~~ Illinois Board of Higher Education, 1 N. Old State Capitol Plaza, Suite 333,~~4 West Old Capitol Square, Room 500~~ Springfield, Illinois 62701 or the Board's website at www.ibhe.org.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1015.60 Grant Criteria

a) Non-Discrimination. No recipient shall discriminate on the basis of race, creed, sex, handicap, color, or national origin in the employment, training, or promotion of personnel or in the implementation of the program funded by the grant.

b) Grant Period. Grants shall be for the period stated in the Grant Agreement~~grant agreement~~ but no longer than one fiscal year~~in no event for more than two years~~.

c) Refunds~~Unexpended Grant Funds~~. Any unexpended portion of the grant funds and any grant funds that the recipient was not eligible to receive or that were not spent in accordance with this Part shall be refunded to the Board.

d) Records Retention~~Record Keeping~~. All costs charged to the program shall be supported with documentation~~by properly executed documents~~. Financial records, supporting documents, statistical records, and all other awardee records pertinent to the State award shall be retained for 3 years after the date of submission of the final expenditures report.~~Such records shall be kept separately from the documents and maintained for a period of three years after receipt of final payment.~~

e) Agreement Required. Grant funds may not be expended except pursuant to a Grant Agreement. Disbursement of grant funds without a Grant Agreement is prohibited.~~Evaluation. Within ninety days after the end of the grant period, the recipient shall submit to the Board an evaluation of the project. The evaluation of the project shall include systematic and objective procedures for appraising the project with respect to how closely the purposes were fulfilled and an explanation of any deviation therefrom.~~

~~f)~~ ~~Audit. Within ninety days after the end of the grant period the recipient shall submit an audit of expenditure of grant funds provided under this program prepared by an external auditor who is registered as a public accountant by the Illinois Department of Professional Regulation. Any recipient which fails to submit an audit shall refund the entire grant amount to the Board. Complete payment of grant funds for any continuing project shall be contingent upon submission of the evaluation and audit for the previous grant period.~~

f~~g~~) Prior Performance. For a grant applicant who is a prior recipient of an award under this Part, the Board shall review available information on the awardee's prior performance and consider that information when assessing grantee risk. This is part of the grantee assessment required by GATU (see GATA Rule Section 7000.340).

g) Qualified Recipient. Board staff shall verify that each recipient is registered with GATU, has completed a prequalification process, and has been determined qualified by GATU (see GATA Rule Section 7000.70).

h) Grant Agreement. The Board shall enter into a Grant Agreement with a qualified recipient using the Uniform Grant Agreement provided by GATU (see GATA Rule Section 7000.370).~~Contracts. All grants awarded under this program shall be made through contractual agreements between the Board and the recipient.~~

~~Such agreements shall comply with the provisions of the Grant Funds Recovery Act (Ill. Rev. Stat. 1989, ch. 127, pars. 2301 et seq.).~~

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1015.70 Post-Award~~Audit~~ Requirements

a) Recipients are subject to the Auditing Standards required by GATU (see GATA Rule Section 7000.90).

b) The recipient shall not deviate from the budget, project scope, or objectives stated in the Grant Agreement except with mutual agreement of the Board and the recipient (see GATA Rule Section 7000.370(b)). The Board shall review a request and notify the recipient within 30 calendar days after receipt of a request.

c) The recipient shall file Periodic Performance Reports with the Board on progress made and on financial data for the reporting period. The initial report shall cover the first 3 months after the Board approves the award. Reports are to be filed using the forms provided by the Board and submitted no later than 30 days after the end of each quarter. (See GATA Rule Section 7000.410.)

d) The awardee shall take the following actions to complete grant closeout at the end of the period of performance (see GATA Rule Section 7000.440).

1) Promptly refund any balances of unobligated cash that the Board paid in advance and that are not authorized to be retained by the awardee for use in other projects. Refunds shall be returned to the Board within 45 days after the end of the period of performance.

2) Expend any encumbered grant funds during a lapse period of 60 days past the end of the period of performance. Any encumbered but unexpended grant funds remaining at the end of the lapse period shall be returned to the Board within 45 days.

3) Submit, no later than 60 days after the end date of the grant period:

A) A statement of costs and revenues signed by the institution's authorized representative.

B) A written evaluation of the project signed by the project manager of the institution's authorized representative. The report must address the objectives and performance measures specified in the Grant Agreement. Performance shall be measured in a way that will help the Board and other applicants and recipients improve program outcomes, share lessons learned, spread the adoption of promising practices, and build evidence upon which the Program is based and performance decisions are made.

C) Deadlines may be extended at the discretion of the Board. Extensions shall be issued only in extraordinary circumstances not in the control of the awardee.

~~a) Institutions shall contract with an external auditor who is registered as a public accountant by the Illinois Department of Professional Regulation.~~

~~b) The auditor shall obtain copies of the following grant documents: the executed grant agreement and a copy of this Part.~~

~~c) The auditor shall verify the expenditure of grant funds as provided for in the grant agreement and this Part.~~

~~d) The auditors shall provide an audit including a description of the tests performed and the audit findings to the Board within 90 days after the termination of the grant period or within 90 days after the end of the institution's fiscal year for institutions electing to fulfill the audit requirements as part of their annual audit as provided by the Illinois Grant Funds Recovery Act (Ill. Rev. Stat. 1989, ch. 127, par. 2302).~~

~~e) Refunds shall be made to the State by institutions for the following reasons:~~

~~1) Grant funds not expended;~~

~~2) Grant funds expended for purposes not allowed under this Part or under the grant agreement;~~

~~3) Grant funds received by the grantee for which the grantee is subsequently determined not to be eligible.~~

~~f)~~ ~~The cost of an audit is an allowable use of grant funds.~~

(Source: Amended at 44 Ill. Reg. _____, effective _____)

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Grow Your Own Teacher Grants

2) Code Citation: 23 Ill. Adm. Code 1085

3)

Section Numbers:	Proposed Actions:
1085.20	Amendment
1085.25	Amendment
1085.40	Amendment
1085.50	Amendment
1085.60	Amendment
1085.70	Amendment
1085.80	Amendment
1085.90	Amendment
1085.100	Amendment
1085.110	Amendment
1085.115	New Section
1085.120	Repealed

4) Statutory Authority: Implemented and authorized by Section 13 of the Grow Your Own Act [110 ILCS 48/13] and by Section 9.17 of the Board of Higher Education Act [110 ILCS 205/9.17].

5) A Complete Description of the Subjects and Issues Involved: The proposed actions implement amendments made to the Grow Your Own Teacher Education Act in July 2019. Pursuant to PA 101-122, the Grow Your Own Illinois (an Illinois not-for-profit corporation) will administer the awarding of grants including the selection, management, and oversight of consortiums and other duties. The Illinois Board of Higher Education is responsible for allocating funds to Grow Your Own Illinois, for obtaining an independent evaluation of the program, and for promulgating rules. Also, the amendments include 1) authorization to recruit high school students enrolled in dual credit courses, 2) candidate eligibility no longer requires an interruption in college attendance, 3) graduates may work in early childhood programs to earn service credit for forgivable loan program, and 4) provisions to incorporation the Grants Accountability and Transparency Act regarding grant management.

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

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

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: The proposed rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3].

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*, with:

Karen Helland, Administrative Rules Coordinator
Illinois Board of Higher Education
1 N. Old State Capitol Plaza, Suite 333
Springfield IL 62701-1377

217/557-7358
fax: 217/782-8548
helland@ibhe.org

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of Professional skills necessary for compliance: None

14) Small Business Impact Analysis: No adverse impact

15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because the Board did not anticipate the need for rulemaking at that time.

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

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

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER II: BOARD OF HIGHER EDUCATION

PART 1085
GROW YOUR OWN TEACHER GRANTS

Section
1085.10 Purpose
1085.20 Definitions
1085.25 Roles and Responsibilities
1085.30 Eligibility
1085.40 Grant Applications Offered by Grow Your Own Illinois
1085.50 Planning Grant
1085.60 Implementation Grant
1085.70 Continuation Grant
1085.80 Candidates
1085.90 Forgivable Loan Program
1085.100 Grant Agreement Between Grow Your Own Illinois and Consortium
1085.110 Audit Requirements for Grants Awarded by Grow Your Own Illinois~~Guidelines~~
1085.115 Grant Agreement and Audit Requirements for Allocation to Grow Your Own Illinois
1085.120 Grant Funds Recovery Act (Repealed)

AUTHORITY: Implementing the Board's authorities under of the Grow Your Own Teacher Education Act [110 ILCS 48] and under Section 9.17 of the Board of Higher Education Act [110 ILCS 205].

SOURCE: Adopted at 36 Ill. Reg. 17852, effective December 10, 2012; amended at 44 Ill. Reg. _____, effective _____.

Section 1085.20 Definitions

"Accredited Teacher Preparation Program~~teacher preparation program~~" means, for the purposes of this Part, *a regionally accredited, Illinois approved teacher education program authorized to prepare individuals to fulfill all of the requirements to receive an Illinois initial teaching* license/*certificate* (Section 10 of the Act).

"Act" means the Grow Your Own Teacher Education Act [110 ILCS 48].

"Awardee" or "Grantee" means, for the purposes of this Part, a consortium or Grow Your Own Illinois.

"Board" means the Board of Higher Education~~*"Board" means the Board of Higher Education* (Section 10 of the Act)~~.

"Candidate" means a person who is eligible to receive or is receiving assistance through a program offered by a consortium. *A candidate must:*

hold a high school diploma or its equivalent, or be a high school student enrolled in a dual credit course offered by a participating institution of higher education;~~,~~

meet either the definition of "parent and community leader" or the definition of "paraeducator";~~,~~

maintain a cumulative grade point average of at least 2.5 on a 4.0 scale (or the equivalent as determined by the Board of Higher Education);

attend monthly cohort meetings; and

apply for financial aid resources before applying for assistance from the program~~must not have attended college right after high school or must have experienced an interruption in his or her college education, and does not hold a bachelor's degree~~ (Section 20 of the Act).

"Paraeducator" means an individual with a history of demonstrated accomplishments in school staff positions (such as teacher assistants, school-community liaisons, school clerks, and security aides) in schools that meet the definition of a hard-to-staff school (Section 10 of the Act).

"Parent and Community Leader~~community leader~~" means an individual who has or had a child enrolled in a school or schools that meet the definition of a hard-to-staff school under the definition of "eligible school" *and who has a history of active involvement in the school or who has a history of working to*

improve schools serving a substantial percentage of low-income students, including membership in a community organization (Section 10 of the Act).

"Student with a Non-traditional Background~~non-traditional background~~" means a student who does not hold a bachelor's degree and who begins a baccalaureate program at a point in time other than immediately following graduation from high school or one who began a baccalaureate program after high school, did not complete it, and re-enters a baccalaureate program after some passage of time.

"Cohort" means a group of teacher education candidates who are enrolled in and share experiences in the same program and are linked by their desire to become Illinois teachers in hard-to-staff schools and by their need for the services and supports offered by the Initiative. A cohort may include a high school student enrolled in a dual credit course offered by a participating institution of higher education. (Section 10 of the Act)~~.~~

"Community Organization~~organization~~" means a nonprofit organization that has a demonstrated capacity to train, develop, and organize parents and community leaders into a constituency that will hold the school and the school district accountable for achieving high academic standards; in addition to organizations with a geographic focus, "community organization" includes general parent organizations, organizations of special education or bilingual education parents, and school employee unions (Section 10 of the Act).

"Consortium" means, for the purposes of this Part, an association of entities pooling their resources to offer a program. *A consortium shall be composed of at least one 4-year institution of higher education with an Illinois* accredited *teacher* education *program, at least one school district or group of schools, and one or more community organizations. The consortium may also include a 2-year institution of higher education, a school employee union, or a regional office of education.* (Section 20 of the Act)

"Continuation Grant~~grant~~" means an award of grant funds to a consortium for a program if an implementation grant or a continuation grant was awarded in the prior fiscal year pursuant to this Part and all requirements of the prior grant agreement were met.

"Counsel Out~~out~~" means a systematic approach to identify a candidate who may be struggling in the program, and to determine if the candidate is performing at an acceptable level to continue without intervention or if the candidate should discontinue the program.

"Developmental Classes~~classes~~" means classes in basic skill areas, such as mathematics and language arts, that are prerequisite to, but not counted towards, degree requirements of a teacher preparation program (Section 10 of the Act).

"DFPR" means the Illinois Department of Financial and Professional Regulation or its successor.

"Dual Credit" means an instructional arrangement in which an academically qualified student currently enrolled in high school enrolls in a college-level course and, upon successful course completion, concurrently earns both college credit and high school credit.

"Early Childhood Program" *means a program licensed by the Department of Children and Family Services in which no fewer than 40% of the children it serves are receiving subsidized care under the Department of Human Services' Child Care Assistance Program, a Head Start or Early Head Start Program, a Preschool for All Program, or a prevention initiative* (Section 10 of the Act).

"Eligible School~~school~~" means an early childhood program or a public elementary, middle, or secondary school in this State that serves a substantial percentage of low-income students and that is either hard-to-staff or has hard-to-staff teaching positions (Section 10 of the Act).

> *"Hard-to-staff School~~school~~" means an early childhood program or a public elementary, middle, or secondary school in this State that, based on data compiled by the State Board of Education in conjunction with the Board of Higher Education, serves a substantial percentage of low-income students, as defined by the State Board* (Section 10 of the Act).
>
> *"Hard-to-staff Teaching Position ~~teaching position~~" means a teaching category (such as special education, bilingual education, mathematics, or science) in which statewide data compiled by the State Board of Education in conjunction with the Board of Higher Education indicates a multi-year*

pattern of substantial teacher shortage or that has been identified as a critical need by the local school board (Section 10 of the Act).

"Schools Serving~~serving~~ a Substantial Percentage~~substantial percentage~~ of Low-income Students~~low-income students~~" means schools that maintain any of grades pre-kindergarten through 8, in which at least 35% of the students are eligible to receive free or reduced-price lunches, and schools that maintain any of grades 9 through 12, in which at least 25% of the students are eligible to receive free or reduced price lunches (Section 10 of the Act).

"Fiscal Agent~~agent~~" means the Illinois public institution pursuant to the Board of Higher Education Act [110 ILCS 205] or a private not-for-profit institution authorized to operate within the State of Illinois pursuant to the Private College Act [110 ILCS 1005] and/or the Academic Degree Act [110 ILCS 1010]; ~~or~~ has been in continuous operation and granted degrees within the State of Illinois before the effective date of those Acts and has not modified the business entity since the effective dates of those Acts; or Grow Your Own Illinois. This definition does not apply to consortia established before 2010.

"GATA" means the Grant Accountability and Transparency Act [30 ILCS 708].

"GATA Rule" means 44 Ill. Adm. Code 7000.

"GATU" means the Grant Accountability and Transparency Unit within the Illinois Governor's Office of Management and Budget.

"Grant Period" or "Period of Performance" means the time during which the awardee may incur new obligations to carry out the work authorized under the grant. The start and end dates will be included in the Grant Agreement.

"Grow Your Own Illinois" or "GYOI" means the not-for-profit corporation that was incorporated in Illinois in 2007 and continues in good standing with the Illinois Secretary of State.

"Initiative" means the Grow Your Own Teacher Education Initiative created under the *Act* (Section 10 of the Act).

"Institution" means an institution of higher education.

"Implementation Grantgrant" means an award of grant funds to a consortium for a program only if a planning grant was received in the prior fiscal year pursuant to this Part. This award may also be available to a consortium in which the composition of the membership has changed.

"Performance Goal" means a target level of performance expressed as a tangible, measurable objective or as a qualitative standard, value or rate. A performance goal includes a performance indicator, a target, and a time period, and must be expressed in an objective, quantifiable or measurable form when possible. When necessary, an alternative performance goal (such as a set of milestones) described in a way that makes it possible to discern whether progress is being made toward that goal may be used.

"Planning Grantgrant" means a one-time award of grant funds to a potential consortium that will enable the group to work with GYOIthe Board to organize, coordinate and submit an application for an implementation grant.

"Potential Consortiumconsortium" means a consortium that has not received a planning grant pursuant to this Part.

"Program" means a Grow Your Own Teacher preparation program established by a consortium under the *Act* (Section 10 of the Act).

"Year of Serviceservice" means, for the purposes of this Part, full-time employment for at least half a school year, or an equivalent amount of part-time employment, in:

An early childhood program or aA public school that, at the time the individual becomes employed, is either one of the schools targeted by the program completed by the individual with assistance under this Part or another school that is hard to staff; or

A teaching position that, at the time the individual becomes employed, is a hard-to-staff teaching position.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1085.25 Roles and Responsibilities

BOARD OF HIGHER EDUCATION

NOTICE OF PROPOSED AMENDMENTS

a) The Board of Higher Education is responsible for*, subject to appropriation, allocating funds to Grow Your Own Illinois for the purpose of administering the program* (Section 20 of Act).

b) GYOI is responsible for administration of the Grow Your Own (GYO) Initiative. Responsibilities include, but are not limited to, developing and releasing applications, reviewing applications and selecting grantees, fiscal monitoring, maintaining a candidate database system, development and review of contracts to support the initiative, reviewing of consortia annual reports and consultant reports, coordination and communication of expectations to all consortia members, and convening meetings of all consortia members ~~developing and appointing an advisory board with members representative of all consortia~~.

c~~b~~) The consortium is responsible for pooling all its collective resources and providing a variety of support services to increase the success rate of candidates graduating from an Illinois accredited teacher education program to become and to be placed as teachers in hard-to-staff schools.

d~~c~~) The fiscal agent is responsible for providing direction and oversight for the consortium. Responsibilities include, but are not limited to, submitting grant applications and annual reports, meeting with program evaluators, monitoring grant expenditures and the budget, serving as liaison and primary contact person for the consortium, participating in cohort meetings, locating and hiring tutors, conducting meetings with academic counselors, collecting and reporting assessment and performance data, and attending consortium meetings.

e~~d~~) A cohort coordinator is responsible for direct support and counseling to candidates. Responsibilities include, but are not limited to, assisting students with class schedules, helping candidates register and answer questions about registration, answering questions about teacher education programs and entrance requirements, helping candidates solve individual problems related to their classes, basic skills tests and other college requirements, conducting cohort meetings, conducting meetings with academic counselors, meeting with program evaluators, coordinating tutorial support, monitoring academic progress of candidates, assisting the consortium by providing information regarding the anticipated completion dates of candidates to assist with placement where positions may be available, and attending consortium meetings.

f~~e~~) The community based organization has unique responsibilities to support the success of the candidates. Responsibilities include, but are not limited to, helping improve the life outcomes of disadvantaged children and families, increasing parental involvement in schools, developing parent and candidate leadership and addressing commonly identified issues related to the school, carrying out community-school improvement activities, assisting in developing after school programs, applying for grants to support the consortium, meeting with program evaluators, identifying unique needs of candidates and providing support for those needs, working with higher education partners to locate and hire tutors to help candidates with coursework, and attending consortium meetings.

g~~f~~) An independent program evaluator is responsible for reporting the extent of candidate persistence in program enrollment, acceptance as an education major in a 4 year institution of higher education, completion of a bachelor's degree in teaching, obtaining a teaching position in a target school or similar school, subsequent effectiveness as a teacher, and persistence in teaching in a target school or similar school. The evaluation shall assess the Initiative's overall effectiveness and shall identify particular program strategies that are especially effective (Section 35 of the Act). The evaluation process will include monitoring site visits, providing technical assistance to consortia, and providing other support services to GYOI and the Board as needed. The evaluator will produce an annual report that includes individual project and overall program data, identification of effective practices, and recommendations for program improvements.

h~~g~~) An accredited Illinois teacher preparation program, housed within an Illinois institution of higher education, is responsible for providing high quality undergraduate coursework and clinical experiences that will prepare beginning teachers to work in hard-to-staff schools. The programs offered will align with the areas of need derived from the GYO consortium's needs assessment of the community's K-12 schools.

i~~h~~) The hard-to-staff schools ~~(elementary, middle and high school)~~ are responsible for providing data (needs assessment) to the consortium on those areas that experience a multi-year pattern of substantial teacher shortage or have been identified as a critical need by the local school board, providing sites for clinical experiences for GYO participants/candidates and providing employment opportunities for GYO graduates when possible.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1085.40 Grant Applications Offered by Grow Your Own Illinois

Grow Your Own Illinois~~The Board~~ will release applications for planning, implementation and continuation grants when sufficient funding is made available to GYOI~~the Board~~ during any given fiscal year and GYOI~~the Board~~ determines a need for grants. Each release will include information about the application requirements, the categories of allowable expenditures, the information required, and the~~such~~ certifications, assurances and program-specific terms of the grant that will by specified in the Grant Agreement~~required by the Board~~. Applications shall~~will~~ be signed by each member of the potential consortium or consortium.

a) Applications for grant funds shall be made on prescribed forms developed by GYOI~~the Board~~ and shall include, but not be limited to, the following provisions and information:

1) The names, addresses, chief officers and general description of each member of the potential consortium or recognized consortium;

2) Name and contact information of the fiscal agent, as defined in Section 1085.20; and

3) Certification that the grant funds will be used for planning activities pursuant to Section 1085.50, implementing a program pursuant to Section 1085.60, or continuing a program pursuant to Section 1085.70.

b) Applications shall also include additional information and documentation as specified by the type of grant:

1) Planning grant requirements in Section 1085.50;

2) Implementation grant requirements in Section 1085.60; or

3) Continuation grant requirements in Section 1085.70.

c) GYOI will make applications available at its business address and on its website~~Grant applications may be obtained from the Illinois Board of Higher Education, 431 East Adams Street, Second Floor, Springfield, Illinois 62701-1404 or the Board's website at www.ibhe.org~~.

d) Completed applications must be submitted to GYOI ~~the Board~~ at the address indicated in the application~~subsection (c)~~ and must be received by the announced deadline for the submission of applications, which shall not be less than 45 days after the announcement and release of application materials. Completed applications will not be accepted after the announced deadline for the submission of applications within any fiscal year.

e) GYOI~~Board~~ staff shall review application documents for compliance with the application and eligibility requirements. GYOI~~The Board~~ may request additional documentation and/or a meeting between its staff and institutional representatives to resolve questions about application documents. In the event that material submitted by an applicant institution is incomplete or not of sufficient detail to provide an understanding of the proposed projects, GYOI~~the Board~~ will request additional information.

f) After the review is complete, GYOI~~the Board~~ shall provide written notification to an applicant indicating whether the applicant is eligible to receive a grant award.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1085.50 Planning Grant

Grow Your Own Illinois~~The Board~~ may, if it chooses, award and administer a small number of planning grants during any fiscal year to potential consortia (Section 30 of the Act). GYOI~~The Board~~ shall indicate the maximum amount to be reserved for planning grants and the maximum amount available per grant.

a) In addition to the application requirements of Section 1085.30, the application for a planning grant must include the following:

1) Proposal

A) Describes a plan of work for developing a consortium and a Grow Your Own program that will be eligible for an implementation grant under this Part;

B) Provides evidence that at least a subset of the teachers typically prepared by the institution seeks employment in communities where hard-to-staff schools are located;

C) Demonstrates that the institution is not applying for funding on behalf of an existing consortium that is currently serving a group of candidates under a model substantially similar to that described in the Act and that further information is needed about the specific barriers that exist with respect to enabling individuals with a long-term commitment to those communities to complete teacher preparation; and

D) Demonstrates need by a hard-to-staff school or by a K-12 district for teachers in hard-to-staff positions.

2) Supporting Documentation

A) Letters of interest from one or more early childhood programs, school districts or schools indicating willingness to collaborate in offering opportunities for candidates in the program to complete pre-student teaching clinical experiences in hard-to-staff schools or positions; and

B) If additional community organizations are being considered for membership in the consortium, letters of invitation that the applicant has sent to one or more relevant community organizations proposing a role for the organizations in the proposed consortium, along with a rationale provided by the applicant for inclusion of these organizations.

3) GYOI~~The Board~~ shall provide the categories of allowable expenditures and require the submission of a budget summary and payment schedule, completed on the forms provided, as well as a narrative budget breakdown that provides a detailed explanation of each line item of expenditure. Allowable uses of planning grant funds shall include services and goods necessary to:

A) Secure the participation and commitment of the required members and the optional members of a consortium to develop a plan for collective decision-making that involves all partners and provides a mechanism for candidate input;

B) Attract or identify viable potential candidates for teacher preparation who are para educators or parent and community leaders as contemplated by the Act, including assistance that will permit potential candidates to complete developmental coursework during their first four semesters of participation that will verify their academic readiness for enrolling in teacher preparation; and

C) Identify barriers to teacher certification for potential members of a given cohort, and the strategies and resources for mitigating those barriers and successfully ameliorating them within the programmatic, time and funding constraints of the program.

b) *In awarding grants, GYOI~~the Board~~ shall select programs that successfully address initiative criteria and that reflect a diversity of strategies in terms of serving urban,* suburban, and *rural areas, the nature of the participating institutions of higher education, and the nature of hard-to-staff schools and hard-to-staff teaching positions on which a program is focused* (Section 20 of the Act).

c) Each proposal that is submitted by a potential consortium and meets the requirements of this Section shall be considered qualified for funding.

d) Funding decisions shall be made by balancing the goals of geographic distribution and accessibility with the level of need and the potential number of candidates to be served.

e) In the event that an audit or other evidence establishes that the consortium failed to perform and/or the expenditure of grant funds was not consistent with the consortium's proposal and the Grant Agreement, a full or partial reimbursement to the State through the Board shall be required. For example, if an auditor finds that any amount of funds was~~were~~ not used or was~~were~~ used in a manner inconsistent with the proposal, GYOI~~the Board~~ will seek reimbursement for that amount of funds.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1085.60 Implementation Grant

New implementation grants shall be offered in years when the level of available funding allows one or more new programs or cohorts of candidates to be supported, given the requirements of

Section 25 of the Act for ongoing support of cohorts that have begun their preparation in previous years. Grow Your Own Illinois~~The Board~~ shall indicate the maximum amount to be reserved for implementation grants and the maximum available amount per grant.

a) In addition to the application requirements of Section 1085.30, the application for an implementation grant must include the following:

1) The responsibility and roles of each partner in the consortium shall be set forth in a written agreement signed by each partner to be submitted with the application. The written agreement shall address at least the following:

A) The process and responsibilities of each partner for the recruitment, selection and assessment of candidates;

B) The establishment of support systems and the specific roles of each partner in providing those supports. This may include, but shall not be limited to, tutoring, peer mentoring, professional development workshops and placement supports; and

C) The process to develop an evaluation plan to measure the progress and success of individual candidates, as well as an evaluation of the partnership, and the role of each partner in making improvements based on the results of the evaluations.

2) Information on the consortium participants, service targets and candidates.

A) The teacher preparation programs involved and their qualifications relevant to the requirements of the Act, including specific information on the institution's success in preparing teachers for positions in schools that serve a substantial percentage of low-income students;

B) The hard-to-staff schools and positions that are targeted;

C) The demographic make-up of the area served by the targeted schools;

D) Plans for recruiting candidates to the program;

E) Selection criteria and process for admitting candidates into the program;

F) Evidence that the candidates of the cohort are paraeducators or parent and community leaders;

G) Plans for providing support to the candidates;

H) Plans for ensuring each candidate successfully progresses through the program. These plans will include strategies such as tutoring, study skills training, and other strategies to ensure candidates pass the appropriate tests~~Illinois basic skills test~~ in accordance with the rules adopted by the State Board of Education for the licensure~~/certification~~ of educators (~~see~~ 23 Ill. Adm. Code 25.720~~750(b)~~);~~.~~

I) Preparation status of existing candidates, if a cohort is already engaged in the program;

J) Procedures to use when a candidate fails to make an adequate rate of progress as specified in Section 1085.80(b), and the candidate is counseled out of the program;

K) A plan for contingency funding if State funding is discontinued or diminished; and

L) Procedures for placement supports for candidates, including identified roles and responsibilities of the consortium members in assisting with placement.

3) GYOI~~The Board~~ shall provide the categories of allowable expenditures pursuant to the Act and require the submission of a budget summary and payment schedule, completed on the forms provided, as well as a narrative budget breakdown that provides a detailed explanation of each line item of expenditure and covers the entire period of time during which the identified cohort is expected to be enrolled in the teacher preparation program.

A) *When~~Where~~ necessary, program budgets shall include the costs of child care and other indirect expenses, such as transportation, tutoring, technology, and technology support, necessary to permit candidates to maintain their class schedules. Grant funds may be used by any member of a consortium to offset those~~such~~ costs, and the services may be provided by the community organization or organizations, by any other member of the consortium, or by independent contractors.* (Section 25(d) of the Act)

B) *Grant funds may also be expended to pay directly for required developmental classes for candidates beginning a program.* (Section 25(i) of the Act)

C) *The community organization or organizations may receive a portion of the grant money for the expenses of recruitment, community orientation, and counseling of potential candidates, for providing space in the community, and for working with school personnel to facilitate individual work experiences and support of candidates.* (Section 25(f) of the Act)

D) *The school district or school employee union or both may receive a portion of the grant money for expenses of supporting the work experiences of candidates and providing mentors for graduates. Notwithstanding the provisions of Section 10-20.15 of the School Code, school districts may also use these or other applicable public funds to pay participants in programs under the initiative for student teaching required by an accredited teacher preparation program.* (Section 25(g) of the Act)

E) *One or more members of the consortium may expend funds to cover the salary of a site based cohort coordinator.* (Section 25(h) of the Act)

F) *No funds under the initiative may be used to supplant the average per-capita expenditures by the institution of higher education for candidates. The institution of higher education may expend grant funds to cover the additional costs of offering classes in community settings and for tutoring services.* (Section 25(c) and (e) of the Act)

G) A consortium shall implement a program of forgivable loans to cover any portion of tuition, books and fees charged of students preparing for teaching licenses/certificates in excess of grants-in-aid received.

H) Applicants shall be required to describe the steps that will be taken to decrease the need for GYO State funds for the consortium and its program over time.

b) Proposals for implementation grants shall be evaluated in accordance with the following criteria:

1) Feasibility, Impact and Cost-Effectiveness

A) The proposal identifies a need for teachers in hard-to-staff schools and hard-to-fill positions and describes either a cohort that is available to enroll in the identified preparation program or time-specific plans for identifying and attracting the members of such a cohort;

B) The proposal describes strategies that will be used to reach members of underrepresented groups that reflect the diversity of the students enrolled in the participating schools and outlines plans for serving additional cohorts in future years;

C) The proposal demonstrates that:

i) Coursework and experiences required for certification will be scheduled and located to be accessible to members of the cohort; and

ii) Supportive services (e.g., child care, counseling, tutoring) that have been identified as necessary will be offered to enable candidates to progress through the program and attain certification;

D) The proposal establishes a timetable and performance level for candidates as a condition for their continued receipt of assistance under this program;

E) The plan to evaluate the program by members of the consortium is designed to yield information that can be used both in judging the program's qualitative and quantitative impact and in identifying changes or new approaches that will improve the program's outcomes;

F) The proposal describes commitments and dedications of monetary and in-kind resources of each member of the consortium that will enable the consortium to sustain the program over time with a reduction in the need for GYO State funds;

G) The budget clearly describes the proposed use of grant funds as allowable, reasonable and cost-effective; and

H) The plan for recruiting and screening potential candidates will ensure that those individuals admitted will have a high likelihood of successfully completing the program in a reasonable length of time.

2) Quality of the Plan

A) The proposal describes the role of each entity that is a member of the consortium, including the resources each entity will devote to this initiative, the major areas requiring collaboration among the members, and how decisions will be made with input from the members and the participants;

B) The proposal includes plans for assisting candidates in tapping sources of financial aid beyond those made available under this Part and by the members of the consortium;

C) The proposal demonstrates that the institution of higher education has the capacity (i.e., faculty and other resources) to serve the cohort in its approved teacher preparation program. If a two-year institution is involved in the consortium, the proposal delineates how coursework, other requirements, and services will be coordinated between the institutions;

D) The proposal describes the needs of the participating schools and demonstrates that the consortium's plan for certification under the program is relevant to those needs and will have an impact on the availability of qualified staff;

E) The plan of work for the program includes specific strategies for overcoming known barriers faced by the participating schools in retaining qualified teachers and for addressing and overcoming the barriers faced by the individuals who make up the cohort to be enrolled in the program; and

F) The proposal describes the consortium's plans for extending support to candidates for at least their first 2 years of teaching. This includes such activities and services as mentoring (if the district does not already offer a teacher mentoring program) and group meetings of the cohort. If the district offers a teacher mentoring program, the consortium should work with the existing district mentoring program to provide mentoring support to the new teacher.

3) Experience and Qualifications

A) The proposal provides evidence that faculty and relevant staff of the institution are knowledgeable regarding the needs of hard-to-staff schools and the specific issues that candidates from non-traditional backgrounds encounter when attempting to complete preparation for teaching careers;

B) The proposal demonstrates that the community organization that is a member of the consortium has a record of success in conducting projects or initiatives with a specific focus on involving parents and others in school improvement, either in the participating schools or schools with similar characteristics, and has the capacity (including staff and other resources) to recruit candidates for and support them as they progress through the program; and

C) The individual who is identified as coordinator for the cohort has experience in education and/or community organizing and in supporting individuals in the collegiate environment and is

knowledgeable about group dynamics, support services and cultural issues relevant to the cohort.

4) Evaluation Plans
~~A)The proposal relates plans for the evaluation of candidates' teaching skills to the relevant portions of the institution's educational unit assessment system (see 23 Ill. Adm. Code 25.140) and demonstrates that candidates in the program will be expected to meet the standards applicable to the approved program; andB)~~The proposal includes a plan for the evaluation of the program by the members of the consortium that will provide:

A~~i~~) Information on the progress of candidates within the preparation program; and

B~~ii~~) When applicable, information on this initiative's outcomes in terms of candidates' placement into hard-to-staff teaching positions or hard-to-staff schools and their retention in those positions.

c) *In awarding grants, GYOI~~the Board~~ shall select programs that successfully address initiative criteria and that reflect a diversity of strategies in terms of serving urban,* suburban, and *rural areas, the nature of the participating institutions of higher education, and the nature of hard-to-staff schools and hard-to-staff teaching positions on which a program is focused.* (Section 20 of the Act)

d) GYOI~~The Board~~ shall approve proposals for funding and make final determinations regarding the amounts to be provided based upon:

1) The total funds appropriated for this initiative;

2) The needs and resources described and the amounts requested in the top-ranked proposals identified in accordance with the criteria set forth in subsection (b); and

3) The need to make programs under this Part accessible on a geographic basis in a manner that will increase the availability of candidates to serve in hard-to-staff schools and positions in all areas of the State.

e) In the event that an audit or other evidence establishes that the consortium failed to perform and/or the expenditure of grant funds was not consistent with the consortium's proposal and the Grant Agreement, a full or partial reimbursement to the State, through the Board, shall be required. For example, if an auditor finds that any amount of funds were not used or were used in a manner inconsistent with the proposal, Grow Your Own Illinois~~the Board~~ will seek reimbursement for that amount of funds.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1085.70 Continuation Grant

a) A consortium that has received an implementation grant award or a continuation grant pursuant to this Part for a cohort of candidates in the prior fiscal year shall be subject to the requirements of this Section with respect to continued funding for that cohort in subsequent years.

1) The responsibility and roles of each partner in the consortium shall be set forth in a written agreement signed by each partner to be submitted with the application annually. The written agreement shall address at the least the following:

A) The process and responsibilities of each partner for the recruitment, selection and assessment of candidates;

B) The establishment of support systems and the specific roles of each partner in providing those supports. This may include, but shall not be limited to, tutoring, peer mentoring, professional development workshops, etc.; and

C) The process to develop an evaluation plan to measure the progress and success of individual candidates, as well as an evaluation of the partnership, and the role of each partner in making improvements based on the results of the evaluations.

2) In addition to the application requirements of Section 1085.40, the application for a continuation grant must include the following:

A) An end-of-year report from the project director on the following:

i) Current status of the program and the status of each cohort member;

ii) The activities and support provided to date, including monetary and in-kind; and

iii) The degree to which candidates are achieving the program's objectives.

B) An updated proposal including:

i) Objectives, activities, timelines and evaluation procedures for the renewal year, showing that it continues to meet all of the requirements set forth in Section 1085.60;

ii) Results/outcomes that have been achieved to date; and

iii) The relationship of results to any changes proposed for program operations from the previous year.

C) An updated budget including:

i) Budget summary;

ii) Payment schedule; and

ii) Narrative budget breakdown that describes any needed variances from the budget proposed in the prior year of funding.

b) When the consortium membership has changed or there is a plan in place to replace one or more of the partners, the consortium must contact GYOI~~the Board~~ prior to submitting an application for a continuation grant. The consortium must submit written notification of the membership change. GYOI~~The Board~~ will prescribe the form or format when releasing the Request for Proposals (RFP). GYOI will~~The Executive Director of the Board shall~~ review the notifications consistent with the following:

1) If the 4-year institution of higher education with an Illinois accredited teacher education program is replaced or the school district or group of schools is replaced, the consortium is not eligible for a continuation grant. The newly formed consortium may be eligible for a planning or implementation grant and may be eligible for continuation grants in the years following the receipt of a planning or implementation grant.

2) If the partners want to add a school district or group of schools to the consortium, GYOI~~the Executive Director~~ shall consider whether this change is viable and what impact this will have on the candidates. If the reorganization~~re-organization~~ appears viable and there is no apparent risk that this change will interfere with the progression of candidates through the program, GYOI~~the Executive Director~~ shall recognize the reorganized~~re-organized~~ consortium. The reorganized~~re-organized~~ consortium may be eligible for a continuation grant.

3) A consortium may replace or add community organizations as it deems appropriate. If there is no apparent risk that the reorganization~~re-organization~~ will interfere with the progression of candidates through the program or harm the consortium, GYOI~~the Executive Director~~ shall deem that the reorganized~~re-organized~~ consortium is eligible for a continuation grant.

c) A consortium that has received an implementation grant award or a continuation grant pursuant to this Part for a cohort of candidates in the prior fiscal year shall be subject to the requirements of this Section with respect to continued funding for that cohort in subsequent years.

1) The responsibility and roles of each partner in the consortium shall be set forth in a written agreement signed by each partner to be submitted with the application annually. The written agreement shall address at the least the following:

A) The process and responsibilities of each partner for the recruitment, selection and assessment of candidates;

B) The establishment of support systems and the specific roles of each partner in providing those supports. This may include, but shall not

be limited to, tutoring, peer mentoring, professional development workshops, etc.; and

C) The process to develop an evaluation plan to measure the progress and success of individual candidates, as well as an evaluation of the partnership, and the role of each partner in making improvements based on the results of the evaluations.

2) In addition to the application requirements of Section 1085.40, the application for a continuation grant must include the following:

A) An end-of-year report from the project director on the following:

i) Current status of the program and the status of each cohort member;

ii) The activities and support provided to date, including monetary and in-kind; and

iii) The degree to which candidates are achieving the program's objectives.

B) An updated proposal including:

i) Objectives, activities, timelines, and evaluation procedures for the renewal year, showing that it continues to meet all of the requirements set forth in Section 1085.60;

ii) Results/outcomes that have been achieved to date; and

iii) The relationship of results to any changes proposed for program operations from the previous year.

C) An updated budget including:

i) Budget summary;

ii) Payment schedule; and

ii) Narrative budget breakdown that describes any needed variances from the budget proposed in the prior year of funding.

d) GYOI~~The Board~~ shall, contingent upon appropriation or allocation of funds for this initiative, provide continuation funding to consortia that:

1) Demonstrate that a majority of the candidates in the cohort served have completed coursework required under the teacher preparation program during at least one semester of the preceding year, as described in Section 1085.50(b);

2) Demonstrate success in providing the supports necessary to retain candidates in the program; and

3) Demonstrate that their programs continue to comply with the provisions of the Act and this Part.

e) If, for any reason, the amount of funds available for release is not sufficient to distribute the continuation grants in a given fiscal year, GYOI~~the Board~~ shall distribute prorated shares to grantees.

f) In the event that an audit or other evidence establishes that the consortium failed to perform and/or the expenditure of grant funds was not consistent with the consortium's proposal and the Grant Agreement, a full or partial reimbursement to the State, through the Board, shall be required. For example, if an auditor finds that any amount of funds were not used or were used in a manner inconsistent with the proposal, GYOI~~the Board~~ will seek reimbursement for that amount of funds.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1085.80 Candidates

a) Candidate Eligibility. The candidate shall:

1) Meet~~Meets~~ the definition of a candidate in Section 1085.20;

2) Meet~~Meets~~ the selection criteria determined by the consortium; and

3) Be eligible~~Eligible~~ for student financial aid and *takes advantage of existing financial aid resources before using funds* from the Forgivable Loan Program described in Section 1085.90. (Section 20(8)(L) of the Act)

b) Performance Plan for Each Candidate. Grow Your Own Illinois~~The Board~~ shall *provide a level of performance to be maintained by candidates as a condition of continuing in the program.* (Section 20(8)(K) of the Act) Measures to be implemented to ensure that each candidate makes adequate progress to complete the coursework required under the teacher preparation program shall include at least the following:

1) Any developmental classes that are prerequisites to a candidate being fully admitted into an Illinois education preparation program are to be completed within the first 4 semesters of a candidate's participation in the program;

2) The candidate successfully completes a minimum of 15 hours of coursework required under the teacher preparation program each academic year; and

3) Any candidate not completing coursework required under the teacher preparation programs for 2 consecutive semesters due to extenuating circumstances, including, but not limited to, military leave, health, etc., shall apply for a temporary leave from the GYO program. This application must be approved by the consortium partners. If the application is not approved or none is submitted, the candidate shall be deemed exiting the program without cause and subject to loan repayment.

c) Information on Each Candidate. GYOI~~The Board~~ shall identify the information that each consortium will be required to collect and update, including, but not limited to, the following:

1) Data by candidate, to be reported or updated at least once per academic year:

A) Name, address and demographics;

B) Eligibility criteria;

C) Date of enrollment, anticipated date of graduation, anticipated date of program completion, date of completion or exit;

D) If candidate exits before completion, provide explanation;

E) Developmental courses and tutoring;

F) Basic skills, teacher licensure and other test scores;

G) Grade point average (GPA) for all courses and for courses that compose the degree requirements of a teacher preparation program;

H) Annual amount of program loans, cumulative amount of program loans, and each year of teaching service; and

I) Information on the position taken by the graduate.

2) Data by cohort, to be reported or updated each academic year:

A) Pass rates on basic skills test, content test, Assessment Professional Test, and/or other tests identified by GYOI~~the Board~~;

B) Number who intentionally exit voluntarily or do not register for two consecutive semesters;

C) Percentage who progress at the expected rate through the program; and

D) Percentage of candidates within the original cohort that start and complete the program.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1085.90 Forgivable Loan Program

Every program under the initiative shall implement a program of forgivable loans to cover any portion of tuition, books, and fees of candidates under the program in excess of the candidates'

grants-in-aid. All students admitted to a cohort shall be eligible for a forgivable student loan. Loans shall be fully forgiven if a graduate completes 5 years of service in hard-to-staff schools or hard-to-staff teaching positions, with partial forgiveness for shorter periods of service. Grow Your Own Illinois~~The Board~~ shall establish standards for the approval of requests for waivers or deferrals from individuals to waive this obligation. GYOI~~The Board~~ shall also define standards for the fiscal management of these loan funds. (Section 25(a) of the Act) Any candidate in a program administered under this Part may receive a forgivable loan for tuition, books and fees associated with completion of the teacher preparation program, provided those expenditures are not otherwise paid for through grants-in-aid or other resources of the consortium. Any amount expended for an individual's tuition, books and fees shall be considered a part of that individual's loan, regardless of how the payment is administered and regardless of whether the individual receives any actual payment of funds. The cumulative total amount of any candidate's loan shall not exceed $25,000.

a) Pursuant to Section 25(a) of the Act, loan funds provided to candidates as part of this program *shall be fully forgiven if a graduate completes 5 years of service in hard-to-staff schools or hard-to-staff teaching positions, with partial forgiveness for shorter periods of service.* Forgiveness and repayment of loans shall be determined as provided in this Section.

b) An individual may accrue the service required for forgiveness of loans under this Part in one or more eligible schools or positions.

c) If an individual has not assumed employment in an eligible school or position within 2 years after receiving a teaching license/certificate, the individual shall be required to begin the repayment of amounts loaned under this Part. No interest shall apply.

d) An individual who drops out of the program shall be required to begin repaying the amounts loaned in the month following the month when it becomes evident that he or she will not be completing coursework required under the teacher preparation program for 2 consecutive semesters.

e) If a graduate has not completed 5 years of service within 10 years after receiving a teaching license/certificate, the individual shall be required to begin the repayment of amounts loaned under this Part. The amount due shall be the total amount borrowed, less a percentage reflecting the relationship that any time taught by the individual in eligible schools or positions bears to the total 5 year

commitment. Loan amounts shall be reduced in increments of 10% for each semester completed.

f) Repayment of loans shall be made in no more than 60 equal installments. The minimum monthly payment will be determined by dividing the total amount due by 60. An individual may prepay the balance due on the loan in its entirety at any time or make payments in addition to the minimum amount owed each month without penalty.

g) In addition to the loan forgiveness permitted under Section 25 of the Act, GYOI~~the Board~~ may defer or waive an individual's obligation to repay an amount due as provided in this subsection (g).

1) GYOI~~The Board~~ shall waive the repayment obligation for an individual who is counseled out of a preparation program or found ineligible to continue, provided that the individual's exit from the program is not due to a violation of law or of applicable institutional policies.

2) GYOI~~The Board~~ shall waive the repayment obligation for an individual who drops out of a preparation program or demonstrates that he or she is unable to complete a portion of the required teaching service due to:

A) The onset or exacerbation of a disability;

B) The need to care for an immediate family member during serious illness or disability;

C) Destruction of the individual's residence; or

D) Other circumstances that require the individual to assume responsibilities that cannot be avoided without serious financial hardship or other family disruption (e.g., death of a spouse that results in the need to take a second job or assume operation of a business).

3) GYOI~~The Board~~ shall waive the repayment obligation for a candidate who does not complete a preparation program due to the unavailability of a State appropriation for this initiative for at least 2 consecutive years.

4) GYOI~~The Board~~ shall waive the repayment obligation for any candidate in good standing who cannot complete the preparation program due to the consortium's ineligibility for funds under Section 1085.70.

5) GYOI~~The Board~~ shall defer the repayment obligation for a period of time specifically related to the circumstances when an individual:

A) Is unemployed or is working for fewer than 30 hours per week;

B) Is experiencing a financial hardship (e.g., receiving public assistance, earning an amount per month that is no greater than 200% of the amount of the loan payment, or experiencing circumstances such as those outlined in subsection (g)(2) of this Section);

C) Has re-enrolled as a full-time student in an institution of higher education (for example, to pursue a master's degree) or in a program under this Part (for example, to obtain program training by attending a teacher education program for a specialized area, such as math or science); or

D) Is deployed for active duty as a member of the U.S. Armed Services, reserve forces of the United States or as a member of the Illinois National Guard.

6) Each request for a waiver or deferral of repayment shall be submitted in a format specified by GYOI~~the Board~~. The affected individual shall describe the specific circumstances that apply. This description shall be accompanied by evidence such as a physician's statement, insurance claim or other documentation of the relevant facts.

h) When a teaching license/certificate is issued to an individual who received assistance under this Part, the license/certificate shall be accompanied by:

1) A statement indicating the total amount of the loan received by the individual and identifying the dates applicable to repayment under this Section; and

2) A claim form that the individual may use to claim forgiveness of the loan amount, which shall require the individual to identify the periods of service completed in eligible schools or positions and the school administrators who can verify the individual's service.

i) Management of Loans

1) It shall be the responsibility of each 4 year institution of higher education, and of any 2 year institution that participates in a consortium, to assist GYOI~~the Board~~ with the forgivable loan process in the following manner:

A) By keeping records of the amounts provided to or on behalf of each individual for tuition, fees and books;

B) By keeping up-to-date contact information regarding the address and telephone number of each individual during the individual's preparation at that institution; and

C) By notifying GYOI~~the Board~~ within 30 days after a candidate fails to enroll in coursework as expected or otherwise ceases to participate in the program and informing GYOI~~the Board~~ of the total amount of the candidate's loan for direct expenses as of that point in time.

2) When a candidate leaves a 2 year institution and enters a 4 year institution to continue in a program under this Part, the 2 year institution shall inform both GYOI~~the Board~~ and the 4 year institution of the total amount of the candidate's loan for direct expenses as of that point in time. Each 2 year institution shall ensure that the affected 4 year institution continues to receive any information that subsequently affects the amount of a candidate's loan.

3) Each institution shall notify GYOI~~the Board~~ as to who will be responsible for this information and shall provide contact information for the responsible individual within the institution.

j) It shall be the responsibility of GYOI~~the Board~~ to take such actions as may be necessary to secure repayment when necessary.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1085.100 Grant Agreement Between Grow Your Own Illinois and Consortium

a) Grant funds may not be expended except pursuant to a written Grant Agreement~~grant agreement~~, and disbursement of grant funds without a Grant Agreement ~~grant agreement~~ is prohibited. At a minimum, a Grant Agreement ~~grant agreement~~ shall:

1) Describe the purpose of the grant and be signed by authorized representatives of Grow Your Own Illinois~~the Board~~ and each member of the consortium;

2) Name and contact information of the project director;

3) Specify how payments shall be made and the financial controls applicable to the grant, including an agreement to file quarterly reports describing the progress of the activities and the expenditure of the related grant funds pursuant to the Illinois Grant Funds Recovery Act [30 ILCS 705];

4) Specify that the use of grant funds will be consistent with Section 1085.50 for a planning grant, Section 1085.60 for an implementation grant, or Section 1085.70 for a continuation grant;

5) Specify the period of time for which the grant is valid and the period of time during which grant funds may be expended by the grantee;

6) Contain a provision that all funds remaining at the end of the Grant Agreement~~grant agreement~~, or at the expiration of the period of time grant funds are available for expenditure or obligation by the grantee, shall be returned to the State within 45 days;

7) Contain a provision that any grantees receiving grant funds are required to permit GYOI, the Board, the Auditor General or the Attorney General to inspect and audit any books, records or papers related to the projects for which grant funds were provided;

8) Contain a provision in which the grantee certifies under oath that all information in the Grant Agreement ~~grant agreement~~ is true and correct to

the best of the grantee's knowledge, information and belief, that the funds shall be used only for the purposes described in the Grant Agreement~~grant agreement~~, and that the award of grant funds is conditioned upon that certification;

9) Provide that the institution shall contract with an external auditor who is a certified public accountant licensed by DFPR to conduct an audit of the expenditure of grant funds provided under this program at the end of the grant period to verify that grant funds were expended pursuant to the Grant Agreement~~grant agreement~~ and not for unauthorized purposes; and

10) Require the grantee to use the interest earned on any grant funds for eligible projects. The interest earned on grant funds shall not change the amount of the grant.

b) GYOI~~The Board~~ may withhold or suspend the distribution of grant funds for failure to file required quarterly reports.

c) Upon the execution of a Grant Agreement~~grant agreement~~, GYOI~~the Board~~ will process a payment~~voucher~~ to the grantee in accordance with the terms of the Grant Agreement~~grant agreement~~, provided that the funds~~ have been appropriated and~~ have been made available to GYOI~~the Board~~.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1085.110 Audit Requirements for Grants Awarded by Grow Your Own Illinois~~Guidelines~~

a) To fulfill the audit requirements of this Part, the grantees shall contract with an external auditor who is a certified public accountant licensed by DFPR to perform an audit as specified in subsection (b).

b) The external auditor shall:

1) Receive a copy~~copies~~ of the~~ institution's~~ application for a grant, the executed Grant Agreement,~~a certified grant agreement~~ and~~ a copy of~~ this Part;

2) Verify the expenditure of funds as provided for in this Part, and ensure that funds were expended on authorized expenditures listed in the Grant Agreement~~grant agreement~~; and

3) Provide an audit report to GYOI~~the Board~~ including a description of the tests performed and the audit findings.

c) In the event that an audit or other evidence establishes that an overpayment was made~~ in a grant~~ to a grantee~~an institution~~, a reimbursement to GYOI~~the Board~~ shall be required. A reimbursement is required in the following situations:

1) Grant funds were not expended within the grant period; or

2) Grant funds were expended for purposes not authorized under the Grant Agreement~~grant agreement~~.

d) In the event that no audit is~~audits are~~ submitted, a grantee~~an institution~~ shall reimburse GYOI~~the State~~ for the total amount of the grant.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1085.115 Grant Agreement and Audit Requirements for Allocation to Grow Your Own Illinois

The Board of Higher Education shall, subject to appropriation, allocate funds to Grow Your Own Illinois for the purposes of administering the program and awarding grants, as needed, to qualified consortia that reflect the distribution and diversity of hard-to-staff schools and hard-to-staff positions across this State (Section 20 of the Act).

a) Board staff will verify that GYOI is registered with the Illinois Secretary of State as a not-for-profit corporation and is in good standing, has completed a prequalification process, and has been determined "qualified" by GATU (see GATA Rule Section 7000.70).

b) Board staff will make a recommendation to the Board for approval of a Grant Agreement with GYOI.

c) The Board will enter into an agreement with GYOI under this Part using the Uniform Grant Agreement provided by GATU (see GATA Rule Section

7000.370). Project objectives and performance goals will be included in the Uniform Grant Agreement to measure GYOI's performance.

d) GYOI shall not deviate from the budget, project scope, or objectives stated in the Grant Agreement without the concurrence of the Board. (See GATA Rule Section 7000.370(b).) The Board will review a request and notify GYOI, within 30 calendar days after receipt of the request, of whether the Board concurs with the request. The GYOI shall request prior approval by the Board to:

1) Changing the scope or the objective of the project (even if there is no associated budget revision).

2) Changing the key person named by GYOI in the Grant Agreement.

3) Transfering funds among budget categories if the cumulative amount of these transfers exceeds 10% of the detail line or $1,000, whichever is greater. Transfer requests will be accepted up until the last 2 weeks of the period of performance.

e) GYOI shall file Periodic Performance Reports with the Board on progress made and financial data for the reporting period. The initial report shall cover the first 3 months after the Board approves the award. Reports are to be filed using the forms provided by the Board and submitted no later than 30 days after the end of each quarter. (See GATA Rule Section 7000.410.)

f) GYOI shall take the following actions to complete grant closeout at the end of the period of performance. (See GATA Rule Section 7000.440.)

1) Promptly refund any balances of unobligated cash that the Board paid in advance and that are not authorized to be retained by GYOI for use in other projects. Refunds shall be returned to the Board within 45 days after the end of the period of performance.

2) Expend any encumbered grant funds during a lapse period of 60 days past the end of the period of performance. Any encumbered but unexpended grant funds remaining at the end of the lapse period shall be returned to the Board within 45 days.

3) Submit, no later than 60 days after the end date of the grant period, the following reports:

A) A statement of costs and revenues signed by GYOI's authorized representative.

B) A written evaluation of the project signed by GYOI's authorized representative. The report must address the objectives and performance measures specified in the Grant Agreement. Performance shall be measured in a way that will help the Board and other applicants and recipients improve program outcomes, share lessons learned, spread the adoption of promising practices, and build the evidence upon which the program is based and performance decisions are made.

C) Deadlines may be extended at the discretion of the Board. Extensions shall be issued only in extraordinary circumstances not in the control of GYOI.

g) GYOI is subject to the Auditing Standards stipulated by GATU (see GATA Rule Section 7000.90).

(Source: Added at 44 Ill. Reg. _____, effective _____)

Section 1085.120 Grant Funds Recovery Act (Repealed)

~~Grant funds are subject to the Illinois Grant Funds Recovery Act and all other applicable laws governing contracts and agreements in the State of Illinois. Pursuant to the Illinois Grant Funds Recovery Act, grants may be revoked and misspent grant funds recovered.~~

(Source: Repealed at 44 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Nurse Practice Act

2) Code Citation: 68 Ill. Adm. Code 1300

3)

Section Numbers:	Proposed Actions:
1300.10	Amendment
1300.20	Amendment
1300.30	Amendment
1300.50	Amendment
1300.60	Amendment
1300.70	Repealed
1300.80	Repealed
1300.90	Amendment
1300.100	Repealed
1300.120	Amendment
1300.130	Amendment
1300.200	Amendment
1300.210	Amendment
1300.220	Amendment
1300.230	Amendment
1300.250	Amendment
1300.260	Amendment
1300.300	Amendment
1300.310	Amendment
1300.320	Amendment
1300.330	Repealed
1300.340	Amendment
1300.350	Amendment
1300.360	Amendment
1300.400	Amendment
1300.430	Amendment
1300.445	New Section
1300.465	Amendment
1300.466	Amendment
1300.600	Repealed
1300.610	Repealed
1300.620	Repealed
1300.630	Repealed
1300.640	Repealed

1300.650	Repealed
1300.660	Repealed
1300.670	Repealed
1300.680	Repealed

4) Statutory Authority: Implementing and authorized by the Nurse Practice Act [225 ILCS 65]

5) A Complete Description of the Subjects and Issues Involved: These proposed rules are statutorily required and necessary to implement PA 100-513. The proposed rules are the second set of rules submitted (the first set were adopted in June of 2019) to modernize the Nurse Practice Act. The first set of rules created full practice authority for APRNs. These proposed rules provide additional clarifying language to the existing Registered Nurse (RN) and Licensed Practical Nurse (LPN) sections.

The proposed rules also include amending the RN delegation of authority, updating the process for the restoration of licenses, removing outdated provisions, expanding the definition of unethical or unprofessional conduct, and clarifying licensure requirements for foreign graduates. Additionally, the proposed amendments make minor changes to the APRN sections from the previously adopted rulemaking and they are intended to reduce regulatory burdens by removing outdated provisions that are no longer consistent with the modernization of the Act.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 2nd 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: None

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

C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis:

A) Types of businesses subject to the proposed rules:

54 professional, scientific and technical services

B) Categories that the agency reasonably believes the rulemaking will impact, including:

ii. regulatory requirements

15) Regulatory Agenda on which this rulemaking was summarized: July 2019

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 1300
NURSE PRACTICE ACT

SUBPART A: GENERAL PROVISIONS

Section
1300.10 Definitions
1300.20 Nursing Delegation by a Registered Professional Nurse
1300.30 Fees
1300.40 Renewals
1300.50 Restoration
1300.60 Granting Variances
1300.70 Fines (Repealed)
1300.80 Public Access to Records and Meetings (Repealed)
1300.90 Unethical or Unprofessional Conduct
1300.100 Refusal to Issue a License Based on Criminal History Record (Repealed)
1300.110 Mandatory Reporting of Impaired Licensees
1300.120 Care Counseling and Treatment Agreement~~Impaired Licensee – Disciplinary and Non-Disciplinary~~
1300.130 Continuing Education

SUBPART B: LICENSED PRACTICAL NURSE

Section
1300.200 Application for Examination or Licensure
1300.210 LPN Licensure Examination
1300.220 LPN Licensure by Endorsement
1300.230 Approval of Programs
1300.240 Standards for Pharmacology/Administration of Medication Course for Practical Nurses
1300.250 LPN Scope of Practice
1300.260 Standards for Professional Conduct for LPNs

SUBPART C: REGISTERED NURSE

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section
1300.300 Application for Examination or Licensure
1300.310 RN Licensure Examination
1300.320 RN Licensure by Endorsement
1300.330 Nurse Externship (Repealed)
1300.340 Approval of Programs
1300.350 Standards of Professional Conduct for Registered Professional Nurses
1300.360 RN Scope of Practice
1300.370 Provision of Conscious Sedation by Registered Nurses in Ambulatory Surgical Treatment Centers

SUBPART D: ADVANCED PRACTICE REGISTERED NURSE

Section
1300.400 Application for Licensure
1300.410 Written Collaborative Agreements
1300.420 Collaboration and Consultation (Repealed)
1300.430 Written Collaborative Agreement − Prescriptive Authority
1300.440 APRN Scope of Practice
1300.445 Standards of Professional Conduct for APRNs
1300.450 Delivery of Anesthesia Services by a Certified Registered Nurse Anesthetist Outside a Hospital or Ambulatory Surgical Treatment Center
1300.460 Advanced Practice Registered Nursing in Hospitals or Ambulatory Surgical Treatment Centers
1300.465 Full Practice Authority
1300.466 Full Practice Authority Dispensing
1300.470 Advertising
1300.480 Reports Relating to APRN Professional Conduct and Capacity

SUBPART E: MEDICATION AIDE

1300.600 Pilot Program (Repealed)
1300.610 Application for Examination or Licensure as a Medication Aide (Repealed)
1300.620 Medication Aide Licensure Examination (Repealed)
1300.630 Qualified Employers and Facilities (Repealed)
1300.640 Standards for Termination (Repealed)
1300.650 Site Visits (Repealed)
1300.660 Approved Curriculum (Repealed)
1300.670 Medication Aide Scope of Practice (Repealed)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1300.680 Required Reports of Qualified Facilities (Repealed)

1300.APPENDIX A Additional Certifications Accepted for Licensure as an Advanced Practice Nurse (Repealed)
1300.EXHIBIT A Sample Written Collaborative Agreement

AUTHORITY: Implementing the Nurse Practice Act [225 ILCS 65] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105].

SOURCE: Adopted at 34 Ill. Reg. 14012, effective September 17, 2010; amended at 37 Ill. Reg. 9467, effective July 5, 2013; amended at 38 Ill. Reg. 15988, effective August 1, 2014; amended at 39 Ill. Reg. 15764, effective November 24, 2015; Subpart D recodified at 42 Ill. Reg. 17955; amended at 43 Ill. Reg. 6924, effective June 14, 2019; amended at 44 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 1300.10 Definitions

The following definitions shall apply to this Part:

"Act" means the Nurse Practice Act [225 ILCS 65].

"Address of Record" means the address recorded by the Division in the applicant's or licensee's application file or license file, as maintained by the Division's licensure maintenance unit.

"Advanced Practice Registered Nurse" or "APRN" means a person who has met the qualifications for a:

certified nurse midwife (CNM);

certified nurse practitioner (CNP);

certified registered nurse anesthetist (CRNA); or

clinical nurse specialist (CNS) and has been licensed by the Division.

All advanced practice registered nurses licensed and practicing in the State of Illinois shall use the title APRN and may use specialty credentials after their name.

"APRN Practice Pending Licensure" means practice by an APRN, under a temporary permit, who is scheduled to take the National Certification Examination. This period of practice cannot exceed 6 months from date of application for the license. APRN Practice Pending Licensure does not include prescriptive authority.

~~"Bilingual Nurse Consortium Course or Other Comparable Course Approved by the Division" means a course specifically designed to prepare a nurse trained in another jurisdiction, and for whom English is a second language, to take the Illinois required licensure examination.~~

"Board" means the Board of Nursing.

"Collaboration" means a process involving 2 or more health care professionals working together, each contributing one's respective area of expertise to provide more comprehensive patient care. (Section 50-10 of the Act)

"Consultation" means the process by which *an advanced practice registered nurse seeks the advice or opinion of another health care professional.* (Section 50-10 of the Act)

"Dentist" means a person licensed to practice dentistry under the Illinois Dental Practice Act [225 ILCS 25]. (Section 50-10 of the Act)

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

"Direction" means to give authoritative instruction to another regarding tasks and/or professional responsibilities.

"Director" means the Director of the Division of Professional Regulation, with the authority delegated by the Secretary.

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

~~"Externship" means a two-year program allowing a registered nurse who is licensed under the laws of another state or territory of the United States to practice as a nurse extern under the direct supervision of a registered professional nurse while preparing for the NCLEX-RN examination.~~

"Impaired Nurse" means a nurse licensed under the Act who is unable to practice with reasonable judgment, skill or safety because of a physical or mental disability, as evidenced by a written determination or written consent based on clinical evidence, including loss of motor skills, abuse of drugs or alcohol, or a psychiatric disorder, of sufficient degree to diminish his or her ability to deliver competent patient care. (Section 50-10 of the Act)

~~*"Medication Aide" means a person who has met the qualifications for licensure under* the *Act who assists with medication administration while under the supervision of a registered professional nurse (RN) in a long term care facility.* (Section 80-5 of the Act)~~

"Nursing Intervention" means any treatment, based on clinical nursing judgment or knowledge, that a nurse performs. An individual or entity shall not mandate that a registered professional nurse delegate a nursing intervention if the registered professional nurse determines it is inappropriate to do so. A nurse shall not be subject to disciplinary or any other adverse action for refusing to delegate a nursing intervention based on patient safety. (Section 5-10 of the Act)

"Physician" means a person licensed to practice medicine in all its branches under the Medical Practice Act of 1987 [225 ILCS 60]. (Section 50-10 of the Act)

"Physician Assistant" means a person licensed under the Physician Assistant Practice Act of 1987 [225 ILCS 95]. (Section 50-10 of the Act)

"Podiatrist" or "Podiatric Physician" means a person licensed to practice podiatry under the Podiatric Medical Practice Act of 1987 [225 ILCS 100]. (Section 50-10 of the Act)

"Professional Responsibility" includes making decisions and judgments requiring use of knowledge acquired by completion of an approved program for licensure as a practical, professional or advanced practice registered nurse.

~~"Qualified Facility/Employer" means a long term care facility licensed by the Department of Public Health that meets the qualifications set forth in Section 80-10 of the Act and Section 1300.630, and is chosen to participate in the pilot program established pursuant to Section 80-10 of the Act.~~

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

"Task" means work not requiring professional knowledge, judgment and/or decision making. (Section 50-75 of the Act)

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1300.20 Nursing Delegation by a Registered Professional Nurse

a) *For the purposes of this Section:*

"Delegation" means transferring to a specific~~an~~ individual the authority to perform a specific nursing intervention~~selected nursing activity or task~~, in a selected situation.

"Community-Based Setting" means facilities within the community where individuals, groups and populations may seek or receive assistance and/or care. These include, but are not limited to, schools, assisted living facilities, doctors' offices, clinics, home health, and residences where individuals received services under the Home Health, Home Services, and Home Nursing Licensing Act [210 ILCS 55] or Hospice Program Licensing Act [210 ILCS 60].

"Predictability of outcomes" means that a registered professional nurse or advanced practice registered nurse has determined that the patient's or individual's clinical status is stable and expected to improve or the patient's or individual's deteriorating condition is expected to follow a known or expected course."

"Stability" means a registered professional nurse or advanced practice registered nurse has determined that the individual's clinical status and nursing care needs are consistent. (Section 50-75(a) of the Act)

~~*"Nursing Activity" means any work requiring the use of knowledge acquired by completion of an approved program for licensure, including advanced education, continuing education, and experience as a licensed practical nurse or professional nurse, as defined by* this Part.~~

~~b)~~ ~~*Nursing shall be practiced by licensed practical nurses, registered professional nurses, and advanced practice registered nurses. In the delivery of nursing care, nurses work with many other licensed professionals and other persons. An advanced practice registered nurse may delegate to registered professional nurses, licensed practical nurses, and others persons.*~~

~~c)~~ ~~*A registered professional nurse shall not delegate any nursing activity requiring the specialized knowledge, judgment, and skill of a licensed nurse to an unlicensed person, including medication administration. A registered professional nurse may delegate nursing activities to other registered professional nurses or licensed practical nurses.*~~

b~~d~~) A registered professional nurse may: ~~delegate medication administration to a licensed medication aide in a qualified facility as authorized by Section 80-20 of the Act.~~

1) *Delegate nursing interventions to other registered professional nurses, licensed practical nurses, and other unlicensed personnel.* The delegation should be *based on the comprehensive nursing assessment that includes, but is not limited to:*

A) *The stability and condition of the patient;*

B) *The potential for harm;*

C) *The complexity of the nursing intervention to be delegated;*

D) *The predictability of outcomes; and*

E) *Competency of the individual to whom the nursing intervention is delegated.*

2) *Delegate medication administration to other licensed nurses.*

3) *Refuse to delegate, stop, or rescind a previously authorized delegation.* (Section 5-75(b) of the Act)

c) *In community-based or in-home care settings, an RN may*:

1) *Delegate medication administration (limited to oral or subcutaneous dosage and topical or transdermal application) to unlicensed personnel, if the conditions of delegations* set forth in subsection (b) *are met*.

2) *Delegate, guide and evaluate the implementations of nursing interventions as a component of patient care coordination after completion of the comprehensive patient assessment based on analysis of the comprehensive nursing assessment data. Care coordination may occur in person, by telecommunication, or by electronic communication*. (Section 5-75(b) of the Act)

d) The following actions are prohibited by this Section:

1) *Mandating an RN to delegate nurse interventions when the RN has determined that it is not appropriate to do so.*

2) *Delegating medication administration to unlicensed personnel in any institutional or long-term facility, including but not limited to those facilities licensed by the Hospital Licensing Act* [210 ILCS 85], *the University of Illinois Hospital Act* [110 ILCS 330], *State-operated mental health hospitals, or State-operated developmental centers, except as authorized under Article 80 of the Act or otherwise specifically authorized by law;*

3) *Delegating nursing judgement, the comprehensive patient assessment, development of a plan of care, and evaluations of care to licensed or unlicensed personnel;*

4) *Allowing a licensed practical nurse or unlicensed personnel to re-delegate a nursing intervention that had been delegated to him or her by the RN.* (Section 50-75(b) of the Act)

~~e) *A registered nurse may delegate tasks to other licensed and unlicensed persons. A licensed practical nurse who has been delegated a nursing activity shall not*~~

~~*re-delegate the nursing activity. A registered professional nurse or advanced practice registered nurse retains the right to refuse to delegate or to stop or rescind a previously authorized delegation.* (Section 50-75 of the Act)~~

e~~f~~) Practice in End Stage Renal Dialysis Facilities

1) For the purposes of this Section only, an individual working as a dialysis technician in a Medicare-certified End Stage Renal Dialysis Facility or a facility regulated under the End Stage Renal Disease Facility Act [210 ILCS 62] shall be considered a licensed individual for the purposes of delegation only under Section 50-75 of the Act. A person working to acquire the experience necessary to obtain certification under subsection (e~~f~~)(2) may practice in accordance with this subsection (e~~f~~) for a period of no more than 18 months so long as his or her practice is in compliance with the experience standards set forth by the entities listed in subsection (e~~f~~)(2).

2) Delegation under this subsection (e~~f~~) shall only be allowed if the individual receiving delegation currently holds, or is in the process of acquiring, the necessary experience to apply for and achieve one of the following certifications:

A) Certified Clinical Hemodialysis Technician (CCHT) by the Nephrology Nursing Certification Commission (NNCC);

B) Certified Hemodialysis Technician (CHT) by the Board of Nephrology Examiners Nursing and Technology (BONENT);

C) Certified in Clinical Nephrology Technology (CCNT) by the National Nephrology Certification Organization (NNCO).

3) Delegation under this subsection (e~~f~~) shall not include medication administration except for saline flushes and application of topical anesthetics. All patient care provided by a certified dialysis technician practicing under this subsection (e~~f~~) shall be under the direct and immediate on-site supervision of a licensed physician, advanced practice registered nurse, physician assistant or registered nurse.

4) Delegation under this subsection (e~~f~~) shall also comply with any rules adopted under the End Stage Renal Disease Facility Act.

5) Nothing in this subsection (e~~f~~) shall be construed to apply to any other facility or practice setting. This subsection (e~~f~~) shall not be construed as granting a license under the Act and shall not allow individuals receiving delegation under this subsection (e~~f~~) to use any title regulated by the Act.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1300.30 Fees

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

a) Application Fees

1) The fee for application for a license as a registered professional nurse, and a licensed practical nurse~~, and a medication aide~~ is $50. In addition, applicants for an examination shall be required to pay, either to the Division or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Division or the designated testing service, shall result in the forfeiture of the examination fee.

~~2) The fee for application for participation in the pilot program as a qualified facility as set forth in Section 1300.600 is $500.~~

2~~3~~) The fee for a temporary restoration or endorsement permit for a license as an advanced practice registered nurse, a registered professional nurse and a licensed practical nurse is $25.

3~~4~~) The fee for application for a license as an advanced practice registered nurse or as an advanced practice registered nurse with full practice authority is $125.

4~~5~~) The fee for application as an approved continuing education sponsor is $500.

b) Renewal Fees

1) The fee for the renewal of a practical nurse license shall be calculated at the rate of $40 per year.

2) The fee for the renewal of a registered professional nurse license shall be calculated at the rate of $40 per year.

3) The fee for the renewal of a license as an advanced practice registered nurse or an advanced practice registered nurse with full practice authority shall be calculated at the rate of $40 per year.

4) The fee for renewal of an APRN, LPN or RN continuing education sponsor approval is $250 for 2 years.

c) General Fees

1) The fee for the restoration of a license other than from inactive status is $50 plus payment of all lapsed renewal fees, but not to exceed $250.

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

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

4) The fee for processing a fingerprint card by the Department of State Police is the cost of processing, which shall be made payable to the State Police Services Fund and shall be remitted to the State Police for deposit into the Fund.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1300.50 Restoration

a) A licensee seeking restoration of a license that has expired for 5 years or less shall have the license restored upon completion of all forms required by the Division,

payment of the fees required by Section 1300.30, and completion of his or her CE requirement.

b) A licensee seeking restoration of a license that has been placed on inactive status for 5 years or less shall have the license restored upon completion of all forms required by the Division, payment of the current renewal fee set forth in Section 1300.30(b), and completion of his or her CE requirement.

c) A licensee seeking restoration of his or her license shall submit verification of fingerprint processing from the Illinois State Police (ISP), or its designated agent. Applicants shall contact an Illinois-licensed fingerprint vendor for fingerprint processing. Out-of-state residents may have their fingerprints taken by an out-of-state vendor but the fingerprints must be processed by an Illinois Livescan Vendor. Fingerprints shall be taken within the 60 days prior to application.

d~~c~~) A licensee seeking restoration of a licensed practical nurse license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Division, together with the restoration fee specified in Section 1300.30(c)(1), when restoring an expired license, or the current renewal fee set forth in Section 1300.30(b), when restoring an inactive license. The licensee shall also submit proof of completion of his or her current CE requirement set forth in Section 1300.130(a). The licensee shall also submit proof of fitness to practice, which includes one of the following:

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

2) An affidavit attesting to military service as provided in Section 55-20(c) of the Act. If application is made within 2 years after discharge, and if all other provisions of Section 55-10 of the Act are satisfied, the applicant will be required to pay the current renewal fee, ~~but not the restoration fee,~~ but not the restoration fee; or

3) Proof of successful completion of one of the following: ~~a Division-approved LPN licensure examination.~~

A) A Division-approved LPN licensure examination;

B) A refresher course subject to Division approval; or

C) 40 hours of additional CE credits.

e~~d~~) A licensee seeking restoration of an RN license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Division, together with the restoration fee specified in Section 1300.30(c)(1), when restoring an expired license, or the current renewal fee set forth in Section 1300.30(b), when restoring an inactive license. The licensee shall also submit proof of completion of his or her current CE requirement as set forth in Section 1300.130(b). The licensee shall also submit proof of fitness to practice, which includes one of the following:

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

2) An affidavit attesting to military service as provided in Section 60-25(c) of the Act. If application is made within 2 years after discharge, and if all other provisions of Section 60-10 of the Act are satisfied, the applicant will be required to pay the current renewal fee, but not the restoration fee; or

3) Proof of the successful completion of one of the following:~~a Division-approved RN licensure examination.~~

A) A Division-approved RN licensure examination;

B) A refresher course subjected to Division approval; or

C) 40 hours of additional CE credits.

f~~e~~) A licensee seeking restoration of an APRN license after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Division, together with the restoration fee specified in Section 1300.30(c)(1), when restoring an expired license, or the current renewal fee set forth in Section 1300.30(b), when restoring an inactive license. The licensee shall

also submit proof of completion of his or her most current CE requirements as set forth in Section 1300.130(c). The licensee shall also submit proof of fitness to practice, which includes one of the following:

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

2) An affidavit attesting to military service as provided in Section 65-20(c) of the Act. If application is made within 2 years after discharge, and if all other provisions of Section 65-5 of the Act are satisfied, the applicant will be required to pay the current renewal fee, but not the restoration fee; or

3) Verification of continued, current certification in the APRN's specialty prior to restoration.~~fingerprint processing from the Illinois Department of State Police (DSP), or its designated agent. Applicants shall contact a DSP approved fingerprint vendor for fingerprint processing. Out-of-state residents unable to utilize an electronic fingerprint process may submit to a Division recommended fingerprint vendor one set of fingerprint cards issued by the DSP or one set of fingerprint cards issued by the Federal Bureau of Investigation (FBI), accompanied by the processing fee specified in Section 1300.30(c)(7). Fingerprints shall be taken within the 60 days prior to application; or~~

~~4) For any APRN licensed after October 5, 2007 or any APRN who holds a license that has been placed in non-renewed, inactive, suspended or revoked status since October 5, 2007, proof of continued, current national certification in the APRN's specialty prior to restoration.~~

g~~f~~) Individuals applying for restoration of an inactive or non-renewed license may apply to the Division, on forms provided by the Division, to receive a temporary restoration permit that allows the applicant to work pending the issuance of a license by restoration.

1) The temporary restoration permit application shall include:

A) A completed signed restoration application, along with the restoration fee required by Section 1300.30(c)(1). All supporting

documents shall be submitted to the Division before a permanent license by restoration shall be issued;

B) Either:

i) Photocopies of all current active nursing licenses and/or temporary permits/licenses from other jurisdictions (current active licensure in at least one United States jurisdiction is required); or

ii) Verification of employment in nursing practice within the last 5 years in a United States jurisdiction;

C) Verification that fingerprints have been submitted to the Division or the ISP~~DSP~~ or its designated agent; and

D) The temporary restoration permit fee required by Section 1300.30(a)(2).

2) The Division will issue a temporary restoration permit no later than 14 days after receipt of a completed application as set forth in this Section.

3) Temporary permits shall be terminated upon:

A) The issuance of a permanent license by restoration;

B) Failure to complete the application process within 6 months from the date of issuance of the permit;

C) A finding by the Division that the applicant has been convicted within the last 5 years of any crime under the laws of any jurisdiction of the United States that is:

i) A~~a~~ felony; or

ii) A~~a~~ misdemeanor directly related to the practice of nursing;

D) A finding by the Division that, within the last 5 years, the applicant has had a license or permit related to the practice of nursing

revoked, suspended or placed on probation by another jurisdiction, if at least one of the grounds is substantially equivalent to grounds in Illinois; or

E) Upon notification that the Division intends to deny restoration of licensure for any reason.

4) The Division will notify the applicant by certified or registered mail of the intent to deny licensure pursuant to subsections (g~~f~~)(3)(C) and (D) of this Section and/or Section 70-5 of the Act.

5) A temporary permit shall be extended beyond the 6-month period, upon recommendation of the Board and approval of the Director, due to hardship, defined as:

A) Serving full-time in the Armed Forces;

B) An incapacitating illness as documented by a currently licensed physician;

C) Death of an immediate family member; or

D) Extenuating circumstances beyond the applicant's control, as approved by the Secretary.

h~~g~~) When the accuracy of any submitted documentation, or the relevance or sufficiency of the course work or experience is questioned by the Division because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the licensee will be requested to:

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

2) Appear for an oral interview before the Board to explain the relevance or sufficiency, clarify information, or clean up any discrepancies or conflicts in information. Upon recommendation of the Board and approval by the Division, an applicant shall have the license restored.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

Section 1300.60 Granting Variances

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

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

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

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

~~b) The Secretary shall notify the Board of the granting of the variance, and the reasons for granting the variance, at the next meeting of the Board.~~

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1300.70 Fines (Repealed)

~~Fines may be imposed in conjunction with other forms of disciplinary actions, but fines shall not be the exclusive disposition of any disciplinary action arising out of conduct resulting in death or injury of a patient.~~

(Source: Repealed at 44 Ill. Reg. _____, effective _____)

Section 1300.80 Public Access to Records and Meetings (Repealed)

~~a) All investigative procedures, information arising out of the investigation of complaints, and informal conferences shall be confidential. All other proceedings and documents, beginning with the filing of a formal complaint, shall be open to the public.~~

~~b) All meetings of the Board shall also be open to the public in accordance with the Open Meetings Act [5 ILCS 120].~~

(Source: Repealed at 44 Ill. Reg. _____, effective _____)

Section 1300.90 Unethical or Unprofessional Conduct

a) The Division may suspend or revoke a license, refuse to issue or renew a license or take other disciplinary or non-disciplinary action based upon its findings of unethical or unprofessional conduct (see Section 70-5(b)(7) of the Act), which is interpreted to include, but is not limited to, the following acts or practices:

1) Engaging in conduct likely to deceive, defraud or harm the public, or demonstrating a willful disregard for the health, welfare or safety of a patient. Actual injury need not be established.

2) A departure from or failure to conform to the standards of practice as set forth in the Act or this Part. Actual injury to a patient need not be established.

3) Engaging in behavior that crosses professional boundaries (such as signing wills or other documents not related to client health care).

4) Engaging in sexual conduct with a patient~~,~~ or conduct that may reasonably be interpreted by a patient as sexual, or in any verbal behavior that is sexually harassing to a patient.

5) Demonstrating actual or potential inability to practice nursing with reasonable skill, safety or judgment by reason of illness, use of alcohol, drugs, chemicals or any other material, or as a result of any mental or physical condition.

6) Engaging in activities that constitute a breach of the nurse's responsibility to a patient;

7) Engaging in activities that are violative of ethical standards of the profession (such as failing to safeguard patient confidentiality and records within the constraints of law; not respecting the rights of patients, colleagues and other health professionals; not observing requirements under the Act and any rules pertaining to any relevant specialty; and failing to provide service with compassion and respect for human dignity);

8) Engaging in activities that result in the assumption by the nurse of responsibility for delivery of patient care that the nurse was not properly qualified or competent to render;

9) Engaging in activities that result in a delegation of responsibility for delivery of patient care to persons who were not properly supervised or who were not competent to assume that responsibility;

10) Engaging in activities that cause actual harm to any member of the public; or

11) Misrepresenting educational background, training, credentials or competence.

b) The Division hereby incorporates by reference the "Code for Nurses with Interpretive Statements", July 2015~~2001~~, American Nurses Association, 8515 Georgia Avenue, Suite 400, Silver Spring MD 20910, with no later amendments or editions.

c) The Division hereby incorporates by reference the "Standards of Practice and Educational Competencies of Graduates of Practical/Vocational Nursing Programs", National Association for Practical Nurse Education and Service, Inc., May 6, 2007, 1940 Duke Street, Suite 200, Alexandria VA 22314, with no later amendments or editions.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1300.100 Refusal to Issue a License Based on Criminal History Record (Repealed)

~~a) For purposes of this Part, criminal history record information is defined as information collected by criminal justice agencies (see 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 a 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 720 ILCS 5/Art. 33A) or moral turpitude. Moral turpitude consists of:~~

~~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 (21 USC 801 et seq.).~~

~~C) Sex offenses including but not limited to all crimes listed in Article 11 of the Criminal Code of 1961 [720 ILCS 5/Art. 11].~~

~~2) Whether the crime is related to the practice of the profession.~~

~~3) Whether more than 10 years have elapsed since the date of completion of 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 as defined 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);~~

~~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, Revocation, Suspension, or Intent to Refuse to Renew; Request for Hearing~~

~~1) If the determination is made that the applicant is unfit for licensure, the Division shall send notice of denial, revocation, suspension or intent to refuse to renew by certified mail, return receipt requested, to the applicant at the applicant's address of record or by personal delivery to the applicant. 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 under 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 shall schedule an informal conference with the applicant in an attempt to resolve issues in controversy consensually. The Division shall notify the applicant of the informal conference at least 20 days prior to the hearing. 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: Repealed at 44 Ill. Reg. _____, effective _____)

Section 1300.120 Care Counseling and Treatment Agreement~~Impaired Licensee – Disciplinary and Non-Disciplinary~~

a) At its discretion, the Division may offer a care counseling and treatment agreement to an impaired nurse.~~Disciplinary and Non-Disciplinary Options for the Impaired Licensee. The Division shall establish by rule a program of care, counseling and treatment for the impaired licensee. This program shall allow an impaired licensee to self-refer to the program.~~

b) Eligibility for consideration for a care, counseling and treatment agreement may~~shall~~ include but not be limited to the following:

~~1) licensee must self report to the Division before a complaint has been filed;~~

1~~2~~) Licensee~~licensee~~ must have no prior disciplinary action in any jurisdiction concerning practice issues related to substance abuse;

2~~3~~) Licensee~~licensee~~ has not been convicted criminally of any felony or drug-related misdemeanor, nor is any such criminal action pending;

3~~4~~) Licensee~~licensee~~ acknowledges a substance use disorder or impairment~~addiction and/or chemical dependence~~; and

4~~5~~) Licensee~~licensee~~ has appeared for and submitted to an assessment by a physician who is a certified addictionist or an advanced practice registered nurse with specialty certification in addiction and has followed the recommendations of the assessment. Evaluations submitted from another

state may be accepted if the evaluator was approved by the nursing board of that state. Evaluations that satisfy court orders may also be accepted.

c) Pursuant to Section 70-5(e) of the Act, *all substance-related allegations mandate an automatic substance abuse assessment*.~~Individual licensee health care records shall be privileged and confidential, unavailable for use in any proceeding, and not subject to disclosure. Nothing in this Section shall impair or prohibit the Division from taking disciplinary action based upon the grounds set forth in Section 70-5 of the Act.~~

1) The Department may issue an Order to Compel a substance abuse assessment within 30 days, at the expense of the Department, meeting the requirements set forth in subsection (b). A licensee's failure to timely complete a substance abuse assessment in the manner prescribed by the Department shall result in an automatic suspension pursuant to Section 70-5(e) of the Act.

2) Prior to the issuance of an Order to Compel, licensees may voluntarily agree to a substance abuse assessment meeting the requirements set forth in subsection (b). Voluntary remedial action may be considered a mitigating factor by the Department when assessing disciplinary or non-disciplinary action pursuant to Section 2105-130(c)(6) of the Department of Professional Regulation Law [20 ILCS 2105]. In those instances, the licensee shall be responsible for the expense of the substance abuse assessment.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1300.130 Continuing Education

a) Continuing Education (CE) Requirements

1) As required by the Act, all nurses shall complete continuing education as follows:

A) All licensed practical nurses shall complete 20 hours of approved continuing education per 2-year~~2 year~~ license renewal cycle.

B) All registered nurses shall complete 20 hours of approved continuing education per 2-year~~2 year~~ license renewal cycle.

C) All advanced practice registered nurses shall complete 80 hours of approved continuing education in the advanced practice registered nurse's specialty per 2-year~~2 year~~ license renewal cycle. Completion of the 80 hours under this subsection (a)(1)(C) shall satisfy the continuing education requirements for renewal of a registered professional nurse license. An APRN holding more than one APRN license is required to complete 80 hours of continuing education total per license renewal period. The 80 hours of continuing education required shall be completed as follows:

i) A minimum of 50 hours of the continuing education shall be obtained in continuing education programs that shall include no less than 20 hours of pharmacotherapeutics, including 10 hours of opioid prescribing or substance abuse education.

ii) A maximum of 30 hours of credit may be obtained by presentations in the APRN's clinical specialty, evidence-based practice, or quality improvement projects, publications, research projects, or preceptor hours.

2) The following time equivalencies shall apply:

1 contact hour	=	60 minutes
1 academic semester hour	=	15 contact hours
1 academic quarter hour	=	12.5 contact hours
1 CME	=	1 contact hour
1 CNE	=	1 contact hour
1 AMA	=	1 contact hour

3) All CE must be completed in the 24 months preceding expiration of the license.

4) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois license.

5) Nurses licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section.

6) Continuing education hours used to satisfy the CE requirements of another jurisdiction may be applied to fulfill the CE requirements of the State of Illinois pursuant to the provisions set forth in subsection (e).

b) Approved Continuing Education

1) CE hours shall be earned by verified attendance at (e.g., certificate of attendance or certificate of completion) or participation in a program or course (program) that is offered or sponsored by an approved CE sponsor who meets the requirements set forth in subsection (c), except for those activities provided in subsections (b)(2), (3) and (4).

2) Independent study that is approved for CE credits as set forth in subsection (c) may be used, i.e., home study programs, articles from journals, and other health discipline independent study modules.

3) Academic credits may be used to fulfill CE requirements if the course content is consistent with subsection (c)(3). CE hours are awarded as outlined in subsection (a)(4).

A) College/university courses that are audited may not be used for CE credit.

B) Degree "core" or general education credits such as English, literature, history, math, music and physical education may not be used.

4) Presenter/lecturer presentations made to other health professionals on topics related to the certification area may be used for CE credit. Each different individual, non-repetitive 60-minute lecture may be used for 5 CE hours. Full-time educators may not use presentations/lectures that are part of their job expectations~~, -~~ but may use guest lectures and other presentations made outside the duties of their job.

5) CE hours may be earned for authoring papers, publications, articles, dissertations, book chapters or research projects. These must be

applicable to the practice area. The research project must be completed during the prerenewal period. Authoring a paper or publishing articles may be used for 10 CE hours. Authoring a book chapter, dissertation or research project may be used for 20 CE hours. APRNs may obtain a maximum of 30 CE hours earned under this subsection (b)(5).

6) Up to 5 CE hours may be earned for completion of skills certification courses. A maximum of 2 hours in cardiopulmonary resuscitation certified by the American Red Cross, American Heart Association, or other qualified organization may be accepted, while a maximum of 3 hours may be accepted for certification or recertification in Basic Life Support for Healthcare Providers (BLS), Advanced Cardiac Life Support (ACLS), or Pediatric Advanced Life Support (PALS) or their equivalent.

7) CE Options for APRNs

A) CE hours may be earned through preceptorship of an APRN student. Preceptors must provide clinical supervision and education to the APRN student. Documentation must be provided from the school of nursing in which the student is enrolled. Precepting one student for an academic semester or quarter may be used for 10 CE hours. Not more than 30 CE hours in each renewal period may come from precepting.

B) Successful completion, during the prerenewal period, of a recertification exam in the APRN's area of specialty as recognized in Section 1300.10 may be used for 60 CE hours.

c) Approved CE Sponsors and Programs

1) Sponsor, as used in this Section, shall mean:

A) Approved providers of recognized certification bodies as outlined in Section 1300.400(a).

B) Any conference that provides approved Continuing Medical Education (CME) as authorized by the Illinois Medical Practice Act.

C) American Nurses Credentialing Center (ANCC) accredited or approved providers.

D) Illinois Society for Advanced Practice Nursing (ISAPN).

E) American Association~~Academy~~ of Nurse Practitioners (AANP).

F) Nurse Practitioner Association for Continuing Education (NPACE).

G) American Association of Nurse Anesthetists (AANA), or National Board of Certification and Recertification for Nurse Anesthetists (NBCNA).

H) National Association of Clinical Nurse Specialists (NACNS).

I) American College of Nurse Midwives (ACNM).

J) Illinois Nurse Association or its affiliates.

K) Providers approved by another state's board of nursing.

L) Nursing education programs approved under Section 1300.230 or 1300.340 wishing to offer CE courses or programs.

M) Employers licensed under the Hospital Licensing Act [210 ILCS 85] or the Ambulatory Surgical Treatment Center Act [210 ILCS 5].

N) Any other accredited school, college or university, State agency, federal agency, county agency or municipality that provides CE in a form and manner consistent with this Section.

2) An entity seeking approval as a CE sponsor, not specifically listed in subsection (c)(1), shall submit an application, on forms supplied by the Division, along with the application fee specified in Section 1300.30(a)(5). The application shall include:

A) Certification:

i) That all programs offered by the sponsor for CE credit will comply with the criteria in subsection (c)(3) and all other criteria in this Section;

ii) That the sponsor will be responsible for verifying full-time continuous attendance at each program and provide a certificate of attendance as set forth in subsection (c)(7);

iii) That, upon request by the Division, the sponsor will submit evidence (e.g., certificate of attendance or course material) necessary to establish compliance with this Section. Evidence shall be required when the Division has reason to believe that there is not full compliance with the statute.

B) A copy of a sample program with faculty, course materials and syllabi.

3) All programs shall:

A) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in the practice of nursing;

B) Foster the enhancement of general or specialized nursing practice and values;

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

D) Specify the course objectives, course content and teaching methods to be used; and

E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for license renewal.

4) Each CE program shall provide a mechanism for evaluation of the program and instructor by the participants. The evaluation may be completed on-site immediately following the program/presentation, or an

evaluation questionnaire may be distributed to participants to be completed and returned by mail. The sponsor and instructor, together, shall review the evaluation outcome and revise subsequent programs accordingly.

5) A sponsor approved pursuant to subsection (c)(1) may subcontract with individuals or organizations to provide approved programs. All advertising, promotional materials and certificates of attendance must identify the approved sponsor. The presenter of the program may also be identified~~,~~ but should be identified as a presenter. When an approved sponsor subcontracts with a presenter, the sponsor retains all responsibility for monitoring attendance, providing certificates of attendance and ensuring the program meets all of the criteria established by the Act and this Part, including the maintenance of records.

6) To maintain approval as a sponsor approved under subsection (c)(2), each sponsor shall submit to the Division by May 31 of each even-numbered year a renewal application and the renewal fee specified in Section 1300.30(b).

7) Certification of Attendance. It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:

A) The sponsor's name and, if applicable, sponsor approval number;

B) The name of the participant;

C) A brief statement of the subject matter;

D) The number of hours attended in each program;

E) The date and place of the program; and

F) The signature of the sponsor.

8) The sponsor shall maintain attendance records for not less than 5 years.

9) The sponsor shall be responsible for assuring that no renewal applicant will receive CE credit for time not actually spent attending the program.

10) Upon the failure of a sponsor to comply with any of the requirements of this subsection (c), the Division, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE attendance at or participation in any of that sponsor's CE programs until such time as the Division receives assurances of compliance with this Section.

11) Notwithstanding any other provision of this Section, the Division or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with requirements of this Section.

d) Certification of Compliance with CE Requirements

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

2) The Division may require additional evidence demonstrating compliance with the CE requirements (e.g., certificates of attendance). This additional evidence shall be required in the context of the Division's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.

3) When there appears to be a lack of compliance with CE requirements, an applicant shall be notified in writing and may request an interview with the Board. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100].

e) Continuing Education Earned in Other Jurisdictions

1) If a licensee has earned CE hours offered in another jurisdiction not given by an approved sponsor for which the licensee will be claiming credit toward full compliance in Illinois, the applicant shall submit an individual program approval request form, along with a $25 processing fee, prior to participation in the program or within 90 days prior to expiration of the

license. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3).

2) If a licensee fails to submit an out-of-state CE approval form within the required time frame, late approval may be obtained by submitting the approval request with the $25 processing fee plus a late fee of $50 per CE hour, not to exceed $300. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (c)(3).

~~f) Restoration of Nonrenewed License~~
~~Upon satisfactory evidence of compliance with CE requirements, the Division shall restore the license upon payment of the fee required by Section 1300.30(c)(1).~~

f~~g~~) Waiver of CE Requirements

1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Division a renewal application, along with the required fee set forth in Section 1300.30(b), a statement setting forth the facts concerning noncompliance and a request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Division, upon the written recommendation of the Board, finds from the affidavit or any other evidence submitted that extreme hardship has been shown for granting a waiver, the Division will waive enforcement of CE requirements for the renewal period for which the applicant has applied.

2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:

A) Full-time service in the Armed Forces of the United States during a substantial part of the prerenewal period;

B) An incapacitating illness documented by a currently licensed health care provider;

C) A physical inability to access the sites of approved programs documented by a currently licensed health care provider; or

D) Any other similar extenuating circumstances.

3) When the licensee is requesting a waiver due to physical or mental illness or incapacity, the licensee shall provide a current fitness to practice statement from a currently licensed health care provider familiar with the licensee's medical history.

4) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final decision on the application is made by the Division.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART B: LICENSED PRACTICAL NURSE

Section 1300.200 Application for Examination or Licensure

a) Each applicant shall file with the Division or the testing service designated by the Division a completed, signed application, on forms supplied by the Division, that includes:

1) Proof~~proof~~ of graduation from a licensed practical nursing education program that meets the requirements of Section 1300.230;

2) Verification~~verification~~ of fingerprint processing from ISP~~the Illinois Department of State Police (DSP),~~ or its designated agent. (Practical nurses licensed in Illinois are not required to be fingerprinted when applying for a license as a registered professional nurse.) Applicants shall contact an Illinois-licensed~~a DSP approved~~ fingerprint vendor for fingerprint processing. Out-of-state residents may have their fingerprints taken by an out-of-state vendor but the fingerprints must be processed by an Illinois Livescan Vendor~~unable to utilize an electronic fingerprint process may submit to a Division recommended fingerprint vendor one set of fingerprint cards issued by the Illinois Department of State Police or one set of fingerprint cards issued by the FBI, accompanied by the~~

~~processing fee specified in Section 1300.30(c)(7)~~. Fingerprints shall be taken within the 60 days prior to application;

3) The~~the~~ required fees set forth in Section 1300.30(a)(1);

4) For~~for~~ applicants educated outside the United States or its territories, the following:

A) A~~a~~ credentials evaluation report of the applicant's foreign nursing education from ~~either~~ the Commission on Graduates of Foreign Nursing Schools (CGFNS), Credentials Evaluation Service (CES), ~~or~~ the Educational Records Evaluation Service (ERES), or another credentialing service approved by the Division. However, the Division shall not accept a credential report that does not ~~indicate that the applicant is licensed in his/her country of education or in which the report does not~~ evaluate the educational program of the applicant based upon receipt and review of official transcripts from the nursing education program bearing the school seal. ~~These credential reports shall not be accepted as valid credential reports.~~ In order to be accepted by the Division, credential reports shall be in a form and manner acceptable to the Division.

B) If~~if~~ the applicant's first language is not English, certification of passage of either the Test of English as a Foreign Language (TOEFL) or the International English Language Testing System (IELTS) General Training Module. For TOEFL, the minimum passing score on the paper-based test is 560, computer-based test is 220, and internet-based test is 83. For the IELTS General Training Module, the minimum passing score shall be 6.0 (overall score) and 7.0 (spoken band). The Division may, upon recommendation from an approved credentials evaluation service, waive the requirement that the applicant pass the TOEFL or IELTS examination if the applicant submits verification of the successful completion of a nursing education program conducted in English or the passage of an approved licensing examination given in English;

5) Official~~official~~ transcripts of theory and clinical education prepared by an official of the military for a practical nurse applicant who has received

practical nursing education in the military service. This education must meet the standards set forth in Section 1300.230; and

6) Verification~~verification~~ from the jurisdictions in which the applicant was originally licensed, current state of licensure and any other jurisdiction in which the applicant has been actively practicing within the last 5 years, if applicable, stating:

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

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

b) Any applicant who fails to demonstrate fulfillment of the education requirements shall be notified in writing and must satisfy the deficiency before being granted temporary authority to practice nursing, as permitted by Section 60-10 of the Act, or being admitted to the examination. Deficiencies in nursing theory and/or clinical practice may be removed by taking the required courses in an approved nursing education program.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1300.210 LPN Licensure Examination

a) The Board shall make recommendations to the Division regarding content, design and contractor for a licensure examination. A licensure examination contract shall be negotiated and approved by the Division.

b) Licensed Practical Nurse Examination

1) The passing grade on the National Council Licensure Examination (NCLEX) for LPNs shall be based on an ability scale designed to measure minimum LPN competency. A pass/fail grade will be assigned.

2) An LPN applicant who fails the examination is not eligible for licensure.

3) If the examination is not passed within 3 years from the date of the first examination taken, regardless of the jurisdiction in which the examination was written, the applicant shall not be permitted to retake the examination until the applicant has enrolled in a NLCEX review course.~~successfully recompleted an approved LPN program prior to re-application.~~ The~~Upon successful completion of the approved practical nursing education program, the~~ applicant shall submit proof to the Division. This subsection (b)(3) does not apply to applicants licensed in another jurisdiction.

4) If 3 years from the date of original application has lapsed, the applicant shall be required to submit a new application to the Division pursuant to Section 55-10 of the Act.

c) Eligibility for Licensed Practical Nurse Examination
Any candidate who is unable to pass the registered professional nurse examination will not be permitted to write the practical nurse examination until or unless that applicant has graduated from an approved practical nursing education program.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1300.220 LPN Licensure by Endorsement

a) Each applicant who is licensed in another jurisdiction shall file a completed, signed application for licensure on the basis of endorsement, on forms supplied by the Division. The application shall include:

1) The~~the~~ fee required by Section 1300.30(a)(1);

2) Proof~~proof~~ of graduation from an LPN nursing education program that meets the requirements of Section 1300.230;

3) Proof~~proof~~ of passage of an examination recognized by the Division, upon recommendation of the Board (i.e., National Council Licensure Examination for practical nurses, or State Board Test Pool Examination for practical nurses);

4) Verification~~verification~~ of fingerprint processing from ISP~~the Illinois Department of State Police (DSP),~~ or its designated agent. (Practical

nurses licensed in Illinois are not required to be fingerprinted when applying for a license as a registered professional nurse.) Applicants shall contact an Illinois-licensed~~a DSP approved~~ fingerprint vendor for fingerprint processing. Out-of-state residents may have their fingerprints taken by an out-of-state vendor but the fingerprints must be processed by an Illinois Livescan Vendor~~unable to utilize an electronic fingerprint process may submit to a Division recommended fingerprint vendor one set of fingerprint cards issued by the Illinois Department of State Police or one set of fingerprint cards issued by the FBI, accompanied by the processing fee specified in Section 1300.30(c)(7)~~. Fingerprints shall be taken within the 60 days prior to application;

5) Official~~official~~ transcripts of theory and clinical education prepared by an official of the military for a practical nurse applicant who has received his/her education in the military service. Education must meet the standards for education set forth in Section 1300.230;

6) Verification~~verification~~ of licensure status from the jurisdiction in which the applicant was originally licensed, current licensure and any other jurisdiction in which the applicant has been actively practicing within the last 5 years; and

7) A~~a~~ certified translation for all credentials of education and licensure, if not in English.

8) For LPN applicants who received education outside of the United States, a credentials evaluation report of the applicant's foreign nursing education from the Commission on Graduates of Foreign Nursing Schools (CGFNS) Credentials Evaluation Service (CES), the Educational Records Evaluation Service (ERES) or another credentialing service approved by the Division. This requirement can be satisfied by providing proof of licensure in a state that requires such a report for initial licensure.

b) After filing the original application, any change of name must be supported by an affidavit satisfactory to the Division.

c) Compliance with the provisions of Section 1300.210(b)(3) for each practical nurse applicant shall be a requirement for Illinois practical nurse licensure by endorsement.

d) Eligibility for Practical Nurse Endorsement
A candidate who is unable to pass the LPN examination in another jurisdiction and is allowed to write the practical nurse examination in that jurisdiction and is subsequently licensed as a practical nurse in that jurisdiction is not eligible for endorsement in Illinois unless and until the candidate has graduated from an approved practical nursing education program.

e) Individuals applying for licensure by endorsement may apply to the Division, on forms provided by the Division, to receive a Temporary Endorsement Permit pursuant to Section 55-10 of the Act. The permit shall allow the applicant to work pending the issuance of a license by endorsement.

1) The temporary endorsement permit application shall include:

A) A~~a~~ completed, signed endorsement application, along with the required endorsement licensure fee set forth in Section 1300.30(a)(2). All supporting documents shall be submitted to the Division before a permanent license by endorsement is issued;

B) Photocopies~~photocopies~~ of all current active nursing licenses and/or temporary permits/licenses from other jurisdictions. Current active licensure in at least one United States jurisdiction is required. Each applicant's license will be checked on the Nurse System (NURSYS) disciplinary data bank to determine if any disciplinary action is pending on the applicant's file;

C) Verification~~verification~~ that fingerprints have been submitted to the Division or the Illinois Department of State Police or its designated agent; and

D) The~~the~~ fee for a temporary permit as required in Section 1300.30(a)(2).

2) The Division shall issue a temporary endorsement permit no later than 14 days after receipt of a completed application as set forth in subsection (e)(1).

3) Temporary permits shall be terminated upon:

A) The~~the~~ issuance of a permanent license by endorsement;

B) Failure~~failure~~ to complete the application process within 6 months from the date of issuance of the permit;

C) A~~a~~ finding by the Division that the applicant has been convicted of any crime under the laws of any jurisdiction of the United States that is:

i) A~~a~~ felony; or

ii) A~~a~~ misdemeanor directly related to the practice of nursing, within the last 5 years;

D) A~~a~~ finding by the Division that, within the last 5 years, the applicant has had a license or permit related to the practice of nursing revoked, suspended or placed on probation by another jurisdiction, if at least one of the grounds is substantially equivalent to grounds in Illinois; or

E) A~~a~~ finding by the Division that the applicant does not meet the licensure requirements for endorsement set forth in this Section. The Division shall notify the applicant in writing of the termination.

4) The Division shall notify the applicant by certified or registered mail of the intent to deny licensure pursuant to subsections (e)(3)(D) and (E) of this Section and/or Section 70-5 of the Act.

5) A temporary permit shall be renewed beyond the 6-month period, upon recommendation of the Board and approval of the Director, due to hardship, defined as:

A) Serving~~serving~~ full-time in the Armed Forces;

B) An~~an~~ incapacitating illness as documented by a currently licensed health care provider;

C) Death~~death~~ of an immediate family member; or

D) Extenuating~~extenuating~~ circumstances beyond the applicant's control, as approved by the Director.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1300.230 Approval of Programs

a) Program Approval
Institutions desiring to establish a new nursing program that would lead to meeting requirements for licensure, change the level of educational preparation of the program, or establish an extension of an existing program shall:

1) Submit a letter of intent to the Division.

2) Provide a feasibility study to the Division, on forms provided by the Division, that includes, at least, documentation of:

A) Need for the program in the community;

B) Need for graduates of the proposed program;

C) Availability of students;

D) Impact on existing nursing programs in a 50 mile radius of the proposed program;

E) Potential for qualified faculty, including the curriculum vitae of any potential faculty members;

F) Adequacy of clinical practicum and academic resources;

G) Financial commitment to support the initial and continuing program;

H) Community support of the scope and philosophy of the program;

I) Authorization by the appropriate education agency of the State of Illinois; and

J) A timetable for development of the program and the intended date of the first class beginning.

3) Identify a qualified nurse administrator with a minimum of a master's degree in nursing and with experience as a nurse educator~~,~~ and provide a curriculum vitae of the proposed nurse administrator.

4) Submit a curriculum proposal including:

A) Program philosophy and objectives;

B) A plan of organization that is logical and internally consistent;

C) Proposed plans of study, including requisite and elective courses with rationale;

D) Course outlines or syllabi for all nursing courses;

E) Student handbook;

F) Faculty qualifications;

G) Instructional approaches to be employed;

H) Evaluation plans for progress, faculty and students;

I) Facilities and utilization plan; and

J) Budget plan.

5) Coordinate with the Division and/or the DPR Nursing Coordinator for a site visit to be conducted prior to program approval.

b) Continued Program Approval

1) Nursing education programs shall submit annual evaluation reports to the Division on forms provided by the Division. These reports shall contain information regarding curriculum, faculty and students and other information deemed appropriate by the Division.

2) Full routine site visits may be conducted by the Division for periodic evaluation. The visits will be utilized to determine compliance with the Act. Unannounced site visits may be conducted when the Division obtains evidence that would indicate the program is not in compliance with the Act or this Part.

3) A pass rate of graduates on the National Council Licensing Examination (NCLEX) shall be included in the annual evaluation of nursing education programs.

   A) A pass rate of 75% of first time examinees will be required for a school to remain in good standing.

   B) A nursing education program having an annual pass rate of less than 75% of first time examinees for one year will receive a written warning of noncompliance from the Division.

   C) A nursing education program having an annual pass rate of less than 75% of first time examinees for 2 consecutive years will receive a site visit for evaluation and recommendation by the Division and will be placed on probation for program revision in accordance with 68 Ill. Adm. Code 1110.

   D) The nursing education program will have 2 years to demonstrate evidence of implementing strategies to correct deficiencies and bring the pass rate in line with the 75% criteria.

   E) If, 2 years after implementing the strategies to correct deficiencies in the program, the annual pass rate is less than 75%, the program will be reevaluated. The program will be allowed to continue to operate on a probationary status or will be disapproved and removed from the list of Illinois approved nursing programs in accordance with 68 Ill. Adm. Code 1110.

c) Major Curricular Revision
Nursing education programs desiring to make a major curricular revision, i.e., addition or deletion of content, a substantive change in philosophy or conceptual framework, or length of program, shall:

1) Submit a letter of intent to the Division; and

2) Submit a copy of the proposed changes and new material to the Division, at least one term prior to implementation, for Board recommendation and Division approval in accordance with the standards set forth in subsection (f).

d) Minor Curricular Revisions
Nursing education programs desiring to make curricular revisions involving reorganization of current course content but not constituting a major curriculum revision shall submit the proposed changes to the Division in their annual report.

e) Organization and Administration

1) An institution responsible for conducting a nursing education program shall be authorized by the appropriate agency of the State of Illinois (e.g., Illinois Board of Higher Education, ~~State Board of Education,~~ Illinois Community College Board);

2) The relationship of the nursing education program to other units within the sponsoring institution shall be clearly delineated with organizational charts on file with the Division;

3) Nursing education programs shall have clearly defined lines of authority, responsibility and communication;

4) Student input into determination of academic policies and procedures, curriculum planning and evaluation of faculty effectiveness shall be assured as evidenced by information such as student membership on policy and evaluation committees, policy statements and evaluation procedures;

5) Nursing education program policies and procedures shall be in written form, congruent with those of the sponsoring institution, and reviewed by members of the program on a regular schedule;

6) The philosophy, purpose and objectives of the nursing education program shall be stated in writing and shall be consistent with the sponsoring institution and current social, nursing and educational trends and the Act.

f) Curriculum and Instruction

1) The curriculum shall be based upon the stated program purpose, philosophy and outcomes;

2) Levels of progression in relation to the stated program outcomes shall be established;

3) Coordinated clinical and theoretical learning experiences shall be consistent with the program outcomes;

4) Curricular content shall reflect contemporary nursing practice encompassing major health needs of all age groups;

5) The entire curriculum shall be based on sound nursing, education and instructional principles;

6) The curriculum shall be evaluated by faculty with student input, according to a stated plan;

7) The program shall be approved by the appropriate educational agency;

8) Curriculum for the practical nursing programs shall:

A) Include, at a minimum, basic concepts of anatomy, physiology, chemistry, microbiology, physics, communications, growth and development, interpersonal relationships, psychology, sociology, cultural diversity, pharmacology (pharmacology course standards are set forth in Section 1300.240), nutrition and diet therapy~~,~~ and vocational, legal and ethical aspects of nursing;

B) Not preclude a flexible curriculum that would provide appropriate integration of the nursing subject areas;

C) Provide basic theoretical and clinical instruction in all areas of nursing practice in the promotion, prevention, restoration and maintenance of health in individuals and groups across the life span and in a variety of clinical settings;

D) Incorporate the nursing process as an integral part of the curriculum;

E) Prepare the student to assume entry level practical nursing positions to assist clients with normal and common health problems through use of basic nursing skills;

F) Be at least one academic year in length; and

G) If a military program, consist of a minimum of 36 to 40 weeks of theory and clinical instruction incorporating the curriculum outlined in subsection (f)(8)(A).

g) Nursing Administrator and Faculty

1) The institution responsible for conducting the nursing program and the nurse administrator of the nursing education program shall be responsible for ensuring that the individual faculty members are academically and professionally qualified.

2) Nursing education programs shall be administered by the nurse administrator of the nursing education program.

3) The nurse administrator and faculty of a nursing education program shall be currently licensed as registered professional nurses in Illinois.

4) The nurse administrator of a nursing education program shall have at least:

A) 2 years'~~years~~ experience in clinical nursing practice;

B) 2 years'~~years~~ experience as a nurse educator~~an instructor in a nursing education program~~; and

C) A~~a~~ master's degree or higher with a major in nursing.

5) Nurse faculty of a practical nursing program shall have:

A) At least 2 years'~~years~~ experience in clinical nursing practice; and

B) A baccalaureate degree or higher with a major in nursing.

6) The requirements of subsections (g)(4) and (5) shall not affect incumbents as of the original date these requirements were adopted, January 14, 1980.

7) Nurse administrators of nursing education programs shall be responsible for:

A) Administration of the nursing education program;

B) Liaison with other units of the sponsoring institution;

C) Preparation and administration of the budget;

D) Facilitation of faculty development and performance review;

E) Facilitation and coordination of activities related to academic policies, personnel policies, curriculum, resource facilities and services~~,~~ and program evaluation; and

F) Notification to the Division of program changes.

8) Faculty shall be responsible for:

A) Development, implementation and evaluation of the purpose, philosophy and objectives of the nursing education program;

B) Design, implementation and evaluation of curriculum for the nursing education program;

C) Participation in academic advising of students;

D) Development and evaluation of student policies; and

E) Evaluation of student performance in meeting the objectives of the program.

9) Faculty shall participate in:

A) Selection, promotion and tenure activities;

B) Academic activities of the institution;

C) Professional and health related community activities;

D) Self-development activities for professional and personal growth;

E) Research and other scholarly activities for which qualified; and

F) Activities that maintain educational and clinical expertise in areas of teaching.

10) Clinical experience must be under direct supervision of qualified faculty as set forth in this subsection (g) or with a registered nurse preceptor. The nurse preceptor shall be approved by the parent institution and shall work under the direction of a nurse faculty member.

11) The ratio of students to faculty in the clinical area shall be appropriate to the clinical learning experience:

A) When under direct supervision of the faculty, the ratio shall not exceed 10 to 1.

B) When a registered nurse preceptor is used, the ratio of students to faculty member shall not exceed 12 to 1.

h) Financial Support, Facilities, Records

1) Adequate financial support for the nursing education program, faculty and other necessary personnel, equipment, supplies and services shall be in evidence in the program budget.

2) The faculty of the nursing education program and the staff of cooperating agencies used as sites for additional theory and clinical experience shall work together for quality of patient care.

3) Articles of Affiliation

   A) The nursing education program shall have Articles of Affiliation between the nursing education program and each clinical facility that define the rights and responsibilities of each party, including agreements on the role and authority of the governing bodies of both the clinical site and the nursing education program.

   B) If portions of the required clinical or theoretical curriculum are offered at different geographical sites or by distance learning, the curriculum must be planned, supervised, administered and evaluated in concert with appropriate faculty committees, department chairmen and administrative officers of the parent school.

4) There shall be adequate facilities for the nursing program for both academic and clinical experiences for students.

5) There shall be access to learning resource facilities, including library and multi-media technology, that are reasonably sufficient for the curriculum and the number of students enrolled in the nursing education programs.

6) Cooperating agencies shall be identified to the Division and shall be suitable to meet the objectives of the program.

7) Addition or deletion of cooperating agencies shall be reported in writing to the Division on the program annual report.

8) The nursing program's policies and procedures shall not violate constitutional rights and shall be written and available to faculty and students.

9) Permanent student records that summarize admissions, credentials, grades and other records of performance shall be maintained by the program.

i) Preceptors
A program of licensed professional nursing that uses the personnel of a clinical facility as preceptors to instruct the clinical experience must:

1) Require each preceptor to have demonstrated competencies with patient populations to which the student is assigned;

2) Require each preceptor to be approved by the faculty of the program of nursing;

3) Require the faculty of the program to provide to each preceptor an orientation concerning the roles and responsibilities of students, faculty and preceptors;

4) Require the faculty of the program to develop written competencies/outcomes and provide a copy of these to each preceptor before the preceptor begins instruction of the students;

5) Designate a member of the faculty to serve as a liaison between the preceptor and each student who participates in the clinical experience;

6) Require that each preceptor be present in the clinical facility or at the location of point of care and available to the students at all times when the student provides nursing care or services to patients/clients;

7) Require that each preceptor have a current registered professional nurse license in the state where the student is practicing.

j) Denial of Approval of Nursing Program
If the Division, in the course of reviewing an application for approval of a nursing program, determines that an applicant program has failed to comply with the application criteria or procedures outlined in this Part, or receives information that indicates that the applicant program will not be able to comply with the conditions set forth in subsection (b), the Division may deny the application for approval.

k) Discontinuance of a Nursing Program

1) Prior to terminating a nursing education program, the program shall:

A) Notify the Division, in writing, of its intent to discontinue its program;

B) Continue to meet the requirements of the Act and this Part until the official date of termination of the program;

C) Notify the Division of the date on which the last student will graduate and the program will terminate; and

D) Assume responsibility for assisting students to continue their education in the event of closing of the school prior to the final student graduating.

2) Upon closure of the nursing education program, the institution shall notify the Division, in writing, of the location of student and graduate records storage.

l) Revocation of Program Approval

1) The following are grounds for disapproval of a nursing education program:

A) A violation of any provision of the Act;

B) Fraud or dishonesty in applying for approval of a nursing education program;

C) Failure to continue to meet criteria of an approved nursing education program set forth in this Section; or

D) Failure to comply with recommendations made by the Division as a result of a site visit.

2) Upon written notification of the Division's proposed action, the nursing education program may:

A) Submit a written response;

B) Request a hearing before the Board.

m) Out-of-State Education Programs Seeking Student Nurse Clinical Placement in Illinois

1) Out-of-state nursing education programs offering clinical experiences in Illinois are expected to maintain the standards for approved nursing education programs set forth in this Section.

2) Programs desiring to seek approval for student nurse clinical placement in Illinois shall submit the following documents:

A) Evidence of approval/accreditation by the Board of Nursing or other appropriate approval bodies in the state in which the institution is located.

B) A letter requesting approval to provide the clinical offering that indicates the time-frame during which the clinical experience will be conducted, the clinical agencies and the clinical units to be utilized.

C) A course syllabus for the clinical experiences to be offered that specifies the related objectives of the offering.

D) A copy of the executed contractual agreement between the academic institution and the clinical facility.

E) A faculty qualification and/or preceptor form for individuals providing instruction in Illinois.

3) Faculty

A) The institution responsible for conducting the nursing program and the administrator of the nursing education program shall be responsible for ensuring that the individual faculty members are academically and professionally qualified.

B) Nurse faculty of a practical nursing program shall have:

i) At~~at~~ least 2 years'~~years~~ experience in clinical nursing practice; and

ii) A~~a~~ baccalaureate degree or higher with a major in nursing.

C) The faculty shall be currently licensed as registered professional nurses in Illinois.

D) Clinical experience must be under direct supervision of qualified faculty as set forth in subsection (g) or with a registered nurse preceptor. The nurse preceptor shall be approved by the parent institution and shall work under the direction of a nurse faculty member.

E) The ratio of students to faculty in the clinical area shall be appropriate to the clinical learning experience.

i) When under direct supervision of the faculty, the ratio shall not exceed 10 to 1.

ii) When a registered nurse preceptor is used, the ratio of students to faculty member shall not exceed 12 to 1.

4) Approval for clinical offerings by out-of-state nursing programs shall be approved for a period of 2 years. A program representative may request renewal of the approval every 2 years. In order to renew, the program shall submit a written report that provides updated and current data as required by this subsection (m).

5) A written report of current clinical offerings and current data shall be submitted to the Division annually. Faculty qualification and preceptor forms shall be submitted when instructors are added or changed.

6) Failure to comply with the requirements set forth in this Part shall result in the immediate withdrawal of approval of the clinical experience offering.

n) If the name of the program is changed or the institution in which the program is located or with which it is affiliated changes its name, the program shall notify the Division within 30 days after the name change. If the Division is not notified within the 30 days, the program's approval may be withdrawn.

o) The Division has determined that nationally accredited nurse programs ~~approved through the National League for Nursing Accrediting Commission or the Commission on Collegiate Accreditation~~ meet the requirements set forth in this Section, except for those programs whose curriculums do not include a concurrent theory and clinical practice education component as required by Section 50-70 of the Act.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1300.250 LPN Scope of Practice

Practice as a licensed practical nurse means a scope of basic nursing practice, with or without compensation, as delegated by a registered professional nurse or an advanced practice registered nurse or as directed by a physician assistant, physician, dentist or podiatric physician, and includes all of the following and other activities requiring a like skill level for which the LPN is properly trained:

a) *Conducting a focused nursing assessment and contributing to the ongoing comprehensive nursing assessment of the patient performed by the RN~~Collecting data and collaborating in the assessment of the health status of a patient~~.*

b) *Collaborating in the development and modification of the RN's or APRN's~~registered professional nurse's or advanced practice registered nurse's~~ comprehensive nursing plan of care for all types of patients.*

c) *Implementing aspects of the plan of care as delegated.*

d) *Participating in health teaching and counseling to promote, attain, and maintain the optimum health level of patients, as delegated.*

e) *Serving as an advocate for the patient by communicating and collaborating with other health service personnel, as delegated.*

f) *Participating in the evaluation of patient responses to interventions.*

g) *Communicating and collaborating with other health care professionals, as delegated.*

h) *Providing input into the development of policies and procedures to support patient safety.* (Section 55-30 of the Act)

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1300.260 Standards for Professional Conduct for LPNs

a) The licensed practical nurse shall, but is not limited to, upholding the following professional standards:

1) Practice in accordance with the Act and this Part;

2) Practice nursing only when in functional physical and mental health;

3) Be accountable for his or her own nursing actions and competencies;

4) Practice or offer to practice, including delegated nursing activities, only within the scope permitted by law and within the licensee's own educational preparation and competencies;

5) Perform nursing activities as delegated;

6) Seek instruction from a registered professional nurse or advanced practice registered nurse when implementing new or unfamiliar nursing activities;

7) Report unsafe, unethical or illegal health care practice or conditions to appropriate authorities and to the Division;

8) Assume responsibility for continued growth and education to reflect knowledge and understanding of current nursing care practice.

b) Violations of this Section may result in discipline as specified in Section 70-5 of the Act. ~~All disciplinary hearings shall be conducted in accordance with 68 Ill. Adm. Code 1110.~~

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART C: REGISTERED NURSE

Section 1300.300 Application for Examination or Licensure

a) Each applicant shall file, with the Division or the testing service designated by the Division, a completed, signed application, on forms supplied by the Division, that includes:

1) Proof~~proof~~ of graduation from a nursing education program that meets the requirements of Section 1300.40;

2) Verification~~verification~~ of fingerprint processing from ISP~~the Illinois Department of State Police (DSP),~~ or its designated agent. (Practical nurses licensed in Illinois are not required to be fingerprinted when applying for a license as a registered professional nurse.) Applicants shall contact an Illinois-licensed~~a DSP-approved~~ fingerprint vendor for fingerprint processing. Out-of-state residents may have their fingerprints taken by an out-of-state vendor but the fingerprints must be processed by an Illinois Livescan Vendor~~unable to utilize an electronic fingerprint process may submit to a Division recommended fingerprint vendor one set of fingerprint cards issued by the Illinois Department of State Police or one set of fingerprint cards issued by the FBI, accompanied by the processing fee specified in Section 1300.30(c)(7)~~. Fingerprints shall be taken within the 60 days prior to application;

3) The~~the~~ fees required by Section 1300.30(a)(1);

4) For~~for~~ applicants educated outside the United States or its territories, the following:

A) A~~a~~ credentials evaluation report of the applicant's foreign nursing education from either the Commission on Graduates of Foreign Nursing Schools (CGFNS) Credentials Evaluation Service (CES), ~~or~~ the Educational Records Evaluation Service (ERES), or another credentialing service approved by the Division. To be accepted, the report must:

i) Verify~~verify~~ that the applicant has successfully completed ~~primary and secondary and~~ nursing education equivalent to education received in a US state or territory as determined by the Department, based upon receipt and review of official transcripts from the nursing education program bearing the school seal;

~~ii) verify that the applicant was licensed in his or her country of education if licensure was available at the time of education;~~

iiii~~iii~~) Indicate~~indicate~~ any subject matter deficiencies; and

iiii~~iv~~) Be~~be~~ in a form and manner acceptable to the Division. The Division will not accept a credential report until it receives all relevant information required by this Section; and~~.~~

B) If~~if~~ the applicant's first language is not English, certification of passage of either the Test of English as a Foreign Language (TOEFL) or the International English Language Testing System (IELTS) Academic Module. For TOEFL the minimum passing score on the paper-based test is 560, computer-based test is 220, and internet-based test is 83. For the IELTS Academic Module, the minimum passing score shall be 6.5 (overall score) and 7.0 (spoken band). The Division may, upon recommendation from an approved credentials evaluation service, waive the requirement that the applicant pass the TOEFL or IELTS examination if the applicant submits verification of the successful completion of a nursing education program conducted in English.~~;~~

~~C) for applicants who have completed a minimum of 2 years of nursing education but are unable to meet the requirement of subsection (a)(4)(A)(1), proof of successful passage of the General Education Development test enabling the applicant to be approved to sit for the examination.~~

b) Any applicant who fails to demonstrate fulfillment of the education requirements shall be notified in writing and must satisfy the deficiency before being granted temporary authority to practice nursing, as permitted by Section 60-10 of the Act,

or being admitted to the examination. Deficiencies in nursing theory and/or clinical practice may be removed by taking the required courses in an approved nursing education program.

c) When the applicant has completed the nursing education program in less than the usual length of time through advanced standing or transfer of credits from one institution to another, the director of nursing education shall include an explanation in the certification.

d) Pursuant to Section 50-70 of the Act, when an applicant has completed a nonapproved program that is a correspondence course or a program of nursing that does not require coordinated or concurrent theory and clinical practice, the Division may grant a license to an applicant who has applied in accordance with subsection (a) and who has received an advanced graduate degree in nursing from an approved program with concurrent theory and clinical practice or who is currently licensed in another state and has been actively practicing in clinical nursing for a minimum of 2 years. Clinical practice for purposes of this Section means nursing practice that involves direct physical (psychomotor and psychosocial) patient (client) care within an acute care facility.

1) Clinical practice areas that would meet the requirements for clinical practice include the following:

A) Adult Medical Surgical Nursing

B) Pediatric Nursing

C) Maternity Nursing

D) Emergency Nursing

E) Critical Care Nursing

F) Post-Anesthesia Care Nursing

G) Psychiatric Nursing

H) Medicare/Skilled Nursing in a Long-Term Care Facility

2) Clinical practice shall not include:

A) Telephone or Triage Nursing

B) Case Management

3) A year of clinical practice consists of not less than 1500 hours of direct patient care.

4) The Board of Nursing will review clinical practice documentation that does not meet the requirements of this subsection (d).

e) Credentials of education and licensure, if not in English, shall be accompanied by a certified translation.

f) After filing the original application, any change of name must be supported by an affidavit satisfactory to the Division.

g) If an applicant has taken and passed the National Council Licensure Examination (NCLEX) in accordance with Section 1300.310, the applicant shall file an application in accordance with subsection (a) and shall have the examination scores submitted to the Division directly from the testing entity or from the state of original licensure.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1300.310 RN Licensure Examination

a) The Board shall make recommendations to the Division regarding content, design and contractor for a licensure examination. A licensure examination contract shall be negotiated and approved by the Division.

b) Registered Professional Nurse Examination

1) The passing grade on the National Council Licensure Examination (NCLEX) for registered professional nurses shall be based on an ability scale designed to measure minimum RN competency. A pass/fail grade will be assigned.

2) An RN applicant who fails the examination is not eligible for licensure

3) If the examination is not passed within 3 years from the date of application, regardless of jurisdiction in which the examination was written, the applicant shall not be permitted to retake the examination until the applicant has enrolled in a NCLEX review course.~~successfully completed at least 2 additional years of professional nursing education. Upon successful completion of the approved nursing education program,~~ The~~the~~ applicant shall submit proof to the Division. This subsection (b)(3) does not apply to applicants who are licensed in another jurisdiction.

4) If 3 years from the date of original application has lapsed, the applicant shall be required to submit a new application to the Division pursuant to Section 60-10 of the Act and provide evidence of meeting the requirements in force at the time of the new application.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1300.320 RN Licensure by Endorsement

a) Each applicant who is licensed in another jurisdiction shall file a completed, signed application for licensure on the basis of endorsement, on forms supplied by the Division. The application shall include:

1) The~~the~~ fee required by Section 1300.30(a)(1);

2) Proof~~proof~~ of graduation from a nursing education program that meets the requirements of Section 1300.340;

3) Proof~~proof~~ of passage of an examination recognized by the Division, upon recommendation of the Board (i.e., National Council Licensure Examination for professional nurses, or State Board Test Pool Examination for professional nurses or practical nurses);

4) Verification~~verification~~ of fingerprint processing from ISP~~the Illinois Department of State Police (DSP),~~ or its designated agent. (Practical nurses licensed in Illinois are not required to be fingerprinted when applying for a license as a registered professional nurse.) Applicants shall contact an Illinois-licensed~~a DSP approved~~ fingerprint vendor for

fingerprint processing. Out-of-state residents may have their fingerprints taken by an out-of-state vendor but the fingerprints must be processed by an Illinois Livescan Vendor~~unable to utilize an electronic fingerprint process may submit to a Division recommended fingerprint vendor one set of fingerprint cards issued by the Illinois Department of State Police or one set of fingerprint cards issued by the FBI, accompanied by the processing fee specified in Section 1300.30(c)(7)~~. Fingerprints shall be taken within the 60 days prior to application;

5) For~~for~~ RN applicants who received education outside of the United States, a credentials evaluation report of the applicant's foreign nursing education from either the Commission on Graduates of Foreign Nursing Schools (CGFNS) Credentials Evaluation Service (CES), ~~or~~ the Educational Records Evaluation Service (ERES), or another credentialing service approved by the Division. This requirement can be satisfied by providing proof of licensure in a state that requires such a report for initial licensure.

A) To be accepted, the report must:

i) Verify~~verify~~ that the applicant has successfully completed ~~primary and secondary and~~ nursing education equivalent to education received in a US state or territory as determined by the Department, based upon receipt and review of official transcripts from the nursing education program bearing the school seal;

~~ii) verify that the applicant was licensed in his or her country of education if licensure was available at the time of education;~~

ii~~iii~~) Indicate~~indicate~~ any subject matter deficiencies; and

iii~~iv~~) Be~~be~~ in a form and manner acceptable to the Division. The Division will not accept a credential report until it receives all relevant information required by this Section.

B) The requirement for a credentials evaluation of foreign nursing education may be satisfied by the submission of proof of a certificate from the Certificate Program or the VisaScreen Program

of the Commission on Graduates of Foreign Nursing Schools, provided that the certificate was based upon licensure in the applicants country of education;

C) If the applicant's first language is not English, the applicant shall provide certification of passage of either the Test of English as a Foreign Language (TOEFL) or the International English Language Testing System (IELTS) Academic Module. For TOEFL, the minimum passing score on the paper-based test is 560, computer-based test is 220, and internet-based test is 83. For the IELTS Academic Module, the minimum passing score shall be 6.5 (overall score) and 7.0 (spoken band). The Division may~~, upon recommendation from an approved credentials evaluation service,~~ waive the requirement that the applicant pass the TOEFL or IELTS examination if the applicant submits verification of the successful completion of a nursing education program conducted in English or the passage of an approved licensing examination given in English;

D) Applicants that have completed a minimum of 2 years of nursing education and have met the other requirements for those educated in another country~~but are unable to meet the requirement of subsection (a)(5)(A)(i)~~ may be approved for licensure. ~~if:~~

~~i) the applicant provides proof of successful passage of the General Education Development test; or~~

~~ii) the applicant provides proof of a minimum of two years full time licensed clinical nursing practice in another state;~~

6) Official~~official~~ transcripts of theory and clinical education prepared by an official of the military for a nurse applicant who has received his/her education in the military service. Education must meet the standards for education set forth in Section 1300.340;

7) Verification~~verification~~ of licensure status from the jurisdiction in which the applicant was originally licensed, current licensure and any other jurisdiction in which the applicant has been actively practicing ~~within the last 5 years~~; and

8) A~~a~~ certified translation for all credentials of education and licensure, if not in English.

b) After filing the original application, any change of name must be supported by an affidavit satisfactory to the Division.

c) Deficiencies in nursing theory and/or clinical practice may be removed by taking the required courses in an approved nursing education program.

d) Compliance with the provisions of Section 1300.310(b)(3) for each RN applicant and shall be a requirement for Illinois nurse licensure by endorsement.

e) Individuals applying for licensure by endorsement may apply to the Division, on forms provided by the Division, to receive a Temporary Endorsement Permit pursuant to Section 60-10 of the Act. The permit shall allow the applicant to work pending the issuance of a license by endorsement.

1) The temporary endorsement permit application shall include:

A) A~~a~~ completed, signed endorsement application, along with the required endorsement licensure fee set forth in Section 1300.30(a)(3). All supporting documents shall be submitted to the Division before a permanent license by endorsement is issued;

B) Photocopies~~photocopies~~ of all current active nursing licenses and/or temporary permits/licenses from other jurisdictions. Current active licensure in at least one United States jurisdiction is required. Each applicant's license will be checked on the Nurse System (NURSYS) disciplinary data bank to determine if any disciplinary action is pending on the applicant's file;

C) Verification~~verification~~ that fingerprints have been submitted to the Division or the Illinois Department of State Police or its designated agent; and

D) The~~the~~ fee for a temporary permit as required in Section 1300.30(a)(3).

2) The Division shall issue a temporary endorsement permit no later than 14 days after receipt of a completed application as set forth in subsection (e)(1).

3) Temporary permits shall be terminated upon:

A) The~~the~~ issuance of a permanent license by endorsement;

B) Failure~~failure~~ to complete the application process within 6 months from the date of issuance of the permit;

C) A~~a~~ finding by the Division that the applicant has been convicted of any crime under the laws of any jurisdiction of the United States that is:

i) A~~a~~ felony; or

ii) A~~a~~ misdemeanor directly related to the practice of nursing, within the last 5 years;

D) A~~a~~ finding by the Division that, within the last 5 years, the applicant has had a license or permit related to the practice of nursing revoked, suspended or placed on probation by another jurisdiction, if at least one of the grounds is substantially equivalent to grounds in Illinois; or

E) A~~a~~ finding by the Division that the applicant does not meet the licensure requirements for endorsement set forth in this Section. The Division shall notify the applicant in writing of the termination.

4) The Division shall notify the applicant by certified or registered mail of the intent to deny licensure pursuant to subsections (e)(3)(D) and (E) and/or Section 70-5 of the Act.

5) A temporary permit shall be renewed beyond the 6-month period, upon recommendation of the Board and approval of the Director, due to hardship, defined as:

A) Serving~~serving~~ full-time in the Armed Forces;

B) An~~an~~ incapacitating illness as documented by a currently licensed physician;

C) Death~~death~~ of an immediate family member; or

D) Extenuating~~extenuating~~ circumstances beyond the applicant's control, as approved by the Director.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1300.330 Nurse Externship (Repealed)

~~a) Each applicant for a nurse externship permit shall file a completed, signed application on forms supplied by the Division. The application shall include:~~

~~1) proof of graduation from an RN educational program approved by the Division;~~

~~2) verification of licensure as an RN in another state or territory of the United States and proof of an active and unencumbered license in all of the states or territories in which the applicant is licensed;~~

~~3) verification of an offer for employment in Illinois as a nurse extern and a copy of the written employment offer;~~

~~4) a letter of acceptance from the Bilingual Nurse Consortium course or other comparable course approved by the Division;~~

~~5) verification from the applicant's prospective employer stating that the prospective employer agrees to pay the full tuition for the Bilingual Nurse Consortium course or other comparable course approved by the Division;~~

~~6) proof of taking the Test of English as a Foreign Language (TOEFL) or the International English Language Testing System (IELTS) Academic Module. For TOEFL a minimum passing score on the paper-based test of 560, computer-based test of 220, or internet-based test of 83. For the~~

~~IELTS Academic Module, the minimum passing score shall be 6.5 (overall score) and 7.0 (spoken band);~~

~~7) proof that the applicant has not violated the provisions of Section 10-45 of the Act; and~~

~~8) the required externship permit fee set forth in Section 1300.30(a)(3).~~

~~b) The nurse extern must submit to the Division a mid-year exam as determined by the Bilingual Nurse Consortium that demonstrates proficiency towards passing the NCLEX.~~

~~c) A nurse extern shall be issued only one permit that shall expire one calendar year after it is issued.~~

(Source: Repealed at 44 Ill. Reg. _____, effective _____)

Section 1300.340 Approval of Programs

a) Program Approval
Institutions desiring to establish a new nursing program that would lead to meeting requirements for licensure, change the level of educational preparation of the program, or establish an extension of an existing program shall:

1) Submit a letter of intent to the Division.

2) Provide a feasibility study to the Division, on forms provided by the Division, that includes, at least, documentation of:

A) Need for the program in the community;

B) Need for graduates of the proposed program;

C) Availability of students;

D) Impact on existing nursing programs in a 50-mile radius of the proposed program;

E) The curriculum vitae of identifiable faculty, including the curriculum vitae of any potential faculty members that will teach in the program;

F) Adequacy of clinical practicum and academic resources;

G) Financial commitment to support the initial and continuing program;

H) Community support of the scope and philosophy of the program;

I) Authorization by the appropriate education agency of the State of Illinois; and

J) A timetable for development of the program and the intended date of the first class beginning.

3) Identify and provide a curriculum vitae of a qualified nurse administrator with a minimum of a master's degree in nursing and with experience as a nurse educator.

4) Submit a curriculum proposal including:

A) Program philosophy and objectives;

B) A plan of organization that is logical and internally consistent;

C) Proposed plans of study, including requisite and elective courses with rationale;

D) Course outlines or syllabi for all nursing courses;

E) Student handbook;

F) Faculty qualifications;

G) Instructional approaches to be employed;

H) Evaluation plans for faculty and students;

I) Facilities and utilization plan; and

J) Budget plan.

5) Coordinate with the Division and/or Nursing Coordinator for a site visit to be conducted prior to program approval.

b) Continued Program Approval

1) Nursing education programs shall submit annual evaluation reports to the Division on forms provided by the Division. These reports shall contain information regarding curriculum, faculty and students and other information deemed appropriate by the Division.

2) Full routine site visits may be conducted by the Division for periodic evaluation. The visits will be utilized to determine compliance with the Act. Unannounced site visits may be conducted when the Division obtains evidence that would indicate the program is not in compliance with the Act or this Part.

3) *Beginning December 31, 2022, obtaining and maintaining programmatic accreditation by a national accrediting body for nursing education recognized by the United States Department of Education and approved by the Department. The Department and Board of Nursing shall be notified within 30 days if the program loses its accreditation.* (Section 60-5(a)(5) of the Act)

A) The Board shall issue a warning letter to any program that lost its national accreditation. This letter shall inform the program of its probationary status and the corrective actions necessary to be in compliance with the Act.

B) The program placed on probationary status must:

i) Immediately notify all enrolled students and applicants that the program has lost its national accreditation and of corrective actions the program will take to regain its accreditation; and

ii) Correct the deficiencies identified by the Board within 12 months unless otherwise directed by the Board, including regaining its national accreditation. Failure to correct the deficiencies within the specified time frame shall result in the Board's withdrawal of the program's approval status.

4~~3~~) A pass rate of graduates on the National Council Licensing Examination (NCLEX) shall be included in the annual evaluation of nursing education programs.

A) A pass rate of 75% of first-time examinees will be required for a school to remain in good standing.

B) A nursing education program having an annual pass rate of less than 75% of first-time examinees for one year will receive a written warning of noncompliance from the Division.

C) A nursing education program having an annual pass rate of less than 75% of first-time examinees for 2 consecutive years will receive a site visit for evaluation and recommendation by the Division and will be placed on probation for program revision in accordance with 68 Ill. Adm. Code 1110.

D) The nursing education program will have 2 years to demonstrate evidence of implementing strategies to correct deficiencies and bring the pass rate in line with the 75% criteria.

E) If, 2 years after implementing the strategies to correct deficiencies in the program, the annual pass rate is less than 75%, the program will be reevaluated. The program will be allowed to continue to operate on a probationary status or will be disapproved and removed from the list of Illinois approved nursing programs in accordance with 68 Ill. Adm. Code 1110.

c) Major Curricular Revision
Nursing education programs desiring to make a major curricular revision, i.e., addition or deletion of content, a substantive change in philosophy or conceptual framework, or length of program, shall:

1) Submit a letter of intent to the Division; and

2) Submit a copy of the proposed changes and new material to the Division, at least one term prior to implementation, for Board recommendation and Division approval in accordance with the standards set forth in subsection (f).

d) Minor Curricular Revisions
Nursing education programs desiring to make curricular revisions involving reorganization of current course content but not constituting a major curriculum revision shall submit the proposed changes to the Division in their annual report.

e) Organization and Administration

1) An institution responsible for conducting a nursing education program shall be authorized by the appropriate agency of the State of Illinois (e.g., Illinois Board of Higher Education, State Board of Education, Illinois Community College Board);

2) The relationship of the nursing education program to other units within the sponsoring institution shall be clearly delineated with organizational charts on file with the Division;

3) Nursing education programs shall have clearly defined lines of authority, responsibility and communication;

4) Student input into determination of academic policies and procedures, curriculum planning and evaluation of faculty effectiveness shall be assured as evidenced by information such as student membership on policy and evaluation committees, policy statements and evaluation procedures;

5) Nursing education program policies and procedures shall be in written form, congruent with those of the sponsoring institution, and reviewed by members of the program on a regular schedule;

6) The philosophy, purpose and objectives of the nursing education program shall be stated in writing and shall be consistent with the sponsoring institution and current social, nursing and educational trends and the Act.

f) Curriculum and Instruction

1) The curriculum shall be based upon the stated program purpose, philosophy and objectives;

2) Levels of progression in relation to the stated program outcomes shall be established;

3) Coordinated clinical and theoretical learning experiences shall be consistent with the program outcomes;

4) Curricular content shall reflect contemporary nursing practice encompassing major health needs of all age groups;

5) The entire curriculum shall be based on sound nursing, education and instructional principles;

6) The curriculum may include a Nursing Student Internship/Cooperative Education Course that meets the following minimum requirements:

A) The course must be available with the nursing major and identified on the transcript.

B) Faculty must meet approved nursing education program qualifications and hold faculty status with the educational unit.

C) Clinical content must be coordinated with theoretical content.

D) Clinical experience must be under direct supervision of qualified faculty as set forth in subsection (g) or with a registered nurse preceptor. The nurse preceptor shall be approved by the program and shall work under the direction of a nurse faculty member.

E) Students shall not be permitted to practice beyond educational preparation or without faculty supervision.

F) The course shall be based on program purpose, philosophy, objectives and framework.

G) Course evaluation shall be consistent with the plan for program evaluation.

H) Articles of affiliation shall clearly delineate student, educational institution and health care agency roles and responsibilities;

7) The curriculum shall be evaluated by faculty with student input, according to a stated plan;

8) The program shall be approved by the appropriate educational agency;

9) Curriculum for professional nursing programs shall:

A) Include, at a minimum, concepts in anatomy, physiology, chemistry, physics, microbiology, sociology, psychology, communications, growth and development, interpersonal relationships, group dynamics, cultural diversity, pharmacology and the administration of medication, nutrition and diet therapy, patho-physiology, ethics, nursing history, trends and theories, professional and legal aspects of nursing, leadership and management in nursing, and teaching-learning theory;

B) Not preclude a flexible curriculum that would provide appropriate integration of the nursing subject matters;

C) Provide theoretical and clinical instruction in all areas of nursing practice in the promotion, prevention, restoration and maintenance of health in individuals and groups across the life span and in a variety of clinical settings;

D) Incorporate the nursing process as an integral part of the curriculum;

E) Prepare the student to assume beginning level professional nursing positions;

F) Be at least 2 academic years in length.

g) Nursing Administrator and Faculty

1) The institution responsible for conducting the nursing program and the nurse administrator of the nursing education program shall be responsible for ensuring that the individual faculty members are academically and professionally qualified.

2) Nursing education programs shall be administered by the nurse administrator of the nursing education program.

3) The nurse administrator and faculty of a nursing education program shall be currently licensed as registered professional nurses in Illinois.

4) The nurse administrator of a nursing education program shall have at least:

A) 2 years'~~years~~ experience in clinical nursing practice;

B) 2 years'~~years~~ experience as a nursing educator~~an instructor in an RN or higher nursing education program~~; and

C) A~~a~~ master's degree or higher with a major in nursing.

5) Nurse faculty of a professional nursing program shall have:

A) At least 2 years'~~years~~ experience in clinical nursing practice;

B) A master's degree or higher with a major in nursing.

6) The requirements of subsections (g)(4) and (5) shall not affect incumbents as of the original date these requirements were adopted, January 14, 1980.

7) Nurse administrators of nursing education programs shall be responsible for:

A) Administration of the nursing education program;

B) Liaison with other units of the sponsoring institution;

C) Preparation and administration of the budget;

D) Facilitation of faculty development and performance review;

E) Facilitation and coordination of activities related to academic policies, personnel policies, curriculum, resource facilities and services, and program evaluation; and

F) Notification to the Division of program changes.

8) Faculty shall be responsible for:

A) Development, implementation and evaluation of the purpose, philosophy and objectives of the nursing education program;

B) Design, implementation and evaluation of curriculum for the nursing education program;

C) Participation in academic advising of students;

D) Development and evaluation of student policies; and

E) Evaluation of student performance in meeting the objectives of the program.

9) Faculty shall participate in:

A) Selection, promotion and tenure activities;

B) Academic activities of the institution;

C) Professional and health related community activities;

D) Self-development activities for professional and personal growth;

E) Research and other scholarly activities for which qualified; and

F) Activities that maintain educational and clinical expertise in areas of teaching.

10) Clinical experience must be under direct supervision of qualified faculty as set forth in this subsection (g) or with a registered nurse preceptor. The nurse preceptor shall be approved by the parent institution and shall work under the direction of a nurse faculty member.

11) The ratio of students to faculty in the clinical area shall be appropriate to the clinical learning experience:

A) When under direct supervision of the faculty, the ratio shall not exceed 10 to 1.

B) When a registered nurse preceptor is used, the ratio of students to faculty member shall not exceed 12 to 1.

h) Financial Support, Facilities, Records

1) Adequate financial support for the nursing education program, faculty and other necessary personnel, equipment, supplies and services shall be in evidence in the program budget.

2) The faculty of the nursing education program and the staff of cooperating agencies used as sites for additional theory and clinical experience shall work together for quality of patient care.

3) Articles of Affiliation

A) The nursing education program shall have Articles of Affiliation between the nursing education program and each clinical facility that define the rights and responsibilities of each party, including agreements on the role and authority of the governing bodies of both the clinical site and the nursing education program.

B) If portions of the required clinical or theoretical curriculum are offered at different geographical sites or by distance learning, the curriculum must be planned, supervised, administered and evaluated in concert with appropriate faculty committees,

department chairmen and administrative officers of the parent school.

4) There shall be adequate facilities for the nursing program for both academic and clinical experiences for students.

5) There shall be access to learning resource facilities, including library and multi-media technology, that are reasonably sufficient for the curriculum and the number of students enrolled in the nursing education programs.

6) Cooperating agencies shall be identified to the Division and shall be suitable to meet the objectives of the program.

7) Addition or deletion of cooperating agencies shall be reported in writing to the Division on the program annual report.

8) The nursing program's policies and procedures shall not violate constitutional rights and shall be written and available to faculty and students.

9) Permanent student records that summarize admissions, credentials, grades and other records of performance shall be maintained by the program.

i) Faculty Waiver~~Variance~~

1) Waivers~~Variances~~ for faculty with a graduate degree in a field other than nursing may be granted by the Division based on the following:

A) The~~the~~ individual has a bachelor's degree in nursing;

B) The~~the~~ individual has at least 2 years of experience in clinical nursing practice;

C) The~~the~~ individual has a degree in a field that directly relates to the course he or she will be teaching;

D) At~~at~~ least 80% of the school's undergraduate nursing faculty holds a master's degree in nursing.

2) WaiversVariances for faculty without a graduate degree will be granted based on the following:

A) Thethe faculty member is within one year of completion of the master's in nursing or the faculty member has completed a master's in another area or is enrolled in a doctoral degree in nursing program and has completed all coursework, exceptexcect for a dissertation/final project;

B) Thethe faculty member is continuously enrolled in the graduate degree in nursing program;

C) Aa plan exists for the timely completion of the graduate degree in nursing program; and

D) Aat least 80% of the school's undergraduate nursing faculty holds a master's degree in nursing.

3) A school that has received a waivervariance must notify the Board of any changes related to that faculty member, including notification that the faculty member has received the graduate degree.

j) Preceptors
A program of registered professional nursing that uses the personnel of a clinical facility as preceptors to instruct the clinical experience must:

1) Require each preceptor to have demonstrated competencies with patient populations to which the student is assigned;

2) Require each preceptor to be approved by the faculty of the program of nursing;

3) Require the faculty of the program to provide to each preceptor an orientation concerning the roles and responsibilities of students, faculty and preceptors;

4) Require the faculty of the program to develop written competencies/outcomes and provide a copy of these to each preceptor before the preceptor begins instruction of the students;

5) Designate a member of the faculty to serve as a liaison between the preceptor and each student who participates in the clinical experience;

6) Require that each preceptor be present in the clinical facility or at the location of point of care and available to the students at all times when the student provides nursing care or services to patients/clients;

7) Require that each preceptor have a current registered professional nurse license in the state where the student is practicing.

k) Denial of Approval of Nursing Program
If the Division, in the course of reviewing an application for approval of a nursing program, determines that an applicant program has failed to comply with the application criteria or procedures outlined in this Part, or receives information that indicates that the applicant program will not be able to comply with the conditions set forth in subsection (b), the Division may deny the application for approval.

l) Discontinuance of a Nursing Program

1) Prior to termination of a nursing education program, the program shall:

A) Notify the Division, in writing, of its intent to discontinue its program;

B) Continue to meet the requirements of the Act and this Part until the official date of termination of the program;

C) Notify the Division of the date on which the last student will graduate and the program terminate; and

D) Assume responsibility for assisting students to continue their education in the event of closing of the school prior to the final student graduating.

2) Upon closure of the nursing education program, the institution shall notify the Division, in writing, of the location of student and graduate records storage.

m) Revocation of Program Approval

1) The following are grounds for disapproval of a nursing education program:

A) A violation of any provision of the Act;

B) Fraud or dishonesty in applying for approval of a nursing education program;

C) Failure to continue to meet criteria of an approved nursing education program set forth in this Section; or

D) Failure to comply with recommendations made by the Division as a result of a site visit.

2) Upon written notification of the Division's proposed action, the nursing education program may:

A) Submit a written response;

B) Request a hearing before the Board.

n) Out-of-State Education Programs Seeking Student Nurse Clinical Placement in Illinois

1) Out-of-state nursing education programs offering clinical experiences in Illinois are expected to maintain the standards for approved nursing education programs set forth in this Section.

2) Programs desiring to seek approval for student nurse clinical placement in Illinois shall submit the following documents:

A) Evidence of approval/accreditation by the Board of Nursing or other appropriate approval bodies in the state in which the institution is located.

B) A letter requesting approval to provide the clinical offering that indicates the time-frame during which the clinical experience will

be conducted, the clinical agencies and the clinical units to be utilized.

C) A course syllabus for the clinical experiences to be offered that specifies the related objectives of the offering.

D) A copy of the executed contractual agreement between the academic institution and the clinical facility.

E) A faculty qualification and/or preceptor form for individuals providing instruction in Illinois.

3) Faculty

A) The institution responsible for conducting the nursing program and the administrator of the nursing education program shall be responsible for ensuring that the individual faculty members are academically and professionally qualified.

B) Nurse faculty of a professional nursing program shall have:

i) At~~at~~ least 2 years'~~years~~ experience in clinical nursing practice; and

ii) A~~a~~ master's degree or higher with a major in nursing.

C) The faculty shall be currently licensed as registered professional nurses in Illinois.

D) Clinical experience must be under direct supervision of qualified faculty as set forth in subsection (g) or with a registered nurse preceptor. The nurse preceptor shall be approved by the parent institution and shall work under the direction of a nurse faculty member.

E) The ratio of students to faculty in the clinical area shall be appropriate to the clinical learning experience.

i) When under direct supervision of the faculty, the ratio shall not exceed 10 to 1.

ii) When a registered nurse preceptor is used, the ratio of students to faculty member shall not exceed 12 to 1.

4) Approval for clinical offerings by out-of-state nursing programs shall be approved for a period of 2 years. A program representative may request renewal of the approval every 2 years. In order to renew, the program shall submit a written report that provides updated and current data as required by this subsection (n).

5) A written report of current clinical offerings and current data shall be submitted to the Division annually. Faculty qualification and preceptor forms shall be submitted when instructors are added or changed.

6) Failure to comply with the requirements set forth in this Part shall result in the immediate withdrawal of approval of the clinical experience offering.

o) If the name of the program is changed or the institution in which the program is located or with which it is affiliated changes its name, the program shall notify the Division within 30 days after the name change. If the Division is not notified within the 30 days, the program's approval may be withdrawn.

p) The Division has determined that nurse programs approved through the Commission on Collegiate Nursing Education (CCEN), Accreditation Commission for Education Nursing (ACEN), or the US Department of Education ~~National League of Nursing for Nursing Accrediting Commission or the Commission on Collegiate Accreditation~~ meet the requirements set forth in this Section, except for those programs whose curriculums do not include a concurrent theory and clinical practice education component as required by Section 50-70 of the Act.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1300.350 Standards of Professional Conduct for Registered Professional Nurses

a) The RN shall:

1) Practice in accordance with the Act and this Part;

2) Uphold federal and State regulations regarding controlled substances and alcohol;

3) Practice nursing only when in functional physical and mental health;

4) Be accountable for his or her own nursing actions and competencies;

5) Practice or offer to practice only within the scope permitted by law and within the licensee's own educational preparation and competencies;

6) Seek instruction and supervision from qualified individuals when implementing new or unfamiliar nursing activities;

7) Delegate tasks only to individuals whom the licensee knows or has reason to know are competent by education or experience to perform those tasks;

8) Delegate professional responsibilities only to individuals whom the licensee knows or has reason to know are licensed to perform;

9) Be accountable for the quality of nursing care delegated to others;

10) Report unsafe, unethical or illegal health care practice or conditions to appropriate authorities; and

11) Assume responsibility for continued professional growth and education to reflect knowledge and understanding of current nursing care practice.

b) Violations of this Section may result in discipline as specified in Section 70-5 of the Act. ~~All disciplinary hearings shall be conducted in accordance with 68 Ill. Adm. Code 1110.~~

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1300.360 RN Scope of Practice

The RN scope of nursing practice is the protection, promotion, and optimization of health and abilities, the prevention of illness and injury, the development and implementation of the nursing

plan of care, the facilitation of nursing interventions to alleviate suffering, care coordination, and advocacy in the care of individuals, families, groups, communities, and populations. Practice as an RN means this full scope of nursing, with or without compensation, that incorporates caring for all patients in all settings, through nursing standards of practice and professional performance for coordination of care, and may include, but is not limited to, all of the following:

a) *Collecting pertinent data and information relative to the patient's health or the situation on an ongoing basis through the comprehensive nursing assessment.*

b) *Analyzing comprehensive nursing assessment data to determine actual or potential diagnoses, problems, and issues.*

c) *Identifying expected outcomes for a plan individualized to the patient or the situation that prescribes strategies to attain expected, measurable outcomes.*

d) *Implementing the identified plan, coordinating care delivery, employing strategies to promote healthy and safe environments, and administering or delegating medication administration according to Section 50-75 of the Act.*

e) *Evaluating patient progress toward attainment of goals and outcomes.*

f) *Delegating nursing interventions to implement the plan of care.*

g) *Providing health education and counseling.*

h) *Advocating for the patient.*

i) *Practicing ethically according to the American Nurses Association Code of Ethics.*

j) *Practicing in a manner that recognizes cultural diversity.*

k) *Communicating effectively in all areas of practice.*

l) *Collaborating with patients and other key stakeholders in the conduct of nursing practice.*

m) *Participating in continuous professional development.*

n) *Teaching the theory and practice of nursing to student nurses.*

o) *Leading within the professional practice setting and the profession.*

p) *Contributing to quality nursing practice.*

q) *Integrating evidence and research findings into practice.*

r) *Utilizing appropriate resources to plan, provide, and sustain evidence-based nursing services that are safe and effective.* (Section 60-35 of the Act)

~~*Practice as a registered professional nurse means the full scope of nursing, with or without compensation, that incorporates caring for all patients in all settings, through nursing standards recognized by the* Division, *and includes all of the following and other activities requiring a like skill level for which the registered professional nurse is properly trained:*~~

~~a) *The comprehensive nursing assessment of the health status of patients that addresses changes to patient conditions.*~~

~~b) *The development of a plan of nursing care to be integrated within the patient-centered health care plan that establishes nursing diagnoses, and setting goals to meet identified health care needs, determining nursing interventions, and implementation of nursing care through the execution of nursing strategies and regimens ordered or prescribed by authorized healthcare professionals.*~~

~~c) *The administration of medication or delegation of medication administration to licensed practical nurses* or medication aides in a qualified facility (see Section 80-20 of the Act).~~

~~d) *Delegation of nursing interventions to implement the plan of care.*~~

~~e) *The provision for the maintenance of safe and effective nursing care rendered directly or through delegation.*~~

~~f) *Advocating for patients.*~~

~~g) *The evaluation of responses to interventions and the effectiveness of the plan of care.*~~

~~h)~~ ~~*Communicating and collaborating with other health care professionals.*~~

~~i)~~ ~~*The procurement and application of new knowledge and technologies.*~~

~~j)~~ ~~*The provision of health education and counseling.*~~

~~k)~~ ~~*Participating in development of policies, procedures and systems to support patient safety*. (Section 60-35 of the Act)~~

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART D: ADVANCED PRACTICE REGISTERED NURSE

Section 1300.400 Application for Licensure

a) An applicant for licensure as an advanced practice registered nurse shall file an application on forms provided by the Division. The application shall include:

1) Current Illinois registered professional nurse license number.

2) Proof of current national certification, which includes completion of an examination, from one of the following:

A) Nurse Midwife certification from:

~~i)~~ ~~the American College of Nurse Midwives (ACNM);~~

i~~ii~~) The~~the~~ American Midwifery Certification Board (AMCB); or

ii~~iii~~) Other~~other~~ certifications approved by the Department under subsection (a)(3).

B) Nurse Practitioner certification from:

i) American Academy of Nurse Practitioners Certification Program (AANP) as a Nurse Practitioner;

ii) American Nurses Credentialing Center (ANCC) as a Nurse Practitioner;

iii) The Pediatric Nursing Certification Board (PNCB) as a Nurse Practitioner;

iv) American Association of Critical-Care Nurses (AACN);

v) National Certification Corporation (NCC): or

~~iv) The National Certification Corporation for the Obstetric, Gynecologic and Neonatal Nursing Specialties as a Nurse Practitioner; or~~

vi~~v~~) Other~~other~~ certifications approved by the Department under subsection (a)(3).

C) Registered Nurse Anesthetist certification from:

i) National Board of Certification & Recertification of Nurse Anesthetists (NBCRNA); or

ii) Other~~other~~ certifications approved by the Department under subsection (a)(3).

D) Clinical Nurse Specialist certification from:

i) American Nurses Credentialing Center (ANCC) as a Clinical Nurse Specialist;

ii) American Association of Critical Care Nurses (AACN) as a Clinical Nurse Specialist; or

iii) Other~~other~~ certifications approved by the Department under subsection (a)(3).

3) The Board, in addition to the certifications listed in subsection (a)(2), may review and make a recommendation to the Division to accept a certification if the certifying body meets the following requirements:

A) Is~~is~~ national in the scope of credentialing;

B) Has~~has~~ no requirement for an applicant to be a member of any organization;

C) Has~~has~~ an examination that represents a specialty practice category;

D) Has~~has~~ an examination that evaluates knowledge, skills and abilities essential for the delivery of safe and effective specialty nursing care;

E) Has~~has~~ an examination whose content and distribution are specified in a test plan;

F) Has~~has~~ examination items reviewed for content validity, cultural sensitivity and correct scoring, using an established mechanism, both before use and periodically;

G) Has~~has~~ an examination evaluated for psychometric performance;

H) Has~~has~~ a passing standard established using acceptable psychometric methods and is re-evaluated periodically;

I) Has~~has~~ examination security maintained through established procedures;

J) Issues~~issues~~ a certification based upon passing the examination;

K) Has~~has~~ mechanisms in place for communication to boards of nursing for timely verification of an individual's certification status, changes in certification status and changes in the certification program, including qualifications, test plan and scope of practice; and

L) Has~~has~~ an evaluation process to provide quality assurance in its certification program.

4) Proof of successful completion of a graduate degree appropriate for national certification in the clinical advanced practice registered nursing specialty or a graduate degree or post-master's certificate from a graduate level program in a clinical advanced practice registered nursing specialty.

5) An applicant seeking licensure in more than one advanced practice registered nursing category shall have met the requirements for at least one advanced practice registered nursing specialty; and

A) Submit proof of possession of an additional graduate education that results in a certificate for another clinical APRN category and that meets the requirements for the national certification from the appropriate nursing specialty; and

B) Submit proof of a current, national certification from the appropriate certifying body for that additional advanced practice registered nursing category.

6) Verification of licensure as an APRN from the state in which an applicant was originally licensed, current state of licensure or any other state in which the applicant has been actively practicing as an APRN within the last 5 years, if applicable, stating:

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

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

7) The fee required in Section 1300.30(a)(4).

b) An applicant for licensure as an APRN under Section 65-5 of the Act may apply to the Division for a temporary permit, on forms provided by the Division, to practice as an APRN prior to the issuance of the APRN license. Temporary permits will not be issued prior to granting an APRN full practice authority under Section 65-43 of the Act.

1) Application Requirements

A) The application shall include a completed, signed application for licensure, as set forth in subsection (a).

B) The application shall include documentation from an approved certifying body set forth in subsection (a)(2) indicating the date the applicant is scheduled to sit for the examination. Upon successful completion of the examination, proof of certification shall be submitted to the Division from the certifying body.

C) An APRN who will be practicing in a hospital or ambulatory surgical treatment center in accordance with Section 6.5 of the Ambulatory Surgical Treatment Center Act shall not be required to have prescriptive authority or a written collaborative agreement pursuant to the Act and this Part.

D) An APRN applicant who will be practicing outside of a hospital or ambulatory surgical treatment center shall provide a certifying statement indicating that the APRN applicant has entered into a written collaborative agreement as required by Section 65-35 of the Act.

E) The applicant shall include the processing fee set forth in Section 1300.30(a)(4).

2) Practice Pending Licensure

A) The Division will provide a letter to each applicant indicating the ability to practice pending licensure.

B) Practice pending licensure shall be terminated upon:

i) The~~the~~ issuance of a permanent license;

ii) Failure~~failure~~ to complete the application process within 6 months from the date of application;

iii) A~~a~~ finding by the Division that the applicant has violated one or more of the grounds for discipline set forth in Section 70-5 of the Act;

iv) A~~a~~ finding by the Division that, within the last 5 years, the applicant has had a license or permit related to the practice of advanced practice registered nursing revoked, suspended or placed on probation by another jurisdiction, if at least one of the grounds is substantially equivalent to grounds in Illinois; or

v) A~~a~~ finding by the Division that the applicant does not meet the licensure requirements set forth in this Section.

C) The Division shall notify the applicant in writing of the termination and shall notify the applicant by email of the intent to deny licensure.

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

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

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

d) An APRN license may be issued when the applicant meets the requirements set forth in this Section.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1300.430 Written Collaborative Agreement − Prescriptive Authority

a) A collaborating physician or podiatric physician who delegates prescriptive authority to an advanced practice registered nurse shall include that delegation in the written collaborative agreement. This authority may include prescription of, selection of, orders for, administration of, storage of, acceptance of samples of, and dispensing over the counter medications, legend drugs, medical gases, and

controlled substances categorized as any Schedule III through V controlled substances, as defined in Article II of the Illinois Controlled Substances Act, and other preparations, including, but not limited to, botanical and herbal remedies. The collaborating physician or podiatric physician must have a valid current Illinois controlled substances license and federal registration to delegate authority to prescribe delegated controlled substances.

b) Pursuant to Section 65-40(d) of the Act, *a collaborating physician may, but is not required to, delegate authority to an* APRN~~advanced practice registered nurse~~ to *prescribe any Schedule II controlled substances* by oral dosage or topical or transdermal application *if all the following conditions apply*:

1) The delegated *Schedule II controlled substance is specifically identified by either brand name or generic name.* For the purposes of this Section generic substitution pursuant to Section 25 of the Pharmacy Practice Act [225 ILCS 85] shall be allowed under this Section when not prohibited by a prescriber's indication on the prescription that the pharmacist "may not substitute".

2) The *delegated* Schedule II *controlled substances* are routinely *prescribed* by the *collaborating physician* or podiatric physician.

3) *Any* Schedule II controlled substance *prescription must be limited to no more than a 30-day supply, with any continuation authorized only after prior approval of the collaborating physician* or podiatric physician.

4) *The* APRN~~*advanced practice registered nurse*~~ *must discuss the condition of any patients for whom a* Schedule II *controlled substance is prescribed monthly with the delegating physician* or podiatric physician.

5) *The APRN~~advanced practice registered nurse~~ meets the education requirements of Section 303.05 of the Illinois Controlled Substances Act* [720 ILCS 570].

c) *An APRN who has been given controlled substances prescriptive authority shall be required to obtain an* Illinois *mid-level practitioner controlled substances license* in accordance with 77 Ill. Adm. Code 3100. *The physician* or podiatric physician *shall file a notice of delegation of prescriptive authority with the Division and the Prescription Monitoring Program.* (Section 65-40(c) of the Act)

The delegation of authority form shall be submitted to the Division and the Prescription Monitoring Program prior to the issuance of a mid-level controlled substances license.

d) The APRN may only prescribe and dispense Schedule II controlled substances that the collaborating physician or podiatric physician prescribes. Licensed dentists may not delegate prescriptive authority.

e) ~~All prescriptions written and signed by an advanced practice nurse shall indicate the name of the collaborating physician or podiatric physician. The collaborating physician's or podiatric physician's signature is not required.~~ The APRN nurse shall sign his/her own name when writing and signing prescriptions. The collaborating physician's or podiatric physician's signature is not required.

f) An APRN may receive and dispense samples per the collaborative agreement.

~~g) Medication orders shall be reviewed periodically by the collaborating physician or podiatric physician.~~

g~~h~~) Nothing in this Section shall be construed to apply to an APRN granted full practice authority pursuant to Section 65-43.

h~~i~~) Nothing in this Section shall apply to any prescribing authority, including Schedule II controlled substances, of an APRN providing care in a hospital, hospital affiliate, or ambulatory surgical treatment center (see Section 65-45 of the Act).

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1300.445 Standards of Professional Conduct for APRNs

APRNs shall:

a) Practice in accordance with the Act and this Part;

b) Uphold deferral and State regulations regarding controlled substances and alcohol;

c) Practice nursing only when in functional physical and mental health;

d) Practice within the scope of his/her education, knowledge, experience, training and skill;

e) Provide directions and assistance to those they supervise;

f) Report unsafe, unethical or illegal health care practice or conditions to appropriate authorities; and

g) Assume responsibility for continued professional growth and education to reflect knowledge and understanding of current care practice.

(Source: Added at 44 Ill. Reg._____, effective _____)

Section 1300.465 Full Practice Authority

a) An Illinois-licensed advanced practice registered nurse certified as a nurse practitioner, nurse midwife, or clinical nurse specialist may be granted the privilege of full practice authority, which provides the ability under this Section to practice without a written collaborative agreement.

b) An APRN certified as a nurse midwife, clinical nurse specialist, or nurse practitioner seeking full practice authority shall submit a form provided by the Department indicating he/she has met the necessary requirements in Section 65-43 of the Act. The documentation shall include:

1) Current APRN license number and current registered professional nurse license number. Only applicants whose APRN license and registered professional nurse license are current, active and unrestricted are eligible for full practice authority.

2) Notarized attestation, signed by the APRN, of completion of at least 250 hours of continuing education or training. Documentation of successful completion of this requirement shall be provided to the Department upon request.

A) Continuing education and training, as used in this Section, shall include, but not be limited to:

i) Formal~~formal~~ CE hours conducted by approved CE sponsors and programs as set forth in Section 1300.130(c)(1);

ii) Completion~~completion~~ of graduate education at universities or colleges;

iii) CE programs required for certification or recertification by appropriate professional associations;

iv) Other~~other~~ educational opportunities that comply with the continuing education standards in Section 1300.130.

B) The continuing education or training hours required shall be in the APRN's area of certification.

3) Notarized attestation of completion of at least 4000 hours of clinical experience after first attaining national certification. The clinical experience must be in the APRN's area of certification. The clinical experience shall be in collaboration with a physician or physicians. Completion of the clinical experience must be attested to by the collaborating physician or physicians and the APRN. For APRNs working in a hospital setting, the clinical experience may be attested to by the hospital medical staff committee or designee. Documentation of successful completion of this requirement shall be provided to the Department upon request.

4) The fee required by Section 1300.30(a)(5).

c) The scope of practice of an APRN granted full practice authority includes:

1) All matters included in Section 65-30(c) of the Act;

2) Practicing without a written collaborative agreement in all practice settings consistent with national certification;

3) Authority to prescribe both legend drugs and Schedule II through V controlled substances, except as provided in Section 1300.465(c)(4). This~~;~~ ~~this~~ authority includes prescription of, selection of, orders for,

administration of, storage of, acceptance of samples of, and dispensing over the counter medications, legend drugs, and controlled substances categorized as any Schedule II through V controlled substances, as defined in Article II of the Illinois Controlled Substances Act, and other preparations, including, but not limited to, botanical and herbal remedies;

4) Prescribing benzodiazepines or Schedule II narcotic drugs, such as opioids, only in a consultation relationship with a physician;

A) This~~this~~ consultation relationship shall be recorded in the Prescription Monitoring Program website, pursuant to Section 316 of the Illinois Controlled Substances Act, by the physician and advanced practice registered nurse with full practice authority;

B) Consultation~~consultation~~ is not required to be filed with the Department;

C) The~~the~~ specific Schedule II narcotic drug must be identified by either brand name or generic name;

D) May~~may~~ be administered by oral dosage or topical or transdermal application;

E) Delivery~~delivery~~ by injection or other route of administration is not permitted;

F) At~~at~~ least monthly, the APRN and the physician must discuss the condition of any patients for whom a benzodiazepine or opioid is prescribed;

G) Nothing~~nothing~~ in this subsection (c)(4) shall be construed to require a prescription by an APRN granted full practice authority to indicate a physician's name on the prescription; and

H) All~~all~~ consultation records shall be available to the Department upon request;

5) Authority to obtain an Illinois controlled substances license and a federal Drug Enforcement Administration number;

6) Use of only local anesthetic; and

7) The scope of practice of an APRN does not include operative surgery.

d) Upon issuance of an APRN license with full practice authority, the regular APRN license will go inactive.

e) Prior to prescribing as an APRN granted full practice authority, the APRN must apply for a practitioner license under the Illinois Controlled Substances Act.

f) *Nothing in the Act shall be construed to authorize an advanced practice registered nurse with full practice authority to provide health care services required by law or rule to be performed by a physician, including, but not limited to, those acts to be performed by a physician in Section 3.1 of the Illinois Abortion Law of 1975* [720 ILCS 510]. (Section 65-43(e) of the Act)

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1300.466 Full Practice Authority Dispensing

a) Except when dispensing manufacturers' samples or other legend drugs in a maximum 72-hour supply, APRNs shall maintain a book or file of prescriptions as required in the Pharmacy Practice Act. Any person licensed under that Act who dispenses any drug or medicine shall dispense the drug or medicine in good faith and shall affix to the box, bottle, vessel or package containing the drug or medication a label indicating the:

1) Date~~the date~~ on which the drug or medicine is dispensed;

2) Name~~the name~~ of the patient;

3) Last~~the last~~ name of the person dispensing the drug or medicine;

4) Directions~~the directions~~ for use of the drug or medication; and

5) Proprietary~~the proprietary~~ name or names or, if there are none, the established name or names, of the drug or medicine and the dosage and quantity, except as otherwise authorized by regulation of the Department.

b) The labeling requirements set forth in subsection (a) shall not apply to drugs or medicines in a package that bears a label of the manufacturer containing information describing its contents that is in compliance with requirements of the Federal Food, Drug, and Cosmetic Act (21 USC 301) and the Illinois Food, Drug, and Cosmetic Act [410 ILCS 620]. "Drug" and "medicine" have the meanings ascribed to them in the Pharmacy Practice Act. "Good faith" has the meaning ascribed to it in Section 102(u) of the Illinois Controlled Substances Act.

c) Prior to dispensing a prescription to a patient, the APRN shall offer a written prescription to the patient that the patient may elect to have filled by the APRN or any licensed pharmacy.

d) APRNs must indicate on their medication orders that they have been granted full practice authority.

e~~d~~) A violation of any provision of this Section shall constitute a violation of the Act and shall be grounds for disciplinary action provided for in the Act.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART E: MEDICATION AIDE

Section 1300.600 Pilot Program (Repealed)

~~a) The medication aide pilot program shall commence on July 1, 2016 and shall terminate on June 30, 2019.~~

~~b) The medication aide pilot program shall consist of not more than 10 qualified skilled nursing facilities geographically dispersed throughout the State, with 2 each from the 5 Appellate Court Districts.~~

~~c) Applications to be approved or selected as a qualified facility for the pilot program will be accepted from January 1, 2016 through March 31, 2016. All deficiencies in the pilot program application must be resolved within the time frames set forth in the deficiency notice.~~

~~d) Licenses to practice as a medication aide under this pilot program shall not be renewed or restored.~~

(Source: Repealed at 44 Ill. Reg. _____, effective _____)

Section 1300.610 Application for Examination or Licensure as a Medication Aide (Repealed)

~~a) Each applicant shall file with the Division, or the testing service designated by the Division, a signed and completed application, on forms furnished by the Division, that includes:~~

~~1) evidence of good standing on the Illinois Department of Public Health's (IDPH) Health Care Worker Registry as an Illinois certified nursing assistant;~~

~~2) proof of completion of 2,000 hours of practice as a certified nursing assistant within 3 years prior to application for licensure;~~

~~3) proof of completion of a medication aide education program, as defined in Section 1300.660, provided by a qualified facility;~~

~~4) current certification to perform cardiopulmonary resuscitation by the American Heart Association, American Red Cross or the American Safety and Health Institute;~~

~~5) verification of fingerprint processing from the Illinois Department of State Police (ISP), or its designated agent. (Medication Aides licensed in Illinois are not required to be fingerprinted when applying for a license as a practical nurse.) Applicants shall contact an ISP approved fingerprint vendor for fingerprint processing. Out-of-state residents unable to utilize an electronic fingerprint process may submit to a Division recommended fingerprint vendor one set of fingerprint cards issued by ISP or one set of fingerprint cards issued by the FBI, accompanied by the processing fee specified in Section 1300.30(c)(7). Fingerprints shall be taken within the 60 days prior to application;~~

~~6) proof of employment by a qualified facility;~~

~~7) the required fees set forth in Section 1300.30;~~

~~8) proof of high school diploma or certificate of general education development (GED). Upon review, the Division has determined that proof of a high school diploma or GED shall demonstrate competency in math and the ability to speak, read and write the English language.~~

~~b) The Division shall not endorse applicants who have been licensed or certified as medication aides outside this State.~~

~~c) After filing the original application, any change of name must be supported by an affidavit satisfactory to the Division.~~

(Source: Repealed at 44 Ill. Reg. _____, effective _____)

Section 1300.620 Medication Aide Licensure Examination (Repealed)

~~a) The examination for licensure as a medication aide shall be the Medication Aide Certification Examination (MACE).~~

~~b) Medication Aide Examination~~

~~1) The passing grade on the Medication Aide Certification Examination (MACE) shall be based on an ability scale designed to measure minimum Medication Aide competency. A pass/fail grade will be assigned.~~

~~2) A Medication Aide applicant who fails the examination is not eligible for licensure.~~

~~3) If the examination is not passed within one year from the first examination date attempted, the applicant shall not be permitted to retake the examination until the applicant has again successfully completed another approved medication aide education program provided by a qualified facility. Upon successful completion of the approved medication aide program, the applicant shall submit proof to the Division.~~

~~4) If an applicant fails to pass an examination for registration under this Act within 3 years after filing his or her application, the application shall be denied.~~

~~c) For the purpose of IDPH licensure or certification surveys, the only acceptable proof of a medication aide's valid licensure will be a listing on the Division's website.~~

(Source: Repealed at 44 Ill. Reg. _____, effective _____)

Section 1300.630 Qualified Employers and Facilities (Repealed)

~~a) The Division shall review applications and issue authorizations according to the requirements of the Act and this Part. Applications shall be made on forms furnished by the Division, along with the fee required by Section 1300.30(a)(2). The application shall be signed certifying under penalties of perjury that all information contained in the application is true and accurate. Each individual facility shall file a separate application regardless of ownership. The Division shall review each application to determine whether it meets the minimum criteria and shall determine qualified applicants. If the Division determines that the number of qualified applicants exceeds the number of authorizations available, the Division will select a committee to determine the most qualified applicants in that District using the factors established in subsection (c). Upon request, the applicant may be required to supply additional copies of the application or supplemental material.~~

~~b) To be considered as a qualified facility for pilot program participation:~~

~~1) The applicant shall meet the following minimum requirements:~~

~~A) Be licensed in good standing as a skilled nursing facility by the Department of Public Health;~~

~~B) Have an overall Five Star Quality Rating of 3, 4 or 5, at the time of application, from the most recent data available on the Centers for Medicare and Medicaid Services (CMMS) website;~~

~~C) Certify that the employment of a licensed medication aide will not replace or diminish the employment of a registered nurse or licensed practical nurse at the facility;~~

~~D) Certify that a registered nurse will be on duty and present in the facility to delegate and supervise the medication administration by~~

~~a licensed medication aide at all times when the medication aide is administering medication;~~

~~E) Certify that, with the exception of licensed health care professionals, only licensed medication aides will be employed in the capacity of administering medication; and~~

~~F) Certify that they will provide information regarding patient safety, efficiency and errors as determined by the Division. Failure to submit any required report may be grounds for discipline or sanctions under the Act, the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70], or the Nursing Home Care Act [210 ILCS 45];~~

~~2) Applicant facilities must also provide:~~

~~A) A sample curriculum, course schedule, list of instructors and other educational materials or documents to demonstrate that the applicant will be able to competently provide a course of instruction for employees that fulfills the Medication Aide Curriculum set forth in Section 1300.660;~~

~~B) Copies of the two most recent annual licensure and certification surveys completed by IDPH.~~

~~c) The following additional factors may be used in selecting qualified facilities to participate in the medication aide pilot program:~~

~~1) An IDPH finding that the skilled nursing facility has been free from type B violation or above deficiencies related to the administration of medications and skilled nursing care in its two most recent annual licensure and certification surveys;~~

~~2) Geographic location of a skilled nursing facility;~~

~~3) Number of beds for which a skilled nursing facility is licensed;~~

~~4) Number of years that a skilled nursing facility or residential care facility has been licensed;~~

~~5) Compliance and safety history of a skilled nursing facility as evidenced by the survey reports submitted with the pilot program application;~~

~~6) Whether a skilled nursing facility is owned by an individual or entity that owns or operates additional nursing homes;~~

~~7) Any other factors determined appropriate by the Department.~~

~~d) The names and locations of approved qualified facilities shall be submitted to IDPH and shall be available on the Division's website.~~

(Source: Repealed at 44 Ill. Reg. _____, effective _____)

Section 1300.640 Standards for Termination (Repealed)

~~a) The Division may terminate the participation of a skilled nursing facility in the medication aide pilot program for any of the following:~~

~~1) Failure to allow representatives of the Division or IDPH to conduct site visits or to provide resident records, data, information or reports to the board in accordance with the Act and this Part, and as agreed to in the pilot program application;~~

~~2) Failure to maintain the standards set forth in Section 1300.630;~~

~~3) Failure to assure that licensed medication aides administering prescription medications in the skilled nursing facility act in accordance with the standards set forth in Section 1300.670;~~

~~4) Failure to assure that licensed medication aides do not have access to, or do not administer, Schedule II controlled substances;~~

~~5) A finding by IDPH that the skilled nursing facility has violated the Nursing Home Care Act and/or the federal Centers for Medicare and Medicaid Services (CMMS) requirements;~~

~~6) A facility found by IDPH to have met any of the criteria in 77 Ill. Adm. Code 300.165(b) or 300.180 or Section 3-119 of the Nursing Home Care Act, shall be terminated from the pilot program.~~

~~b) A skilled nursing facility whose participation in the pilot program is terminated by the Division in accordance with subsection (a) shall comply with the following:~~

~~1) Immediately cease using licensed medication aides to administer medications;~~

~~2) Submit to the Division all data and information necessary to satisfy reporting requirements imposed by Section 80-10(b)(6) of the Act;~~

~~3) Provide a list of the licensed medication aides employed by that facility.~~

~~c) A skilled nursing facility that voluntarily withdraws from participation in the pilot program shall comply with all of the following:~~

~~1) Provide immediate written notice to the Division that the skilled nursing facility is withdrawing from participation in the pilot program;~~

~~2) Immediately cease using licensed medication aides to administer medications;~~

~~3) Submit to the Division all data and information necessary to satisfy reporting requirements imposed by Section 80-10(b)(6) of the Act.~~

~~4) Provide a list of the licensed medication aides employed by that facility.~~

(Source: Repealed at 44 Ill. Reg. _____, effective _____)

Section 1300.650 Site Visits (Repealed)

~~a) During the pilot program, representatives of the Division or IDPH may conduct announced or unannounced site visits of participating skilled nursing facilities so that the Division or IDPH may assess whether the qualified facility is complying with the terms of the pilot program, including but not limited to the following:~~

~~1) Evaluating whether licensed medication aides are able to administer medications safely to residents;~~

~~2) Determining whether continued participation in the pilot program poses an imminent danger, risk of serious harm or jeopardy to a resident;~~

~~3) Investigating medication errors or other acts or omissions required to be reported to the Division.~~

~~b) In conducting site visits of participating skilled nursing facilities, representatives of the Division or IDPH may observe the administration of medications by licensed medication aides and shall have access to qualified facility records as provided in the pilot program application.~~

~~c) A qualified facility shall make records available to representatives of the Division or IDPH during site visits and shall provide to the Division or IDPH copies of records within 10 business days after the date requested.~~

(Source: Repealed at 44 Ill. Reg. _____, effective _____)

Section 1300.660 Approved Curriculum (Repealed)

~~a) Approved medication aide programs shall include 10 hours of laboratory instruction, 30 hours of RN-supervised clinical practice with progressive responsibility for patient medication assistance, and 60 hours of classroom-based medication aide certified education that contains the following minimum components:~~

~~1) Medication Fundamentals – 20 hours~~

~~2) Safety – 7 hours~~

~~3) Communication and Documentation – 8 hours~~

~~4) Medical Administration, including, but not limited to, the administration of medications only via oral or topical routes under the direction of a registered professional nurse – 20 hours~~

~~5) Ethical and Legal Considerations – 5 hours~~

~~b) A qualified facility may choose to use the National Council of State Boards of Nursing (NCSBN) Medication Assistant-Certified (MA-C) model curriculum. However, if any provision of the NCSBN curriculum conflicts with the requirements of subsection (a), the requirements of subsection (a) shall prevail.~~

~~c) For the purpose of this Section, supervision shall mean close physical proximity by an RN to the activities performed by the student.~~

~~d) The program shall be administered or supervised by an Illinois licensed RN with a minimum of a baccalaureate degree in nursing and a minimum of two years clinical experience in a long term care facility.~~

(Source: Repealed at 44 Ill. Reg. _____, effective _____)

Section 1300.670 Medication Aide Scope of Practice (Repealed)

~~Practice as a medication aide means a person assists with medication administration while under the supervision of a registered professional nurse (RN) in a long term care facility.~~

~~a) *A licensed medication aide may only practice in a qualified facility.*~~

~~b) *Licensed medication aides must be supervised by and receive delegation by a registered nurse that is on duty and present in the facility at all times* when a licensed medication aide is administering medication.~~

~~c) *Licensed medication aides shall not have a direct-care assignment when scheduled to work as a licensed medication aide, but may assist residents as needed.*~~

~~d) *Licensed medication aides shall not administer any medication until a physician has conducted an initial assessment of the resident.*~~

~~e) *Licensed medication aides shall not administer any Schedule II controlled substances as set forth in the Illinois Controlled Substances Act, and may not administer any subcutaneous, intramuscular, intradermal, or intravenous medication.* (Section 80-20 of the Act)~~

(Source: Repealed at 44 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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Section 1300.680 Required Reports of Qualified Facilities (Repealed)

~~a) Qualified facilities shall submit quarterly written reports that document monthly review of the facility's pilot program by the facility's director of nursing, that document trends and patterns with regard to medication aides, and that include, at a minimum:~~

~~1) Medication errors and the outcome of the resident.~~

~~2) Costs and other financial implications associated with the use of medication aides.~~

~~3) The benefits of the program.~~

~~4) The quality of service provided by the medication aides.~~

~~5) The challenges of the program.~~

~~6) Any other issues with regard to patient safety and efficiency.~~

~~7) The overall quality of the medication aide curriculum and adherence to sound educational and instructional principles.~~

~~8) Current list of licensed medication aides employed at the qualified facility, including termination dates and hiring dates.~~

~~b) The Division shall submit a report to the General Assembly regarding patient safety, concerns and issues no later than 6 months after termination of the pilot program. The Division may consult with IDPH and other outside entities and may consult with individuals from institutions of higher learning to develop the report.~~

(Source: Repealed at 44 Ill. Reg. _____, effective _____)

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1) Heading of the Part: Video Gaming (General)

2) Code Citation: 11 Ill. Adm. Code 1800

3)

Section Numbers:	Proposed Actions:
1800.110	Amendment
1800.350	New Section

4) Statutory Authority: Implementing and authorized by Sections 78 (b) and 79.5 of the Video Gaming Act [230 ILCS 40/78 (b) and 79.5] as amended by PA 101-318, effective August 9, 2019.

5) A Complete Description of the Subjects and Issues Involved: Amended definition of "licensed video gaming location": The definition of "licensed video gaming location" in Section 1800.110 is amended to include licensed large truck stop establishments.

Inducements: Inducements are repeatedly mentioned as banned in various places throughout the Video Gaming Act (the "VGA") and video gaming rules. *See e.g.*, 210 ILCS 40/25(c); 11 Ill. Adm. Code 1800.250; 11 Ill. Adm. Code 1800.270]. Despite the prohibition on inducements, there is considerable confusion surrounding this issue because neither the VGA nor the video gaming rules provide either a comprehensive definition of inducements or a complete conceptual and legal framework for analyzing conduct that may constitute an illegal inducement.

A significant problem has developed for both the industry and the Illinois Gaming Board (IGB) because the statute does not include a helpful definition of prohibited inducements and does not provide any conceptual framework for either the Board or the industry to analyze potential inducements or guide decision-making. The Board issued an inducements policy in 2016-2017, but was required to rescind the policy (and remove it from the website) after a 2017 court ruling that the policy was improper rulemaking under Section 1-70 of the Illinois Administrative Procedure Act [5 ILCS 100/1-70] (*Windy City Promotions, LLC v. IGB*, 2017 App (3d) 150434)

The resulting regulatory gap has created significant enforcement problems for the IGB and the video gaming industry for nearly three years. The new proposed rule closes this gap and brings accountability and predictability to the video gaming regulatory regime by providing useful definitions and a robust set of factors the Board and industry can follow. Industry participants will now have clear guidelines to which they can adjust their

conduct and the Board will have a sound rules-based approach to guide enforcement decisions.

Subsection (a) of the proposed rule addresses what goods or services are permissible and not considered inducements. These are all directly related to the installation and operation of video game terminals. The listed goods and services are all fairly non-controversial and are substantially similar to what has been allowed in past practice, as well as largely similar to the goods and services previously allowed under the Board's former inducement policy. One notable addition is security systems or devices. This may include, for example, a terminal operator providing additional technological enhancements to aid a location in prevention of prohibited underage play or to address other unsafe or illegal conduct.

Subsection (b) includes a list of the goods and services that would create a rebuttable presumption that an inducement has been provided in violation of the law. The discovery that a licensee or applicant provided, offered or accepted one or more of these items is sufficient to support an IGB disciplinary complaint and to place a burden on the charged licensee in disciplinary hearing to explain why the alleged conduct does not constitute an impermissible inducement.

Subsection (c) addresses the general factors the Board will consider when examining an alleged inducement. Such factors include the ratios of costs and benefits, the relationships of the relevant individuals, and the relationship of the goods and services at issue to the operation or promotion of video gaming. Though written in general terms, enumerating these factors gives some level of notice to licensees as to how the Board will evaluate their conduct, and thus forecloses arguments that the rule is unconstitutionally vague. It also provides guidance to administrative law judges and the Board when making their determinations on possible violations.

Lastly, subsection (d) establishes record-keeping requirements. This subsection requires a terminal operator to maintain records of all goods and services it provides to any licensed video gaming location, including all costs of goods or services its shares with any licensed video gaming location. At a minimum, the records shall include invoices, estimates, payments, and requests for reimbursement. A terminal operator shall report to the Board on no less than a quarterly basis all such goods, services, and shared costs it provides to any licensed video gaming location.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

Section Numbers:	Proposed Actions:	*Illinois Register* Citations:
1800.2110	New Section	43 Ill. Reg. 13488; December 2, 2019
1800.2120	New Section	43 Ill. Reg. 13488; December 2, 2019
1800.2130	New Section	43 Ill. Reg. 13488; December 2, 2019
1800.2140	New Section	43 Ill. Reg. 13488; December 2, 2019
1800.2150	New Section	43 Ill. Reg. 13488; December 2, 2019
1800.2160	New Section	43 Ill. Reg. 13488; December 2, 2019
1800.2170	New Section	43 Ill. Reg. 13488; December 2, 2019
1800.EXHIBIT A	New Section	43 Ill. Reg. 13488; December 2, 2019
1800.EXHIBIT B	New Section	43 Ill. Reg. 13488; December 2, 2019

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate under 30 ILCS 805.

12) Time, Place and Manner in which interested persons may comment on this rulemaking: Any interested person may submit comments in writing concerning this proposed rulemaking not later than 45 days after publication of this Notice in the *Illinois Register* to:

Agostino Lorenzini
General Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago IL 60601

IGB.RuleComments@igb.illinois.gov

13) Initial Regulatory Flexibility Analysis:

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A) Types of small businesses, small municipalities and not-for-profit corporations affected: The rulemaking will affect small businesses that are licensed as video gaming locations under the Act, as it will affect the inducements that terminal operators are allowed to offer them.

B) Reporting, bookkeeping or other procedures required for compliance: The rulemaking will not impose additional reporting, bookkeeping or other procedures on the Illinois Gaming Board.

C) Types of professional skills necessary for compliance: No new professional skills will be required. Implementation of the rule will require investigation skills currently possessed by Illinois Gaming Board investigators.

14) Small Business Impact Analysis:

A) Types of businesses subject to the proposed rule:

71 Arts, Entertainment and Recreation

B) Categories that the agency reasonably believes the rulemaking will impact, including:

i. regulatory requirements
vi. equipment and material needs

15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized in a regulatory agenda as the need for it was not anticipated.

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

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TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING
SUBTITLE D: VIDEO GAMING
CHAPTER I: ILLINOIS GAMING BOARD

PART 1800
VIDEO GAMING (GENERAL)

SUBPART A: GENERAL PROVISIONS

Section
1800.110 Definitions
1800.115 Gender
1800.120 Inspection
1800.130 Board Meetings

SUBPART B: DUTIES OF LICENSEES

Section
1800.210 General Duties of All Video Gaming Licensees
1800.220 Continuing Duty to Report Information
1800.230 Duties of Licensed Manufacturers
1800.240 Duties of Licensed Distributors
1800.250 Duties of Terminal Operators
1800.260 Duties of Licensed Technicians and Licensed Terminal Handlers
1800.270 Duties of Licensed Video Gaming Locations

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

Section
1800.310 Grounds for Disciplinary Actions
1800.320 Minimum Standards for Use Agreements
1800.330 Economic Disassociation
1800.350 Inducements

SUBPART D: LICENSING QUALIFICATIONS

Section
1800.410 Coverage of Subpart
1800.420 Qualifications for Licensure

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1800.430 Persons with Significant Influence or Control
1800.440 Undue Economic Concentration

SUBPART E: LICENSING PROCEDURES

Section
1800.510 Coverage of Subpart
1800.520 Applications
1800.530 Submission of Application
1800.540 Application Fees
1800.550 Consideration of Applications by the Board
1800.555 Withdrawal of Applications and Surrender of Licenses
1800.560 Issuance of License
1800.570 Renewal of License
1800.580 Renewal Fees and Dates
1800.590 Death and Change of Ownership of Video Gaming Licensee

SUBPART F: DENIALS OF APPLICATIONS FOR LICENSURE

Section
1800.610 Coverage of Subpart
1800.615 Requests for Hearing
1800.620 Appearances
1800.625 Appointment of Administrative Law Judge
1800.630 Discovery
1800.635 Subpoenas
1800.640 Motions for Summary Judgment
1800.650 Proceedings
1800.660 Evidence
1800.670 Prohibition on Ex Parte Communication
1800.680 Sanctions and Penalties
1800.690 Transmittal of Record and Recommendation to the Board
1800.695 Status of Applicant for Licensure Upon Filing Request for Hearing

SUBPART G: DISCIPLINARY ACTIONS AGAINST LICENSEES

Section
1800.710 Coverage of Subpart
1800.715 Notice of Proposed Disciplinary Action Against Licensees

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1800.720 Hearings in Disciplinary Actions
1800.725 Appearances
1800.730 Appointment of Administrative Law Judge
1800.735 Discovery
1800.740 Subpoenas
1800.745 Motions for Summary Judgment
1800.750 Proceedings
1800.760 Evidence
1800.770 Prohibition on Ex Parte Communication
1800.780 Sanctions and Penalties
1800.790 Transmittal of Record and Recommendation to the Board
1800.795 Persons Subject to Proposed Orders of Economic Disassociation

SUBPART H: LOCATION OF VIDEO GAMING TERMINALS IN LICENSED VIDEO GAMING LOCATIONS

Section
1800.810 Location and Placement of Video Gaming Terminals
1800.815 Licensed Video Gaming Locations Within Malls
1800.820 Measurement of Distances from Locations
1800.830 Waivers of Location Restrictions

SUBPART I: SECURITY INTERESTS

Section
1800.910 Approvals Required, Applicability, Scope of Approval
1800.920 Notice of Enforcement of a Security Interest
1800.930 Prior Registration

SUBPART J: TRANSPORTATION, REGISTRATION, AND DISTRIBUTION OF VIDEO GAMING TERMINALS

Section
1800.1010 Restriction on Sale, Distribution, Transfer, Supply and Operation of Video Gaming Terminals
1800.1020 Transportation of Video Gaming Terminals into the State
1800.1030 Receipt of Video Gaming Terminals in the State
1800.1040 Transportation of Video Gaming Terminals Between Locations in the State
1800.1050 Approval to Transport Video Gaming Terminals Outside of the State

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1800.1060 Placement of Video Gaming Terminals
1800.1065 Registration of Video Gaming Terminals
1800.1070 Disposal of Video Gaming Terminals

SUBPART K: STATE-LOCAL RELATIONS

Section
1800.1110 State-Local Relations

SUBPART L: FINGERPRINTING OF APPLICANTS

Section
1800.1210 Definitions
1800.1220 Entities Authorized to Perform Fingerprinting
1800.1230 Qualification as a Livescan Vendor
1800.1240 Fingerprinting Requirements
1800.1250 Fees for Fingerprinting
1800.1260 Grounds for Revocation, Suspension and Denial of Contract

SUBPART M: PUBLIC ACCESS TO INFORMATION

Section
1800.1310 Public Requests for Information

SUBPART N: PAYOUT DEVICES AND REQUIREMENTS

Section
1800.1410 Ticket Payout Devices
1800.1420 Redemption of Tickets Following Removal or Unavailability of Ticket Payout Devices

SUBPART O: NON-PAYMENT OF TAXES

Section
1800.1510 Non-Payment of Taxes

SUBPART P: CENTRAL COMMUNICATIONS SYSTEM

Section

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1800.1610 Use of Gaming Device or Individual Game Performance Data

SUBPART Q: RESPONSIBLE GAMING

Section
1800.1710 Conversations About Responsible Gaming
1800.1720 Responsible Gaming Education Programs
1800.1730 Problem Gambling Registry
1800.1740 Utilization of Technology to Prevent Problem Gambling

SUBPART R: IMPLEMENTATION OF TECHNOLOGY

Section
1800.1810 Implementation of Technology

SUBPART S: INDEPENDENT TESTING LABORATORIES

Section
1800.1910 Independent Outside Testing Laboratories
1800.1920 Minimum Duties of an Independent Outside Testing Laboratory
1800.1930 Testing of Video Gaming Equipment
1800.1940 Approval of Video Gaming Equipment

SUBPART T: IN-LOCATION PROGRESSIVE GAMES

Section
1800.2010 In-location Progressive Games
1800.2020 Optional Nature of In-location Progressive Games
1800.2030 Procedures Within Licensed Video Gaming Locations
1800.2040 Payments of Progressive Jackpot Amount
1800.2050 Deductions from Progressive Jackpots
1800.2060 Progressive Jackpot Coordinator

AUTHORITY: Implementing and authorized by the Video Gaming Act [230 ILCS 40].

SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 14793, effective October 19, 2009, for a maximum of 150 days; adopted at 34 Ill. Reg. 2893, effective February 22, 2010; emergency amendment at 34 Ill. Reg. 8589, effective June 15, 2010, for a maximum of 150 days; emergency expired November 11, 2010; amended at 35 Ill. Reg. 1369, effective January 5, 2011;

emergency amendment at 35 Ill. Reg. 13949, effective July 29, 2011, for a maximum of 150 days; emergency expired December 25, 2011; amended at 36 Ill. Reg. 840, effective January 6, 2012; amended by emergency rulemaking at 36 Ill. Reg. 4150, effective February 29, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 5455, effective March 21, 2012; amended at 36 Ill. Reg. 10029, effective June 28, 2012; emergency amendment at 36 Ill. Reg. 11492, effective July 6, 2012, for a maximum of 150 days; emergency expired December 2, 2012; emergency amendment at 36 Ill. Reg. 12895, effective July 24, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 13178, effective July 30, 2012; amended at 36 Ill. Reg. 15112, effective October 1, 2012; amended at 36 Ill. Reg. 17033, effective November 21, 2012; expedited correction at 39 Ill. Reg. 8183, effective November 21, 2012; amended at 36 Ill. Reg. 18550, effective December 14, 2012; amended at 37 Ill. Reg. 810, effective January 11, 2013; amended at 37 Ill. Reg. 4892, effective April 1, 2013; amended at 37 Ill. Reg. 7750, effective May 23, 2013; amended at 37 Ill. Reg. 18843, effective November 8, 2013; emergency amendment at 37 Ill. Reg. 19882, effective November 26, 2013, for a maximum of 150 days; emergency amendment suspended by the Joint Committee on Administrative Rules at 38 Ill. Reg. 3384, effective January 14, 2014; suspension withdrawn at 38 Ill. Reg. 5897; emergency repeal of emergency amendment at 38 Ill. Reg. 7337, effective March 12, 2014, for the remainder of the 150 days; amended at 38 Ill. Reg. 849, effective December 27, 2013; amended at 38 Ill. Reg. 14275, effective June 30, 2014; amended at 38 Ill. Reg. 19919, effective October 2, 2014; amended at 39 Ill. Reg. 5401, effective March 27, 2015; amended at 39 Ill. Reg. 5593, effective April 1, 2015; amended at 40 Ill. Reg. 2952, effective January 27, 2016; amended at 40 Ill. Reg. 8760, effective June 14, 2016; amended at 40 Ill. Reg. 12762, effective August 19, 2016; amended at 40 Ill. Reg. 15131, effective October 18, 2016; emergency amendment at 41 Ill. Reg. 2696, effective February 7, 2017, for a maximum of 150 days; amended at 41 Ill. Reg. 2939, effective February 24, 2017; amended at 41 Ill. Reg. 4499, effective April 14, 2017; amended at 41 Ill. Reg. 10300, effective July 13, 2017; amended at 42 Ill. Reg. 3126, effective February 2, 2018; amended at 42 Ill. Reg. 3735, effective February 6, 2018; emergency amendment at 43 Ill. Reg. 9261, effective August 13, 2019, for a maximum of 150 days; emergency amendment, except for the definition of "in-location bonus jackpot game" or "in-location progressive game" and the definition of "progressive jackpot" in Section 1800.110 and except for Section 1800.250(x), suspended at 43 Ill. Reg. 11061, effective September 18, 2019; emergency amendment at 43 Ill. Reg. 9788, effective August 19, 2019, for a maximum of 150 days; emergency amendment at 43 Ill. Reg. 11688, effective September 26, 2019, for a maximum of 150 days; emergency amendment at 43 Ill. Reg. 13464, effective November 8, 2019, for a maximum of 150 days; emergency amendment suspended by the Joint Committee on Administrative Rules at 43 Ill. Reg. 13479, effective November 12, 2019; amended at 43 Ill. Reg. 14099, effective November 21, 2019; amended at 44 Ill. Reg. 489, effective December 27, 2019; amended at 44 Ill. Reg. 1961, effective December 31, 2019; amended at 44 Ill. Reg. 3205, effective February 7, 2020; suspension withdrawn at 44 Ill. Reg. 3583; emergency amendment to emergency rule at 44 Ill. Reg. 3568, effective February 21,

2020, for the remainder of the 150 days; amended at 44 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 1800.110 Definitions

For purposes of this Part the following terms shall have the following meanings:

"Act": The Video Gaming Act [230 ILCS 40].

"Adjusted gross receipts": The ~~means the~~ gross receipts less winnings paid to wagerers. The value of expired vouchers shall be included in computing adjusted gross receipts.

"Administrator": The chief executive officer responsible for day-to-day operations of the Illinois Gaming Board.

"Affiliate": An "affiliate of", or person "affiliated with", a specified person shall mean a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, that~~such~~ person.

"Affiliated entity": An "affiliated entity" of a person is any business entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, the person.

"Applicant": A person applying for any license under the Act.

"Application": All material submitted, including the instructions, definitions, forms and other documents issued by the Illinois Gaming Board, comprising the video gaming license application submitted to the Illinois Gaming Board.

"Associated video gaming equipment": Ticket payout systems and validation procedures; wireless, promotional and bonusing systems; kiosks; gaming-related peripherals; hardware, software and systems; and other gaming devices and equipment for compliance with:

Illinois laws, regulations and requirements as codified or otherwise set forth; and

Board-approved video gaming industry standards.

"Attributed interest": A direct or indirect interest in an enterprise deemed to be held by an individual not through the individual's actual holdings but either through the holdings of the individual's relatives or through a third party or parties on behalf of the individual pursuant to a plan, arrangement, agreement or contract.

"Board": The Illinois Gaming Board.

"Business entity" or "Business": A partnership, incorporated or unincorporated association or group, firm, corporation, limited liability company, partnership for shares, trust, sole proprietorship or other business enterprise.

"Chi-square test": A statistical test used to determine if a relationship between variables exists by comparing expected and observed cell frequencies. Specifically, a chi-square test examines the observed frequencies in a category and compares them to what would be expected by chance or would be expected if there was no relationship between variables.

"Control": The possession, direct or indirect, of power to direct or cause the direction of the management and policies of an applicant or licensee through the ownership of voting securities, by contract or otherwise.

"Convenience store": A retail store that is open long hours and sells motor fuel and a limited selection of snacks and general goods.

"Credit": One, five, 10 or 25 cents.

"Distributor": An individual, partnership, corporation or limited liability company licensed under the Act to buy, sell, lease or distribute video gaming terminals or major components or parts of video gaming terminals to or from terminal operators.

"Enforce a security interest": To transfer possession of ownership or title pursuant to a security interest.

"EPROM": An acronym for Erasable, Programmable, Read Only Memory, which is a microprocessor component that stores memory and affects payout percentage

and/or contains a random number generator that selects the outcome of a game on a video gaming terminal.

"Facility-pay" or "facility payment": A~~means a~~ manual payment of currency by an authorized employee of a licensed video gaming location or an authorized employee of a terminal operator for amounts owed to a patron by a video gaming terminal when a video gaming terminal or ticket payout device has malfunctioned and is unable to produce or redeem a ticket.

"Fraternal organization": An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation and that is exempt from federal income taxation under section 501(c)(8) or (c)(10) of the Internal Revenue Code (26 USC 501(c)(8) or (c)(10)).

"Game": A gambling activity that is played for money, property or anything of value, including without limitation those played with cards, chips, tokens, vouchers, dice, implements, or electronic, electrical or mechanical devices or machines.

"Gaming": The dealing, operating, carrying on, conducting, maintaining or exposing for play of any game.

"Gaming operation": The conducting of gaming or the providing or servicing of gaming equipment.

"Gaming property collateral": Video gaming equipment subject to a security interest.

"Illinois resident":

With respect to an individual, an individual who is either:

domiciled in Illinois or maintains a bona fide place of abode in Illinois; or

is required to file an Illinois tax return during the taxable year.

With respect to a corporation, any corporation organized under the laws of this State and any foreign corporation with a certificate of authority to

transact business in Illinois. A foreign corporation not authorized to transact business in this State is a nonresident of this State.

With respect to a partnership, a partnership in which any partner is an Illinois resident, or where the partnership has an office and is doing business in Illinois.

With respect to an irrevocable trust, a trust where the grantor was an Illinois resident individual at the time the trust became irrevocable.

"In-location bonus jackpot game" or "in-location progressive game": A video game in which the value of the top prize increases each time the game is played and the top prize is not won.

"Institutional investor":

A retirement fund administered by a public agency for the exclusive benefit of federal, state or local public employees;

An investment company registered under section 8 of the Investment Company Act of 1940 (15 USC 80a-8);

A collective investment trust organized by a bank under Part 9 of the Rules of the Comptroller of the Currency (12 CFR 9.18);

A closed end investment trust registered with the United States Securities and Exchange Commission;

A chartered or licensed life insurance company or property and casualty insurance company;

A federal or state bank;

An investment advisor registered under the Investment Advisors Act of 1940 (15 USC 80b-1 through 80b-21); or

Such other person as the Illinois Gaming Board may determine for reasons consistent with the Act and this Part.

"License": Authorization granted by the Board permitting a licensee to engage in the defined activities of video gaming.

"Licensed establishment": Any retail establishment licensed under the Act where alcoholic liquor is drawn, poured, mixed or otherwise served for consumption on the premises. Licensed establishment does not include a facility operated by an organization licensee, an intertrack wagering licensee, or an intertrack wagering location licensee licensed under the Illinois Horse Racing Act of 1975 [230 ILCS 5] or a riverboat or casino licensed under the Illinois Gambling Act [230 ILCS 10].

"Licensed fraternal establishment": The location licensed under the Act where a qualified fraternal organization that derives its charter from a national fraternal organization regularly meets.

"Licensed large truck stop establishment": A facility located within 3 road miles from a freeway interchange, as measured in accordance with the Department of Transportation's rules regarding the criteria for the installation of business signs:

that is at least a 3-acre facility with a convenience store;

with separate diesel islands for fueling commercial motor vehicles;

that sells at retail more than 50,000 gallons of diesel or biodiesel fuel per month; and

with parking spaces for commercial motor vehicles. "Commercial motor vehicle" has the meaning ascribed at Section 18b-101 of the Illinois Vehicle Code.

The requirement of this definition may be met by showing that estimated future sales or past sales average at least 50,000 gallons per month.

"Licensed technician": An individual who is licensed under the Act to repair, service and maintain video gaming terminals. A licensed technician is not licensed under the Act to possess or control a video gaming terminal or have access to the inner workings of a video gaming terminal (i.e., the logic area maintained in a separately locked cabinet of the video gaming terminal that

houses electronic components that have the potential to significantly influence the operation of the video gaming terminal).

"Licensed terminal handler": A person, including but not limited to an employee or independent contractor working for a manufacturer, distributor, supplier, technician or terminal operator, who is licensed under the Act to possess or control a video gaming terminal or to have access to the inner workings of a video gaming terminal. A licensed terminal handler does not include an individual, partnership, corporation or limited liability company defined as a manufacturer, distributor, supplier, technician or terminal operator under Section 5 of the Act.

"Licensed truck stop establishment": A facility licensed under the Act that is at least a 3-acre facility with a convenience store, that has separate diesel islands for fueling commercial motor vehicles, that sells at retail more than 10,000 gallons of diesel or biodiesel fuel per month, and that has parking spaces for commercial motor vehicles. "Commercial motor vehicle" has the meaning ascribed at Section 18b-101 of the Illinois Vehicle Code [625 ILCS 5]. The 10,000 gallon requirement may be met by showing that estimated future sales or past sales average at least 10,000 gallons per month.

"Licensed veterans establishment": The location licensed under the Act where a qualified veterans organization that derives its charter from a national veterans organization regularly meets.

"Licensed video gaming location": A licensed establishment, licensed fraternal establishment, licensed veterans establishment, ~~or~~ licensed truck stop establishment, or licensed large truck stop establishment, all as defined in Section 5 of the Act and this Part.

"Liquor license": A license issued by a governmental body authorizing the holder to sell and offer for sale at retail alcoholic liquor for use or consumption.

"Major components or parts": Components or parts that comprise the inner workings and peripherals of a video gaming terminal, including but not limited to the device's hardware, software, human interface devices, interface ports, power supply, ticket payout system, bill validator, printer and any component that affects or could affect the result of a game played on the device.

"Manufacturer": An individual, partnership, corporation or limited liability company that is licensed under the Act and that manufactures or assembles video gaming terminals.

"Net terminal income": Money put into a video gaming terminal minus credits paid out to players.

"Nominee": Any individual or business entity that holds as owner of record the legal title to tangible or intangible personal or real property, including without limitation any stock, bond, debenture, note, investment contract or real estate on behalf of another individual or business entity, and as such is designated and authorized to act on his, her or its behalf with respect to the property.

"Ownership interest": Includes, but is not limited to, direct, indirect, beneficial or attributed interest, or holder of stock options, convertible debt, warrants or stock appreciation rights, or holder of any beneficial ownership or leasehold interest in a business entity.

"Payout device": A device, approved by the Board and provided by a supplier or distributor, that redeems for cash tickets dispensed by a video gaming terminal in exchange for credits accumulated on a video gaming terminal.

"Person": Includes both individuals and business entities.

"Place of worship under the Religious Corporation Act": A structure belonging to, or operated by, a church, congregation or society formed for the purpose of religious worship and eligible for incorporation under the Religious Corporation Act [805 ILCS 110], provided that the structure is used primarily for purposes of religious worship and related activities.

"Problem gambling": "A repetitive set of gaming behaviors that negatively impacts someone's life.

"Progressive jackpot": The top prize in an in-location bonus jackpot game or in-location progressive game.

"Redemption period": The one-year period, starting on the date of issuance, during which a ticket dispensed by a video gaming terminal may be redeemed for cash.

"Responsible gaming" means all of the following:

Policies for reducing harms related to gaming;

Providing a transparent and fair game;

Playing within time and money limits; and

Gaming for entertainment and fun.

"Secured party": A person who is a lender, seller or other person who holds a valid security interest.

"Security": An ownership right or creditor relationship.

"Security agreement": An agreement that creates or provides a security interest, including but not limited to a use agreement.

"Security interest": An interest in property that secures the payment or performance of an obligation or judgment.

"Sole proprietor": An individual who in his or her own name owns 100% of the assets and who is solely liable for the debts of a business.

"Substantial interest": With respect to a partnership, a corporation, an organization, an association, a business or a limited liability company means:

When, with respect to a sole proprietorship, an individual or his or her spouse owns, operates, manages, or conducts, directly or indirectly, the organization, association or business, or any part thereof; or

When, with respect to a partnership, the individual or his or her spouse shares in any of the profits, or potential profits, of the partnership activities; or

When, with respect to a corporation, an individual or his or her spouse is an officer or director or the individual or his or her spouse is a holder,

directly or beneficially, of 5% or more of any class of stock of the corporation; or

When, with respect to a limited liability company, an individual or his or her spouse is a member, or the individual or his or her spouse is a holder, directly or beneficially, of 5% or more of the membership interest of the limited liability company; or

When, with respect to any other organization not covered in the preceding four paragraphs, an individual or his or her spouse is an officer or manages the business affairs, or the individual or his or her spouse is the owner of, or otherwise controls, 10% or more of the assets of the organization; or

When an individual or his or her spouse furnishes 5% or more of the capital, whether in cash, goods or services, for the operation of any business, association or organization during any calendar year.

For purposes of this definition, "individual" includes all individuals or their spouses whose combined interest would qualify as a substantial interest under this definition and whose activities with respect to an organization, association, or business are so closely aligned or coordinated as to constitute the activities of a single entity.

"Supplier": An individual, partnership, corporation or limited liability company that is licensed under the Act to supply major components or parts to video gaming terminals to licensed terminal operators.

"Terminal operator": An individual, partnership, corporation or limited liability company that is licensed under the Act that owns, services, and maintains video gaming terminals for placement in licensed establishments, licensed truck stop establishments, licensed fraternal establishments or licensed veterans establishments.

"Use agreement": A contractual agreement between a licensed terminal operator and a licensed video gaming location establishing terms and conditions for placement and operation of video gaming terminals by the licensed terminal operator within the premises of the licensed video gaming location, and complying with all of the minimum standards for use agreements contained in Section 1800.320.

"Veterans organization": An organization or institution organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of the operation and that is exempt from federal income taxation under section 501(c)(19) of the Internal Revenue Code (26 USC 501(c)(19)).

"Video gaming equipment": Video gaming terminals, associated video gaming equipment and major components or parts.

"Video gaming manager": An employee or owner or designated representative of a licensed video gaming location who manages, oversees or is responsible for video gaming operations at the location, and coordinates the video gaming operations with a terminal operator or the central communications system vendor.

"Video gaming operation": As the context requires, the conducting of video gaming and all related activities.

"Video gaming terminal": Any electronic video game machine that, upon insertion of cash, is available to play or simulate the play of a video game, including but not limited to video poker, line up and blackjack, as authorized by the Board utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, or tokens or is for amusement purposes only.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

Section 1800.350 Inducements

For the purposes of Board action, the following criteria regarding the provision of goods and services shall apply.

a) A terminal operator providing the following goods and services to a licensed video gaming location, or payment for those goods and services, does not constitute a prohibited incentive or inducement under Section 25(c) of the Act:

1) Video gaming terminals and any related items necessary to make the video gaming terminals operable at the licensed video gaming location, including any wiring or rewiring, telephone lines, network connections, circuit boards, redemption devices, site controllers, or other like items specified by the video gaming terminal manufacturer, central communications system provider, or the Board.

2) Software upgrades, replacement parts, repairs, or other costs directly related to ongoing maintenance expenses of video gaming terminals.

3) Video surveillance, alarms, or other security systems or devices required by this Part or intended to monitor or enhance the security and integrity of video gaming operations and the video gaming area of a licensed video gaming location, but not including the costs of physical construction.

4) Bases, chairs, or stools designated for use at the video gaming terminals, and that are intended to remain in the video gaming area of the licensed video gaming location.

5) Assisting a licensed video gaming location in preparing or filing applications or other documentation required by the Board, or assisting a licensed video gaming location in complying with the Act and this Part, but not including paying any fee or cost on behalf of the licensed video gaming location.

b) Provision of the following goods and services, or payment for those goods and services, by a terminal operator, its owners, employees, agents, or other persons of significant influence or control, to an applicant or licensed video gaming location, its owners, employees, agents, persons of significant influence or control, or their immediate family members, creates a rebuttable presumption of a prohibited incentive or inducement under Section 25(c) of the Act:

1) Direct monetary payment, other than distribution of a share of the after tax income of a licensed video gaming location, from a video gaming terminal.

2) Any loan or financing arrangement, regardless of the purpose of the loan or financing.

3) Reimbursement or payment to any third party for a debt or obligation of the licensed video gaming location, applicant or related individuals.

4) Total or partial payment or reimbursement of any tax or fee that is the legal obligation of the applicant or licensed video gaming location, regardless of the source of the obligation, except legally authorized levy, garnishment or specific court order.

5) Providing free or reduced cost goods or services not expressly identified in subsection (a).

c) In determining whether providing or reimbursing for goods or services is a prohibited incentive or inducement, the Board may consider all relevant factors, including but not limited to:

1) The relationship, if any, between the goods or services and the operation or promotion of video gaming terminals at the licensed video gaming location.

2) Whether, and to what degree, costs of a good or service are proportionally shared between the parties.

3) Whether, and to what degree, the benefits of a good or service are shared between the parties.

4) The nature of the relationship between any individual or entity providing or receiving the goods, services, or reimbursement and the terminal operator or licensed video gaming location.

5) Whether the specific behavior in question is in the public interest and the best interests of video gaming.

6) Whether the specific behavior in question discredits or tends to discredit the integrity of video gaming in Illinois.

d) Record Keeping

1) A terminal operator shall maintain records of all goods and services it provides to any licensed video gaming location, including all costs of

goods or services it shares with any licensed video gaming location. These records shall, at a minimum, include the following:

A) Invoices;

B) Estimates;

C) Payments; and

D) Requests for reimbursements.

2) A terminal operator shall report to the Board, on no less than a quarterly basis, all goods, services, and shared costs it provides to any licensed video gaming location.

3) Any licensed video gaming location that receives a good or service from, or shares the cost of the good or service with, a terminal operator shall maintain all records of the goods, services, and shared costs for no less than three years. These records shall, at a minimum, include the following:

A) Invoices;

B) Estimates;

C) Payments; and

D) Requests for reimbursements.

(Source: Added at 44 Ill. Reg. _____, effective _____)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Medical Payment

2) Code Citation: 89 Ill. Adm. Code 140

3) Section Number: 140.442 — Proposed Action: Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Complete Description of the Subjects and Issues Involved: This proposed amendment implements PA 101-62 by establishing the Pharmaceutical and Therapeutics Advisory Board.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

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

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

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

HFS.Rules@illinois.gov

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

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

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis: None

15) Regulatory Agenda on which this rulemaking was summarized: January 2020

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

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140.5 Covered Medical Services Under General Assistance
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140.11 Enrollment Conditions for Medical Providers
140.12 Participation Requirements for Medical Providers
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140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
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Associated with Vendor
140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension, Exclusion or Barring
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140.40 Prior Approval for Medical Services or Items
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140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72 Drug Manual (Recodified)
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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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140.84	Long Term Care Provider Fund
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140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund (Repealed)
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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

140.646 Reimbursement for Developmental Training (DT) Services for Individuals With Developmental Disabilities Who Reside in Long Term Care (ICF and SNF) and Residential (ICF/MR) Facilities
140.647 Description of Developmental Training (DT) Services
140.648 Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
140.649 Effective Dates of Reimbursement for Developmental Training (DT) Programs
140.650 Certification of Developmental Training (DT) Programs
140.651 Decertification of Day Programs
140.652 Terms of Assurances and Contracts
140.680 Effective Date Of Payment Rate
140.700 Discharge of Long Term Care Residents
140.830 Appeals of Rate Determinations
140.835 Determination of Cap on Payments for Long Term Care (Repealed)

SUBPART F: FEDERAL CLAIMING FOR STATE AND LOCAL GOVERNMENTAL ENTITIES

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140.850 Reimbursement of Administrative Expenditures
140.855 Administrative Claim Review and Reconsideration Procedure
140.860 County Owned or Operated Nursing Facilities
140.865 Sponsor Qualifications (Repealed)
140.870 Sponsor Responsibilities (Repealed)
140.875 Department Responsibilities (Repealed)
140.880 Provider Qualifications (Repealed)
140.885 Provider Responsibilities (Repealed)
140.890 Payment Methodology (Repealed)
140.895 Contract Monitoring (Repealed)
140.896 Reimbursement For Program Costs (Active Treatment) For Clients in Long Term Care Facilities For the Developmentally Disabled (Recodified)
140.900 Reimbursement For Nursing Costs For Geriatric Residents in Group Care Facilities (Recodified)
140.901 Functional Areas of Needs (Recodified)
140.902 Service Needs (Recodified)
140.903 Definitions (Recodified)
140.904 Times and Staff Levels (Repealed)
140.905 Statewide Rates (Repealed)
140.906 Reconsiderations (Recodified)

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140.907 Midnight Census Report (Recodified)
140.908 Times and Staff Levels (Recodified)
140.909 Statewide Rates (Recodified)
140.910 Referrals (Recodified)
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140.912 Interim Nursing Rates (Recodified)

SUBPART G: MATERNAL AND CHILD HEALTH PROGRAM

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140.928 Client Enrollment and Program Components (Repealed)
140.930 Reimbursement
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140.950 Factors Considered in Awarding ICARE Contracts (Recodified)
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140.956 Payments to Contracting Hospitals (Recodified)
140.958 Admitting and Clinical Privileges (Recodified)
140.960 Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
140.962 Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
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AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency

amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a

maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14,

1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992,

for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996;

amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593,

effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150

days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; peremptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; peremptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010; amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012; amended at 36 Ill. Reg. 7010, effective April 27, 2012; amended at 36 Ill. Reg. 7545, effective May 7, 2012; amended at 36 Ill. Reg. 9113, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 11329, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 140.442(e)(4) suspended at 36 Ill. Reg. 13736, effective August 15, 2012; suspension withdrawn from Section 140.442(e)(4) at 36 Ill. Reg. 14529, September 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.442(e)(4) at 36 Ill. Reg. 14820, effective September 21, 2012 through June 30, 2013; emergency amendment to Section 140.491 suspended at 36 Ill. Reg. 13738, effective August 15, 2012; suspension withdrawn by the Joint Committee on Administrative Rules from Section 140.491 at 37 Ill. Reg. 890, January 8, 2013;

emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.491 at 37 Ill. Reg. 1330, effective January 15, 2013 through June 30, 2013; amended at 36 Ill. Reg. 15361, effective October 15, 2012; emergency amendment at 37 Ill. Reg. 253, effective January 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 846, effective January 9, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 1774, effective January 28, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2348, effective February 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 3831, effective March 13, 2013; emergency amendment at 37 Ill. Reg. 5058, effective April 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5170, effective April 8, 2013 through June 30, 2013; amended at 37 Ill. Reg. 6196, effective April 29, 2013; amended at 37 Ill. Reg. 7985, effective May 29, 2013; amended at 37 Ill. Reg. 10282, effective June 27, 2013; amended at 37 Ill. Reg. 12855, effective July 24, 2013; emergency amendment at 37 Ill. Reg. 14196, effective August 20, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 17584, effective October 23, 2013; amended at 37 Ill. Reg. 18275, effective November 4, 2013; amended at 37 Ill. Reg. 20339, effective December 9, 2013; amended at 38 Ill. Reg. 859, effective December 23, 2013; emergency amendment at 38 Ill. Reg. 1174, effective January 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 4330, effective January 29, 2014; amended at 38 Ill. Reg. 7156, effective March 13, 2014; amended at 38 Ill. Reg. 12141, effective May 30, 2014; amended at 38 Ill. Reg. 15081, effective July 2, 2014; emergency amendment at 38 Ill. Reg. 15673, effective July 7, 2014, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 18216, effective August 18, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 18462, effective August 19, 2014; amended at 38 Ill. Reg. 23623, effective December 2, 2014; amended at 39 Ill. Reg. 4394, effective March 11, 2015; emergency amendment at 39 Ill. Reg. 6903, effective May 1, 2015 through June 30, 2015; emergency amendment at 39 Ill. Reg. 8137, effective May 20, 2015, for a maximum of 150 days; emergency amendment at 39 Ill. Reg. 10427, effective July 10, 2015, for a maximum of 150 days; emergency expired December 6, 2015; amended at 39 Ill. Reg. 12825, effective September 4, 2015; amended at 39 Ill. Reg. 13380, effective September 25, 2015; amended at 39 Ill. Reg. 14138, effective October 14, 2015; emergency amendment at 40 Ill. Reg. 13677, effective September 16, 2016, for a maximum of 150 days; emergency expired February 12, 2017; amended at 41 Ill. Reg. 999, effective January 19, 2017; amended at 41 Ill. Reg. 3296, effective March 8, 2017; amended at 41 Ill. Reg. 7526, effective June 15, 2017; amended at 41 Ill. Reg. 10950, effective August 9, 2017; amended at 42 Ill. Reg. 4829, effective March 1, 2018; amended at 42 Ill. Reg. 12986, effective June 25, 2018; emergency amendment at 42 Ill. Reg. 13688, effective July 2, 2018, for a maximum of 150 days; emergency amendment to emergency rule at 42 Ill. Reg. 16265, effective August 13, 2018, for the remainder of the 150 days; amended at 42 Ill. Reg. 14383, effective July 23, 2018; amended at 42 Ill. Reg. 20059, effective October 26, 2018; amended at 42 Ill. Reg. 22352, effective November 28, 2018; amended at 43 Ill. Reg. 1014, effective December 31, 2018; amended at 43 Ill. Reg. 2227, effective February 4, 2019; amended at 43 Ill. Reg. 4094, effective March 25, 2019; amended at

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

43 Ill. Reg. 5706, effective May 2, 2019; amended at 43 Ill. Reg. 6736, effective May 28, 2019; emergency amendment at 43 Ill. Reg. 12093, effective October 15, 2019, for a maximum of 150 days; amended at 44 Ill. Reg. 226, effective December 23, 2019; amended at 44 Ill. Reg. _____, effective _____, effective March 3, 2020; amended at 44 Ill. Reg. _____, effective _____.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.442 Drug Product Prior Approval and the Preferred Drug List~~of Prescriptions~~

a) The Department may require prior approval for the reimbursement of any drug product, except as provided in this Section. Determinations of whether a drug product is listed as preferred on the Preferred Drug List (PDL) and when prior approval for any drug product is required shall be made in the following manner:

1) The Department shall consult with the Pharmaceutical and Therapeutics Advisory Board (the Board), comprised of individuals ~~or organizations~~ that possess appropriate expertise in the areas of pharmacology and medicine, when determining which drug products to list as preferred on the PDL, as well as which drug products outside of the PDL require prior approval. ~~In doing so, the Department shall consult with organizations composed of physicians, pharmacologists, or both, and shall, to the extent that it consults with organizations, limit its consultations to organizations that include within their membership physicians practicing in all of the representative geographic areas in which recipients reside and practicing in a majority of the areas of specialization for which the Department reimburses physicians for providing care to recipients.~~

2) Board Members. The Board shall be compromised of voting members appointed by the Governor in accordance with Section 5-30.11 of the Public Aid Code.

3) Board Advisors. The Department will select nonvoting clinicians to advise the Board in accordance with Section 5-30.11.

4) Board members shall serve 3 year terms without compensation. Board advisors are appointed by the Department to serve 3 years terms without compensation.

5) Board members and advisors shall disclose conflicts of interest and shall not participate in matters in which they have a potential conflict of interest.

6~~2~~) The Board shall meet not less than one time per calendar quarter. ~~The Department shall consult with a panel from the organizations (the panel is selected by the organizations) to review and make recommendations regarding prior approval. The panel shall meet not less than four times a year for the purpose of the review of drugs.~~ The recommendations of the Board ~~actions of the panel~~ shall be non-binding upon the Department and can in no way bind or otherwise limit the Department's right to determine, in its sole discretion, those drugs that shall be available with or without prior approval, or as preferred or non-preferred products.

7~~3~~) Upon U.S. Food and Drug Administration approval of a new drug product, the new drug product shall require prior approval until the Department determines otherwise. When a newly approved drug product enters the market, or when post-marketing information becomes available for existing drug products~~drugs~~ requiring prior approval, the drug manufacturer shall be responsible for submitting materials to the Department that the Department and the Board will~~consulting organization shall~~ consider in determining whether reimbursement for the drug product will~~shall~~ require prior approval.

8~~4~~) New dosage strengths and new dosage forms of drug products already ~~currently included in the list of drugs~~ available without prior approval (see Section 140.440(e)) shall be available without prior approval upon the request of the manufacturer, unless otherwise designated by the Director. In such a case, the Director shall submit the new dosage strength, or new form, to the prior approval procedures described in this Section.

9~~5~~) To ensure all Board members and the Department have the same information regarding drug products, drug manufacturers shall provide, in writing, all relevant drug product information to the Department and the Board in its entirety. The Board shall only consider information given to both the entire Board and the Department when reviewing a drug product.~~Upon receipt of the final agenda established for each meeting of the panel created under subsection (a)(2), the Department shall promptly review materials and literature supplied by drug manufacturers.~~

~~Additional literature may be researched by the Department to assist the panel in its review of the products on the agenda. The Department shall make comments and, within 10 working days after receipt of the agenda, transmit those comments, either in person or in writing, to the panel. This shall be done for each meeting of the panel.~~

10~~6~~) The Board shall evaluate drug products in an impartial manner, and base recommendations on clinical and cost effectiveness factors.~~The consulting organization shall transmit its recommendations to the Department in writing.~~

11) Board members shall make motions and take votes during the meeting, and the Department shall record the results in the meeting minutes.

12~~7~~) The Department shall make a final determination on the status of drug products reviewed by the Board. The Department shall notify the Board and the affected manufacturers of all final determinations.~~Upon receipt of this transmittal letter, the Department shall, within 15 business days, notify all interested parties, including pharmaceutical product manufacturers, of all recommendations of the consulting organization accepted or rejected by the Director. Notifications to pharmaceutical manufacturers of the Director's decision to require prior approval shall include reasons for the decision. Decisions requiring prior approval of new drug products not previously requiring prior approval shall become effective no sooner than ten days after the notification to providers and all interested parties, including manufacturers. The Department shall maintain a mailing list of all interested parties who wish to receive a copy of applicable notices.~~

13~~8~~) Drug manufacturers shall be afforded an opportunity to request reconsideration of products recommended for prior approval or non-preferred status. The drug manufacturers may submit any~~whatever~~ information they deem appropriate to support their request for reconsideration of the drug product. All reconsideration requests must be submitted in writing to the Department for inclusion on the agenda at a subsequent meeting~~and shall be considered at the next regularly scheduled meetings of the expert panel created under subsection (a)(2)~~.

14~~9~~) Effective July 1, 2012, the Department shall require~~provide~~ that ~~the~~

~~following types of drugs~~ contraceptive drugs and products are available without prior approval.~~:~~

~~A) Contraceptive drugs and products; and~~

~~B) Non-innovator products, listed in the State of Illinois Drug Product Selection Program's current Illinois Formulary, when the innovator product is available without prior approval.~~

b) Prior approval shall be given for drug products~~drugs requiring authorization~~ if:

~~1) The drug is a legend item (requires a prescription); and~~

1~~2~~) The drug product is used in accordance with predetermined standards consistent with the compendia consisting of the American Hospital Formulary Service Drug Information, the United States Pharmacopeia~~–Drug Information~~ and~~ the American Medical Association Drug Evaluations, as well as the~~ peer-reviewed medical literature;~~ and~~

2~~3~~) ~~Either:A)~~The drug is necessary to prevent a higher level of care, such as institutionalization; and~~or~~

3~~B~~) The prescriber has determined that the drug is medically necessary.

c) Decisions on all requests for prior approval by telephone or other telecommunications device and, upon the Department's receipt of the request, shall be made by the same time of the Department's next working day. In an emergency situation, the Department shall provide for the dispensing of at least a 72-hour supply of a covered prescription drug.

d) In accordance with subsection (d)(2), the Department may require approval prior to reimbursement for a brand name prescription drug if the patient for whom the drug is prescribed has already received three brand name prescription drugs in the preceding 30-day period and is 21 years of age or older.

1) For purposes of this subsection (d), brand name prescription drugs in the following therapeutic classes shall not count towards the limit of three brand name prescription drugs and shall not be subject to prior approval

requirements because a patient has received three brand name prescription drugs in the preceding 30 days.

A) Antiretrovirals;

B) Antineoplastics; and

C) Anti-Rejection Drugs.

2) Brand name prescription drugs are exempt from the prior approval requirements of this subsection (d) if:

A) there are no generic therapies for the condition treated within the same therapeutic drug class; or

B) the Department determines that the brand name prescription drug is cost effective.

e) Effective July 1, 2012, the Department may require prior approval prior to reimbursement for a prescription drug if the patient for whom the drug is prescribed has already received four prescription drugs in the preceding 30-day period. For purposes of this subsection (e), prescription drugs in the following therapeutic classes shall not count towards the limit of four prescription drugs and shall not be subject to prior approval requirements because a patient has received four prescription drugs in the preceding 30 days:

1) Antiretrovirals;

2) Antineoplastics;

3) Anti-Rejection Drugs; and

4) Effective July 1, 2014, Antipsychotics.

~~f) Effective July 1, 2014, the Department shall exempt from the prior approval process required under subsection (e) children with complex medical needs enrolled in a care coordination entity contracted with the Department to solely coordinate care for those children, if the Department determines that the entity has a comprehensive drug reconciliation program.~~

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

(Source: Amended at 44 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: General Rules

2) Code Citation: 35 Ill. Adm. Code 101

3)

Section Numbers:	Proposed Actions:
101.202	Amendment
101.302	Amendment
101.308	Amendment
101.610	Amendment
101.626	Amendment

4) Statutory Authority: Implementing Section 9.1 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/9.1, 27, and 28].

5) A Complete Description of the Subjects and Issues Involved: The Illinois Environmental Protection Agency (IEPA) proposed that the Board adopt a new Part 204 of its air pollution rules to create a Prevention of Significant Deterioration (PSD) permitting program. IEPA intends that its proposal will allow it to assume responsibility for PSD permitting from the United States Environmental Protection Agency (USEPA) and also allow the Board to assume responsibility for appeals of PSD permits issued by IEPA. IEPA states that its proposal meets requirements to establish such a program under Section 9.1(c) of the Illinois Environmental Protection Act (Act) [(415 ILCS 5/9.1(c) (2018)]; see PA 99-463, eff. Jan. 1, 2016.

IEPA proposed to amend existing Part 101 of the Board's general procedural rules to conform with the new Part 204 and accommodate PSD permit appeals.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3].

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments must be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at pcb.illinois.gov. Public comments may also be filed with the Clerk of the Board addressed to:

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

Public comments must refer to Board docket number R 19-1.

Interested persons may request copies of the Board's opinion and order in R19-01 by download copies from the Board's Web site at pcb.illinois.gov or by calling the Clerk's office at 312/814-3620.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: The proposal may apply to an entity proposing a new major stationary source of major modification at an existing major stationary source to which the PSD permitting program applies.

B) Reporting, bookkeeping or other procedures required for compliance: Because proposed revisions to Part 101 conform the Board's existing procedural rules to PSD permit appeals in proposed Part 204, the Board does not expect that the revised Part 101 requires any additional recordkeeping or other procedures for compliance.

C) Types of professional skills necessary for compliance: Because the proposed requirements of Part 204 are in effect under the federal PSD rules, the necessary skills are equivalent to those required to comply with current requirements.

14) Small Business Impact Analysis: The Board does not expect that small businesses will be impacted by this rulemaking.

15) Regulatory Agenda on which this rulemaking was summarized: July 2019

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

PART 101
GENERAL RULES

SUBPART A: GENERAL PROVISIONS

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

SUBPART B: DEFINITIONS

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

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

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

SUBPART D: PARTIES, JOINDER, AND CONSOLIDATION

Section

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

SUBPART E: MOTIONS

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

SUBPART F: HEARINGS, EVIDENCE, AND DISCOVERY

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

101.624 Examination of Adverse, Hostile, or Unwilling Witnesses
101.626 Information Produced at Hearing
101.627 Electronic Filing of Hearing Exhibits After Adjudicatory or TLWQS Hearing
101.628 Statements from Participants
101.630 Official Notice and Evidence Evaluation
101.632 Viewing of Premises

SUBPART G: ORAL ARGUMENT

Section
101.700 Oral Argument

SUBPART H: SANCTIONS

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

SUBPART I: REVIEW OF FINAL BOARD OPINIONS AND ORDERS

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

SUBPART J: ELECTRONIC FILING AND E-MAIL SERVICE

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

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

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

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

effective December 3, 2010; amended in R12-22 at 36 Ill. Reg. 9211, effective June 7, 2012; amended in R13-9 at 37 Ill. Reg. 1655, effective January 28, 2013; amended in R14-21 at 39 Ill. Reg. 2276, effective January 27, 2015; amended in R15-20 at 39 Ill. Reg. 12848, effective September 8, 2015; amended in R16-17 at 40 Ill. Reg. 7912, effective May 20, 2016; amended in R17-18 at 41 Ill. Reg. 9930, effective July 5, 2017; amended in R19-19 at 43 Ill. Reg. 9674, effective August 22, 2019; amended in R19-1 at 44 Ill. Reg. _____, effective _____.

SUBPART B: DEFINITIONS

Section 101.202 Definitions for Board's Procedural Rules

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

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

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

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

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

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

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

"Agency" means the Illinois Environmental Protection Agency as established by Section 4 of the Act.

"Agency public comment" means information submitted to the Agency on a proposed Agency decision either by oral statement made at an Agency public hearing or written statement submitted to the Agency during the period for comment by the public.

"Agency public hearing" means a public proceeding to provide interested persons an opportunity to understand and comment on a proposed Agency decision.

"Agency public hearing record" means the record of the Agency public hearing, as kept by the Agency.

"Agency recommendation" means the document filed by the Agency under Section 28.1(d)(3), 37(a), or 38.5(g) of the Act in which the Agency provides its recommended disposition of a petition for an adjusted standard, a variance, or a time-limited water quality standard, respectively. This includes a recommendation to deny, or a recommendation to grant with or without conditions. (See 35 Ill. Adm. Code 104.218, 104.416, and 104.550.)

"Agency record" means a record of final Agency decision, as kept by the Agency, of those documents required by the State agency record meeting the applicable requirements of 35 Ill. Adm. Code 105.

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

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

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

"Attorney General" means the Attorney General of the State of Illinois or his or

her representatives.

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

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

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

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

"Board meeting" means an open meeting held by the Board under Section 5(a) of the Act in which the Board makes its decisions and determinations.

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

"Brief" means a written statement that summarizes the facts of a proceeding, states the pertinent laws, and argues how the laws apply to the facts supporting a position.

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

"CAAPP permit" means any permit issued, renewed, amended, modified or revised under Section 39.5 of the Act.

"CAAPP permit appeal" means an appeal of a CAAPP permit as addressed by 35 Ill. Adm. Code 105.

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

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

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

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

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

"Clerk" means the Clerk of the Board.

"Clerk's Office On-Line" or "COOL" means the Board's web-based file management system that allows electronic filing of and access to electronic documents in the records of the Board's adjudicatory, regulatory, and time-limited water quality standard proceedings. COOL is located on the Board's website at pcb.illinois.gov.

"Code of Civil Procedure" means 735 ILCS 5.

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

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

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

"Counter-complaint" means a pleading that a respondent files stating a claim against a complainant in an enforcement proceeding. (See 35 Ill. Adm. Code 103.206.)

"Cross-complaint" means a pleading that a party files stating a claim against a co-party in an enforcement proceeding. (See 35 Ill. Adm. Code 103.206.)

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

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

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

"Decision period" means the timeframe established by the Act within which the Board must make a final decision in specified adjudicatory proceedings. (See Subpart C. See also Sections 38(a), 40, and 40.1 of the Act, which establish 120-day decision deadlines for variances, permit appeals, and review of pollution control facility siting decisions, respectively.)

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

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

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

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

"DNR" means the Illinois Department of Natural Resources.

"DOA" means the Illinois Department of Agriculture.

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

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

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

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

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

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

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

"Ex parte communication" means *any written or oral communication by any person that imparts or requests material information or makes a material argument regarding potential action concerning regulatory, quasi-adjudicatory, investment, or licensing matters pending before or under consideration by the*

Board. For this definition, a time-limited water quality standard proceeding is considered a regulatory matter. *"Ex parte communication" does not include the following:*

> *statements by a person publicly made in a public forum,* including pleadings, transcripts, public comments, and public remarks made part of the proceeding's record;
>
> *statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter; and*
>
> *statements made by a State employee of the* Board *to* Board members *or other employees of the* Board. [5 ILCS 430/5-50(b)] For this definition, "Board employee" means a person the Board employs on a full-time, part-time, contract or intern basis. (See Section 101.114.)

"Fast-Track rulemaking" means a Clean Air Act rulemaking conducted under Section 28.5 of the Act.

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

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

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

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

can grant relief.

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

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

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

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

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

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

"Inquiry hearing" means a hearing conducted by the Board to seek input and comment from the public regarding the need for rulemaking on a specific subject.

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

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

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

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

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

"Misnomer" means a mistake in the name of a properly included party.

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

"Movant" means the person who files a motion.

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

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

"Notice list" means the list of persons in a regulatory or time-limited water quality standard proceeding who will receive all Board opinions and orders and all hearing officer orders. Persons on a notice list generally do not receive copies of motions, public comments, or testimony. (See definition of "service list" in this Section. See also 35 Ill. Adm. Code 102.422 and 104.520(b)(4).)

"Notice to reinstate" means a document filed that restarts the decision period after

a decision deadline waiver has been filed. The notice will give the Board a full decision period in which to make a decision. (See Section 101.308.)

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

"OSFM" means Office of the State Fire Marshal.

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

"OSFM record" means a record of final OSFM decision, as kept by the OSFM, of those documents of the OFSM that constitute the OSFM record relating to the eligibility and deductible decision and meeting the applicable requirements of 35 Ill. Adm. Code 105.

"Participant" means any person, not including the Board or its staff, who takes part in an adjudicatory proceeding but is not a party, or who takes part in a regulatory or other quasi-legislative proceeding or a time-limited water quality standard proceeding before the Board. A person becomes a participant in any of several ways, including filing a comment, being added to the proceeding's notice list, testifying at hearing, or making public remarks at a Board meeting. The participants in a time-limited water quality standard proceeding include the petitioner and the Agency and are further described at 35 Ill. Adm. Code 104.520(b).

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

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

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

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

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

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

"Petition" means the initial filing in an adjudicatory proceeding (other than an enforcement proceeding) or a time-limited water quality standard proceeding.

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

"Pollution control facility" is defined at Section 3.330(a) of the Act for this Part and 35 Ill. Adm. Code 107.

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

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

"Prehearing conference" means a meeting held in an adjudicatory case or a time-limited water quality standard proceeding to determine the status of the proceedings. A prehearing conference may also be a meeting held in a regulatory proceeding prior to the hearing, the purposes of which *shall be to maximize*

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

"Proceeding" means an action conducted before the Board under authority granted by Section 5 of the Act or as otherwise provided by law. Board proceedings are generally of two types: quasi-legislative (rulemaking and inquiry proceedings) and quasi-judicial (adjudicatory proceedings). A time-limited water quality standard proceeding is neither adjudicatory nor subject to rulemaking procedural requirements. (See 415 ILCS 5/38.5(a), (l).).

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

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

"PSD" means the Prevention of Significant Deterioration of Air Quality program as authorized by Section 9.1(c) of the Act and as adopted by 35 Ill. Adm. Code 204.

"PSD permit" means any PSD permit issued, extended or revised under Section 9.1(c) of the Act and 35 Ill. Adm. Code 204.

"PSD permit appeal" means an appeal of a PSD permit as addressed by 35 Ill. Adm. Code 105.

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

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

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

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

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

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

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

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

"Regulatory hearing" or "proceeding" means a hearing or proceeding held under Title VII of the Act or other applicable law regarding regulations.

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

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

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

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

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

"Rulemaking" or "rulemaking proceeding" means a proceeding brought under Title VII of the Act or other applicable law to adopt, amend, or repeal a

regulation.

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

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

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

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

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

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

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

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

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

"Subpoena" means a command to appear at a specified time and place to testify on a specified matter.

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

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

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

"Time-Limited Water Quality Standard" or "TLWQS" means a time-limited designated use and criterion for a specific pollutant or water quality parameter that reflects the highest attainable condition during the term of that relief. (See 35 Ill. Adm. Code 104.Subtitle E.)

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

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

"USEPA" means the United States Environmental Protection Agency.

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

"UST" means underground storage tank.

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

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

"Website" means the Board's computer-based informational and filing service accessed on the Internet at pcb.illinois.gov.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

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

Section 101.302 Filing of Documents

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

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

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

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

2) All documents filed with the Clerk must provide the name and signature of the person seeking to file the document and identify the name of the person on whose behalf the document is being filed. If a paper document is submitted for filing, the original must bear the original pen-and-ink signature of the person seeking to file the document. Signatures for electronic filings through COOL are addressed in Section 101.1010.

3) Each document being filed with the Clerk must be accompanied by a notice of filing (see Appendix D) and documentation of service (see Section 101.304(d)).

4) The date on which a document is considered to have been filed is determined under Section 101.300(b).

5) Serving a document upon a hearing officer does not qualify as filing it with the Clerk unless the document is submitted to the hearing officer during a hearing.

c) Electronic documents may be filed through COOL under Subpart J. Paper documents may be filed with the Clerk by U.S. Mail, in person, or by third-party commercial carrier.

d) A filing by e-mail or facsimile will only be allowed with the prior approval of the Clerk of the Board or the hearing officer assigned to the proceeding. Any prior approval by the Clerk or hearing officer applies only to the specified filing.

e) The initial filings listed in this subsection require filing fees and will only be considered filed when accompanied by the appropriate fee. The fee may be paid in the form of government voucher, money order, or check made payable to the Illinois Pollution Control Board, or electronically through COOL with a valid credit card, but cannot be paid in cash.

1) Petition for Site-Specific Regulation, $75;

2) Petition for Variance, $75;

3) Petition for Review of Agency Permit Decision, UST Decision, or any other appeal filed under Section 40 or 40.3 of the Act, $75;

4) Petition to Review Pollution Control Facility Siting Decisions, under Section 40.1 of the Act, $75;

5) Petition for Adjusted Standard, under Section 28.1 of the Act, $75; and

6) Petition for TLWQS, under Section 38.5, $75.

f) For each document filed with the Clerk, the filing party must serve a copy of the document upon the other parties and, if a hearing officer has been assigned, upon the hearing officer in compliance with Section 101.304.

g) All documents filed with the Board must contain the relevant proceeding caption and docket number. All documents must be submitted on or formatted to print on 8½ x 11 inch paper, except as provided in subsection (j). Paper documents must be submitted on recycled paper as defined in Subpart B, and double sided. All pages in a document must be sequentially numbered. All documents created by word processing programs must be formatted as follows:

1) The margins must each be a minimum one inch on the top, bottom, and both sides of the page; and

2) The size of the type in the body of the text must be at least 12-point font, and in footnotes at least 10-point font.

h) Unless the Board, the hearing officer, the Clerk, or the procedural rules provide otherwise, all documents must be filed through COOL electronically.

1) If a document is filed in paper, the original and two copies of the document (three total) are required. If a document is filed through COOL in compliance with Subpart J, no paper original or copy of the document is required.

2) The following documents must be filed through COOL or on compact disk or other portable electronic data storage device, comply with Section 101.1030(g), and, to the extent technically feasible, be in text-searchable Adobe PDF:

A) The Agency record required by 35 Ill. Adm. Code 105.212, 105.302, ~~or~~ 105.410, or 105.612 or 35 Ill. Adm. Code 125.208 (see 35 Ill. Adm. Code 105.116);

B) The OSFM record required by 35 Ill. Adm. Code 105.508 (see 35 Ill. Adm. Code 105.116);

C) The local siting authority record required by 35 Ill. Adm. Code 107.302 (see 35 Ill. Adm. Code 107.304); and

D) A petition filed under 35 Ill. Adm. Code 104 or 35 Ill. Adm. Code 106 (see 35 Ill. Adm. Code 104.106 and 35 Ill. Adm. Code 106.106).

3) A document containing information claimed or determined to be a trade secret, or other non-disclosable information under 35 Ill. Adm. Code 130, is prohibited from being filed electronically and must instead be filed only in paper. The version of the document that is redacted under 35 Ill. Adm. Code 130 must be filed through COOL.

4) When filing a rulemaking proposal, if any document protected by copyright law (17 USC 101 et seq.) is proposed under Section 5-75 of the IAPA [5 ILCS 100/5-75] to be incorporated by reference, the copyrighted document is prohibited from being filed electronically, but the remainder of the rulemaking proposal must be filed through COOL. In addition, the rulemaking proponent must:

A) File a paper original of the copyrighted document. The rulemaking proposal also must include:

i) The copyright owner's written authorization for the Board to make, at no charge to the Board, no more than a total of two paper copies of the copyrighted document if the Board is required by State law to furnish a copy to JCAR, a court, or a member of the public during or after the rulemaking; or

ii) The proponent's representation that it will, at its own expense, promptly acquire and deliver to the Clerk's Office no more than a total of two paper originals of the copyrighted document if the Clerk's Office notifies the proponent in writing that the Board is required by State law to furnish a copy to JCAR, a court, or a member of the public during or after the rulemaking; or

B) File a license or similar documentation of access that, at no charge to the Board, gives the Board the rights, during and after the rulemaking, to do the following: electronically access the

copyrighted document from the sole designated computer at the Board's Chicago office; print a single copy of the copyrighted document to maintain at the Board's Chicago office; and print no more than a total of two copies of the copyrighted document if the Board is required by State law to furnish a copy to JCAR, a court, or a member of the public.

i) No written discovery, including interrogatories, requests to produce, and requests for admission, or any response to written discovery, may be filed with the Clerk of the Board except with permission or direction of the Board or hearing officer. Any discovery request under these rules to any nonparty must be filed with the Clerk of the Board in compliance with subsection (h).

j) Oversized Exhibits. When practicable, oversized exhibits must be reduced to conform to or be formatted to print on 8½ x 11-inch paper for filing with the Clerk's Office. However, even when an oversized exhibit is so reduced or formatted, the original oversized exhibit still must be filed with the Clerk's Office. In compliance with 2 Ill. Adm. Code 2175.300, the original oversized exhibit may be returned to the person who filed it.

k) Page Limitation. No motion, brief in support of a motion, or brief may exceed 50 pages, and no amicus curiae brief may exceed 20 pages, without prior approval of the Board or hearing officer. These limits do not include appendices containing relevant material; however, materials that may be readily available to the Board, such as prior Board opinions and orders, federal regulations, and statutes, need not be included in appendices.

l) Documents filed that do not comply with 35 Ill. Adm. Code.Subtitle A may be rejected by the Clerk or the hearing officer. Any rejection of a filing will include a description of the Board's rules that have not been met.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 101.308 Statutory Decision Deadlines and Waiver of Deadlines

a) Petitions in the following proceedings each have a 120-day statutory decision deadline: Variances (Section 38 of the Act), Permit Appeals and UST appeals (Section 40 of the Act), ~~and~~ Pollution Control Facility Siting Review (Section 40.1 of the Act), CAAPP permit appeals (Section 40.2 of the Act), and PSD

permit appeals (Section 40.3 of the Act). Other adjudicatory proceedings may be subject to decision deadlines as provided by law.

b) When the petitioner does not waive the decision deadline, the Board will proceed expeditiously to establish all hearing and filing requirements. Willful or unexcused failure to follow Board requirements on the deadlines will subject the party to sanctions under Subpart H. This Section will be strictly construed when there is a decision deadline unless the Board receives a waiver under subsection (c).

c) All waivers of a deadline for Board action must be filed as a separate document. Waivers must be titled and state which type of waiver it is, identify the proceeding by name and docket number, and be signed by the party or by an authorized representative or attorney. A waiver of a statutory deadline does not preclude the Board from issuing an opinion or order prior to any decision deadline, nor does it preclude the filing of a motion seeking a decision on the matter.

1) An open waiver waives the decision deadline completely and unequivocally until the petitioner elects to reinstate the 120-day decision period by filing a notice to reinstate. Upon proper filing of the notice, the decision period is reinstated. Under Section 101.300(b)(4), the decision period restarts on the date on which the notice to reinstate is filed with the Board.

2) A time certain waiver must be expressed in length of days or to a specific calendar date. If expressed in length of days, day one will be the first day after the date upon which the current time clock expires. If the petitioner files a time certain waiver before the hearing date, the waiver must be for at least 40 days. If the extension is not renewed for at least 40 days prior to the decision deadline, the Board will set the matter for hearing.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART F: HEARINGS, EVIDENCE, AND DISCOVERY

Section 101.610 Duties and Authority of the Hearing Officer

The hearing officer has the duty to manage proceedings assigned, to set hearings, to conduct a

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

a) Require parties to proceed to hearing and establish a schedule for, and notice and service of, any prefiled submission of testimony and written exhibits;

b) Administer oaths and affirmations;

c) Allow for the examination of or examine witnesses to ensure a clear and complete record;

d) Regulate the course of the hearing, including controlling the order of proceedings;

e) Establish reasonable time limits on the testimony and questioning of any witness, and limit repetitive or cumulative testimony and questioning;

f) Determine that a witness is adverse, hostile, or unwilling under Section 101.624;

g) Issue an order compelling the answers to interrogatories or responses to other discovery requests;

h) Order the production of evidence under Section 101.614;

i) Order the filing of any required Agency record, OSFM record, local siting authority record, or recommendation in a manner that provides for a timely review and development of issues prior to the hearing and consistent with any statutory decision deadline;

j) Initiate, schedule, and conduct a pre-hearing conference;

k) Order a briefing and comment schedule and exclude late-filed briefs and comments from the record;

l) Rule upon objections and evidentiary questions;

m) Order discovery under Sections 101.614 and 101.616;

n) Rule on any motion directed to the hearing officer or deferred to the hearing

officer by the Board consistent with Section 101.502;

o) Set status report schedules;

p) Require all participants in a rulemaking or TLWQS proceeding to state their positions regarding the proposal or petition, as applicable; and

q) Rule upon offers of proof and receive evidence and rule upon objections to the introduction of evidence.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 101.626 Information Produced at Hearing

In compliance with Section 10-40 of the IAPA, the hearing officer will admit evidence that is admissible under the rules of evidence as applied in the civil courts of Illinois, except as otherwise provided in this Part or 35 Ill. Adm. Code 105.

a) Evidence. The hearing officer may admit evidence that is material, relevant, and would be relied upon by prudent persons in the conduct of serious affairs, unless the evidence is privileged.

b) Admissibility of Evidence. When the admissibility of evidence depends upon a good faith argument as to the interpretation of substantive law, the hearing officer will admit the evidence.

c) Scientific Articles and Treatises. Relevant scientific or technical articles, treatises, or materials may be introduced into evidence by a party. The materials are subject to refutation or disputation through introduction of documentary evidence or expert testimony.

d) Written Testimony. Written testimony may be introduced by a party in a hearing only if provided to all other parties of record before the date of the hearing and only after the opposing parties have had an opportunity to object to the written testimony and to obtain a ruling on the objections before its introduction. Written testimony may be introduced by a party only if the persons whose written testimony is introduced are available for cross-examination at hearing.

e) Admission of Business Records. A writing or record, whether in the form of any

entry in a book or otherwise made as a memorandum or record of any act, transaction, occurrence, or event, may be admissible as evidence of the act, transaction, occurrence, or event. To be admissible, the writing or record must have been made in the regular course of business, if it was the regular course of business to make the memorandum or record at the time of the act, transaction, occurrence, or event, or within a reasonable time afterwards. All other circumstances of the making of the writing or record, including lack of personal knowledge by the entrant or maker, may be admitted to affect the weight of the evidence, but will not affect admissibility. The term "business," as used in this subsection (e), includes businesses, professions, occupations, and callings of every kind.

f) Prior Inconsistent Statements. Prior statements made under oath may be admitted to impeach a witness if the statement is inconsistent with the witness' testimony at hearing.

g) Oral and Written Statements. Oral and written statements from participants may be taken at hearing under Section 101.628.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Appeals of Final Decisions of State Agencies

2) Code Citation: 35 Ill. Adm. Code 105

3)

Section Numbers:	Proposed Actions:
105.104	Amendment
105.108	Amendment
105.112	Amendment
105.116	Amendment
105.118	Amendment
105.200	Amendment
105.210	Amendment
105.212	Amendment
105.214	Amendment
105.302	Amendment
105.304	Amendment
105.410	Amendment
105.412	Amendment
105.508	Amendment
105.600	New Section
105.602	New Section
105.604	New Section
105.606	New Section
105.608	New Section
105.610	New Section
105.612	New Section
105.614	New Section

4) Statutory Authority: Implementing Section 9.1 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/9.1, 27; and 28].

5) A Complete Description of the Subjects and Issues Involved: The Illinois Environmental Protection Agency (IEPA) proposed that the Board adopt a new Part 204 of its air pollution rules to create a Prevention of Significant Deterioration (PSD) permitting program. IEPA intends that its proposal will allow it to assume responsibility for PSD permitting from the United States Environmental Protection Agency (USEPA) and also allow the Board to assume responsibility for appeals of PSD permits issued by IEPA. IEPA states that its proposal meets requirements to establish such a program under

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 9.1(c) of the Illinois Environmental Protection Act (Act) [(415 ILCS 5/9.1(c) (2018)]; see PA 99-463, eff. Jan. 1, 2016.

IEPA proposed to amend existing Part 105 of the Board's procedural rules for appeals of state agency decisions to conform with the new Part 204 and accommodate PSD permit appeals.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: 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].

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments must be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at pcb.illinois.gov. Public comments may also be filed with the Clerk of the Board addressed to:

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

Public comments must refer to Board docket number R 19-1.

Interested persons may request copies of the Board's opinion and order in R19-01 by download copies from the Board's Web site at pcb.illinois.gov or by calling the Clerk's office at 312/814-3620.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: The proposal may apply to an entity proposing a new major stationary source of major modification at an existing major stationary source to which the PSD permitting program applies.

B) Reporting, bookkeeping or other procedures required for compliance: Because proposed revisions to Part 105 conform the Board's existing procedural rules for appeals of state agency decisions to PSD permit appeals in proposed Part 204, the Board does not expect that the revised Part 101 requires any additional recordkeeping or other procedures for compliance.

C) Types of professional skills necessary for compliance: Because the proposed requirements of Part 204 are in effect under the federal PSD rules, the necessary skills are equivalent to those required to comply with current requirements.

14) Small Business Impact Analysis: The Board does not expect that small businesses will be impacted by this rulemaking.

15) Regulatory Agenda on which this rulemaking was summarized: July 2019

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

PART 105
APPEALS OF FINAL DECISIONS OF STATE AGENCIES

SUBPART A: GENERAL PROVISIONS

Section
105.100 Applicability
105.102 Severability
105.104 Definitions
105.106 Computation of Time, Filing and Service Requirements
105.108 Dismissal of Petition
105.110 Hearings
105.112 Burden of Proof
105.114 Calculation of Decision Deadline
105.116 Agency or OSFM Record Filing
105.118 Sanctions for Non-Compliant Filing of the Agency Record or the OSFM Record

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

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

SUBPART C: CAAPP PERMIT APPEALS

Section
105.300 Applicability
105.302 General Requirements

105.304 Petition Content Requirements

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

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

SUBPART E: APPEAL OF OSFM LUST DECISIONS

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

SUBPART F: PSD PERMIT APPEALS

Section
105.600 Applicability
105.602 Parties
105.604 Who May File a Petition for Review
105.606 Time to File a Petition for Review
105.608 Petition Content Requirements
105.610 Board Standards for Granting Stays
105.612 The Agency Record
105.614 Board Hearing

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

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

SOURCE: Filed with Secretary of State January 1, 1978; amended 4 Ill. Reg. 52, page 41, effective December 11, 1980; codified 6 Ill. Reg. 8357; amended in R93-24 at 18 Ill. Reg. 4244, effective March 8, 1994; amended in R94-11 at 18 Ill. Reg. 16594, effective November 1, 1994; old Part repealed, new Part adopted in R00-20 at 25 Ill. Reg. 406, effective January 1, 2001; amended in R04-24 at 29 Ill. Reg. 8811, effective June 8, 2005; amended in R14-21 at 39 Ill. Reg. 2369, effective January 27, 2015; amended in R16-17 at 40 Ill. Reg. 7980, effective May 20, 2016; ; amended in R17-18 at 41 Ill. Reg. 10084, effective July 5, 2017; amended at 44 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 105.104 Definitions

a) Act means the Illinois Environmental Protection Act [415 ILCS 5].

b) Nonattainment New Source Review or NaNSR means Illinois' rules for Major Stationary Sources Construction and Modification (MSSCAM) at 35 Ill. Adm. Code 203.

c) Other~~For the purpose of this Part,~~ words and terms will have the meanings as defined in 35 Ill. Adm. Code 101.Subpart B unless otherwise provided, or unless the context clearly indicates otherwise.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 105.108 Dismissal of Petition

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

a) The petition does not contain the informational requirements set forth in Section 105.210, 105.304, 105.408, ~~or~~ 105.506, or 105.608;

b) The petition is untimely under Section 105.206, 105.302, 105.404, ~~or~~ 105.504, or 105.606;

c) The petitioner fails to timely comply with any order issued by the Board or the hearing officer, including an order requiring additional information;

d) The petitioner does not have standing under applicable law to petition the Board for review of the State agency's final decision; or

e) Other grounds exist that bar the petitioner from proceeding.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 105.112 Burden of Proof

Unless this Part provides otherwise:

a) *The burden of proof shall be on the petitioner* except as provided in subsection (b). ~~of this Section~~ [415 ILCS 5/40(a)(1), 40(b) and (e)(3), ~~and~~ 40.2(a), and 40.3(a)(2)]~~.~~

b) The burden of proof is on the Agency if *the Agency issues an NPDES permit that imposes limits which are based upon a criterion or denies a permit based upon application of a criterion, then the Agency shall have the burden of going forward with the basis for the derivation of those limits or criterion which were derived under the Board's rules.* [415 ILCS 5/40(a)(1)]

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 105.116 Agency or OSFM Record Filing

a) The State agency must file with the Board the entire record of the Agency's or OSFM's~~its~~ decision, as applicable, within 30 days after the filing of the petition for review, unless this Part provides otherwise, or the Board or hearing officer orders a different filing date. If the Agency or OSFM~~State agency~~ wishes to seek additional time to file its~~the~~ record, it must file a request for extension before the date on which its~~the~~ record is due to be filed. Under 35 Ill. Adm. Code 101.302(h)(2), each~~the State~~ agency must file its~~the~~ record through COOL or on compact disk or other portable electronic data storage device and, to the extent technically feasible, in text-searchable Adobe PDF. The record also must meet the requirements of 35 Ill. Adm. Code 101.Subpart J.

b) The Agency record or OSFM record, as applicable, must be arranged in chronological sequence, or by category of material and chronologically within each category, and must be sequentially numbered with the letter "R" placed before the number of each page. This page number must appear in the top right corner of each page. The Agency record or OSFM record must be certified by the applicable State agency. The certification must be entitled "Certificate of Record on Appeal". The Certificate must contain an index that lists the documents comprising the Agency record or OSFM record and shows the page numbers upon which each document starts and ends. The Certificate of Record must be served on all parties by the State agency.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 105.118 Sanctions for Non-Compliant Filing of the Agency Record or the OSFM Record

If the Agency or OSFM~~State agency~~ unreasonably fails to timely file its~~the~~ record on or before the date required under this Part, or unreasonably fails to prepare the record in accordance with this Part and 35 Ill. Adm. Code 101.Subpart J, the Board may sanction the relevant State agency in accordance with 35 Ill. Adm. Code 101.Subpart H.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

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

Section 105.200 Applicability

This Subpart applies to any appeal to the Board of the Agency's final permit decisions and other final decisions of the Agency, except:

a) When the appeal is of a final CAAPP decision of the Agency, which is addressed in Subpart C~~ of this Part~~; ~~and~~

b) When the appeal is of a final leaking underground storage tank decision of the Agency, which is addressed in Subpart D~~ of this Part~~; and~~.~~

c) When the appeal is of a final PSD permit decision of the Agency, which is addressed in Subpart F.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 105.210 Petition Content Requirements

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

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

b) A statement specifying the date of issuance or service of the Agency's final decision or issued permit, as applicable under Section 105.206;

c) A statement specifying the grounds of appeal; and

d) For petitions under Section 105.204(b), *a demonstration that the petitioner raised the issues contained within the petition during the public notice period or during the* Agency *public hearing on the NPDES permit application, if* an Agency~~a~~ *public hearing was held, and a demonstration that the petitioner is so situated as to be affected by the permitted facility.* [415 ILCS 5/40(e)(2)]

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 105.212 The Agency Record

a) The Agency must file its entire Agency record of ~~its~~ decision with the Clerk in accordance with Section 105.116.

b) The Agency record must include:

1) Any permit application or other request that resulted in the Agency's final decision;

2) Correspondence with the petitioner and any documents or materials submitted by the petitioner to the Agency related to the permit application;

3) The permit denial letter that conforms to the requirements of Section 39(a) of the Act or the issued permit or other Agency final decision;

4) The Agency public hearing record~~file~~ of any Agency public hearing that

may have been held before the Agency, including any transcripts and exhibits; and

5) Any other information the Agency relied upon in making its final decision.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 105.214 Board Hearing

a) Except as provided in subsections (b), (c) and (d), the Board will conduct a public hearing, in accordance with 35 Ill. Adm. Code 101.Subpart F, upon an appropriately filed petition for review. The hearing will be based exclusively on the Agency record before the Agency at the time the permit or decision was issued, unless the parties agree to supplement the Agency record under Section 40(d) of the Act. If any party desires to introduce evidence before the Board with respect to any disputed issue of fact, the Board will conduct a separate hearing and receive evidence with respect to the issue of fact.

b) The Board will not hold a hearing on a petition for review under this Subpart if the Board disposes of the petition on a motion for summary judgment brought under 35 Ill. Adm. Code 101.516.

c) The Board will not hold a hearing on a petition for review under Section 105.204(c) if the Board determines that:

1) The petition is duplicative or frivolous; or

2) The petitioner is so located as to not be affected by the permitted facility.

d) The Board will not hold a hearing on a petition for review under Section 105.204(b) or (d) if the Board determines that the petition is duplicative or frivolous.

e) If the Board determines to hold a hearing, the Clerk will give notice of the hearing under 35 Ill. Adm. Code 101.602.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART C: CAAPP PERMIT APPEALS

Section 105.302 General Requirements

a) The definitions of 35 Ill. Adm. Code 101.202 and Section 39.5 of the Act will apply to this Subpart unless otherwise provided, or unless the context clearly indicates otherwise.

b) If the Agency denies a CAAPP permit, permit modification, or permit renewal, it must provide to USEPA, the permit applicant and, upon request, affected states, any person who participated in the public comment process, and any other person who could obtain judicial review under Section 41(a) of the Act [415 ILCS 5/41(a)] a copy of each notification of denial pertaining to the permit applicant.

c) The applicant, any person who participated in the public comment process under Section 39.5(8) of the Act, or any other person who could obtain judicial review under Section 41(a) of the Act may contest the decisions of the Agency enumerated in this subsection (c) by filing with the Clerk a petition for review of the Agency's action in accordance with this Section:

1) Denial of a CAAPP permit, including a permit revision or permit renewal, or a determination of incompleteness regarding a submitted CAAPP application;

2) Issuance of a CAAPP permit with one or more conditions or limitations;

3) Failure of the Agency to act on an application for a CAAPP permit, permit renewal, administrative permit amendment, or significant permit modification within the time frames specified in Section 39.5(5)(j) or Section 39.5(13) of the Act, as applicable; or

4) Failure of the Agency to take final action within 90 days after receipt of an application requesting minor permit modification procedures (or 180 days for modifications subject to group processing requirements) under Section 39.5(14) of the Act.

d) For purposes of this Subpart, a person who participated in the Agency public comment process is someone who, during the Agency public comment period, either commented on the draft permit, submitted written comments, or requested notice of the final action on a specific permit application.

e) The petition filed under subsection (c) must be filed within 35 days after the Agency's final permit action unless:

1) The petition is based solely on grounds arising after the 35 day period expires, in which case the petition may be filed within 35 days after the new grounds for review arise.

2) The applicant is challenging the Agency's failure to timely take final action under Section 39.5 of the Act, in which case the petition must be filed before the Agency takes the final action.

3) However, under no circumstances may a petition challenging the final permit action on a Phase II acid rain permit be filed more than 90 days subsequent to the final permit action.

f) The Agency must appear as respondent at the hearing, and must file, within 30 days after service of the petition, an answer consisting of the entire Agency record of the application, including the CAAPP permit application, the Agency public hearing record, the CAAPP permit denial or issuance letter, and correspondence with the applicant concerning the CAAPP permit application.

g) The Clerk will give notice of the petition and hearing in accordance with 35 Ill. Adm. Code 101.

h) The proceeding will be conducted in accordance with 35 Ill. Adm. Code 101.

i) *The Agency shall notify USEPA, in writing, of any petition for hearing brought under this Part involving a provision or denial of a Phase II acid rain permit within 30 days of the filing of the petition. USEPA may intervene as a matter of right in any such hearing. The Agency shall notify USEPA, in writing, of any determination or order in a hearing brought under this Section that interprets, voids, or otherwise relates to any portion of a Phase II acid rain permit.* [415 ILCS 5/40.2(e)]

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 105.304 Petition Content Requirements

a) The petition must include:

1) A~~a~~ concise description of the CAAPP source for which the permit is sought;

2) A~~a~~ statement of the Agency's decision or part thereof to be reviewed;

3) A~~a~~ justification as to why the Agency's decision or part thereof was in error; and

4) The~~the~~ other materials upon which the petitioner relies in its petition.

b) The petition may include a request to stay the effectiveness of a denial of the CAAPP permit until final action is taken by the Board under Section 40.2 of the Act.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

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

Section 105.410 The Agency Record

a) The Agency must file the entire Agency record of its decision with the Board in accordance with Section 105.116.

b) The record must include:

1) The plan or budget submittal or other request that requires an Agency decision;

2) Correspondence with the petitioner and any documents or materials submitted by the petitioner to the Agency related to the plan or budget submittal or other request;

3) The final determination letter; and

4) Any other information the Agency relied upon in making its determination.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 105.412 Board Hearing

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

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART E: APPEAL OF OSFM LUST DECISIONS

Section 105.508 OSFM Record and Appearance

a) Within 14 days after a petition for review of an OSFM eligibility or deductibility determination, the attorney representing the OSFM must file an appearance with the Board.

b) The OSFM must file the entire OSFM record of its decision with the Board in accordance with Section 105.116. The OSFM record must include:

1) The request for OSFM determination of eligibility or deductibility;

2) Correspondence with the petitioner;

3) The denial letter; and

4) Any other information the OSFM relied upon in making its determination.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART F: PSD PERMIT APPEALS

Section 105.600 Applicability

This Subpart applies to proceedings before the Board concerning appeals from final Prevention of Significant Deterioration (PSD) permit determinations made under Section 9.1(d) of the Act and 35 Ill. Adm. Code 204.

(Source: Added at 44 Ill. Reg. _____, effective _____)

Section 105.602 Parties

a) Petitioner. The person who files a petition for review of the Agency's final decision must be named the petitioner.

b) Respondent. The Agency must be named the respondent. If a petition is filed under Section 105.604(c) by a person other than the permit applicant, the permit applicant must be named as a respondent in addition to the Agency.

(Source: Added at 44 Ill. Reg. _____, effective _____)

Section 105.604 Who May File a Petition for Review

a) *If the Agency refused to grant, or grants with conditions, a PSD permit* under Section 9.1(d) of the Act and 35 Ill. Adm. Code Part 204, *the applicant may petition for a hearing before the Board to contest the decision of the Agency.* [415 ILCS 5/40.3(a)(1)]

b) *If the Agency fails to act on an application for a PSD permit within the time frame specified* in Section 39(f)(3) of the Act, *the applicant may petition for a hearing before the Board to compel the Agency to act on the application in a time that is deemed reasonable* by the Board. [415 ILCS 5/40.3(a)(1)]

c) *Any person who participated in the* Agency *public comment process* for a PSD permit *and is either aggrieved or has an interest that is or may be adversely affected by the PSD permit may petition for a hearing before the Board to contest the decision of the Agency. If the petitioner failed to participate in the Agency's public comment process, the person may still petition for a hearing, but only upon issues where the final permit conditions reflect changes from the proposed draft permit* that was made available during the Agency public comment process. [415 ILCS 5/40.3(a)(2)]

(Source: Added at 44 Ill. Reg. _____, effective _____)

Section 105.606 Time to File a Petition for Review

a) Except as provided in subsection (b), a person who may petition the Board under Section 105.604 for review of the Agency's final decision must file the petition with the Clerk within 35 days after the date of the Agency's final permit action.

b) A permit applicant who wishes to appeal the Agency's failure to act on an application for a PSD permit within the time frame specified in Section 39(f)(3) of the Act must file a petition for review with the Clerk before the Agency denies or issues the final permit.

(Source: Added at 44 Ill. Reg. _____, effective _____)

Section 105.608 Petition Content Requirements

a) All petitions under Section 105.604 must comply with 35 Ill. Adm. Code 101.Subpart C.

b) A petition under Section 105.604(a) or (c) must contain, within the body of the petition, all pertinent information in support of each issue raised for review. The Board will not consider arguments, assertions, claims, or other information incorporated into the petition by reference. *The petition must include*:

1) The Agency's final decision or issued PSD permit;

2) A statement as to how the petitioner participated in the Agency public comment process;

3) All *facts necessary to demonstrate that the petitioner is aggrieved or has an interest that is or may be adversely affected;*

4) *The issues proposed for review*, citing to a specific permit term or condition when applicable and *to the Agency record where those issues were raised*, citing to any relevant page numbers in the public comments submitted to the Agency and attaching this public comment to the petition. If the issues proposed for review were not raised with reasonable specificity during the public comment period, the petition must *explain*

why those issues were not required to be raised during the Agency public comment process; and

5) *An explanation why the Agency's previous response, if any, to the issues proposed for review was:*

A) *Clearly erroneous; or*

B) *An exercise of discretion or an important policy consideration that the Board should, in its discretion, review.* [415 ILCS 5/40.3(a)(2)]

c) A petition under Section 105.604(b) must include the date that a complete permit application for a PSD permit was submitted to the Agency and an explanation as to why the submittal made on that date made the application complete.

d) A petition under Section 105.604(a) or (c) may include a request to stay the effectiveness of any final Agency action on a PSD permit application until final action is taken by the Board under Section 40.3 of the Act. Any stay request must include a clear delineation of all the contested conditions of the PSD permit. To the extent that a stay of any or all of the uncontested conditions of the permit is sought, any stay request must indicate how these uncontested conditions would be affected by the Board's review of the contested conditions.

e) For petitions under Section 105.604(c), any stay request must also demonstrate:

1) *That an immediate stay is required in order to preserve the status quo without endangering the public;*

2) *That it is not contrary to public policy; and*

3) *That there is a reasonable likelihood of success on the merits*. [415 ILCS 5/40.3(d)(3)]

(Source: Added at 44 Ill. Reg. _____, effective _____)

Section 105.610 Board Standards for Granting Stays

a) *If requested by the permit applicant, the Board may stay the effectiveness of any final Agency action on a PSD permit application during the pendency of the review process. In these cases, the Board shall stay the effectiveness of all the contested conditions of the PSD permit and may stay the effectiveness of any or all uncontested conditions only if the Board determines that the uncontested conditions would be affected by its review of contested conditions. Any stays granted by the Board shall be deemed effective upon the date of final Agency action appealed by the applicant.* [415 ILCS 5/40.3(d)(2)]

b) *If requested by a party other than the permit applicant, the Board may stay the effectiveness of any final Agency action on a PSD permit application during the pendency of the review process. In these cases, the Board may stay the effectiveness of all the contested conditions of the PSD permit and may stay the effectiveness of any or all uncontested conditions only if the Board determines that the uncontested conditions would be affected by its review of contested conditions. The party requesting the stay has the burden of demonstrating that an immediate stay is required in order to preserve the status quo without endangering the public, that it is not contrary to public policy, and that there is a reasonable likelihood of success on the merits. Any stays granted by the Board shall be deemed effective upon the date of final Agency action appealed under Section 105.606 and shall remain in effect until a decision is issued by the Board on the petition.* [415 ILCS 5/40.3(d)(3)]

(Source: Added at 44 Ill. Reg. _____, effective _____)

Section 105.612 The Agency Record

a) The Agency must file a copy of its entire Agency record of its decision with the Clerk in accordance with Section 105.116.

b) The Agency record must include:

1) Any permit application or other request that resulted in the Agency's final decision;

2) Correspondence with the applicant and any documents or material submitted by the applicant to the Agency related to the permit application;

3) The project summary, statement of basis, or fact sheet;

4) The Agency public hearing record of any Agency public hearing held under 35 Ill. Adm. Code 252.205, including any transcripts and exhibits;

5) All written comments received during the Agency public comment period under 35 Ill. Adm. Code 252.201, including any extension or reopening under 35 Ill. Adm. Code 252.208;

6) The response to comments required by 35 Ill. Adm. Code 252.210 and any new material placed in the Agency record under that Section;

7) The final permit; and

8) Any other information the Agency relied upon in making its final decision.

(Source: Added at 44 Ill. Reg. _____, effective _____)

Section 105.614 Board Hearing

Except as provided in subsections (a) and (b), the Board will conduct a public hearing, in accordance with 35 Ill. Adm. Code 101.Subpart F, upon an appropriately filed petition for review under this Subpart. *The* hearing and *decision of the Board will be based exclusively on the* Agency *record* at the time the permit or decision was issued, *unless the parties agree to supplement the Agency record*. Any PSD permit issued by the Agency must be upheld by the Board if the technical decisions contained in the permit reflect considered judgment by the Agency. [415 ILCS 5/40.3(d)(1)]

a) The Board will not hold a hearing on a petition for review under this Subpart if the Board disposes of the petition on a motion for summary judgment brought under 35 Ill. Adm. Code 101.516.

b) The Board will not hold a hearing on a petition for review under this Subpart if the Board determines that:

1) The petition is *frivolous*; or

2) The petition *lacks facially adequate factual statements* as required by Section 105.608 [415 ILCS 5/40.3(a)(2)].

c) If the Board determines to hold a hearing, the Clerk will give notice of the hearing under 35 Ill. Adm. Code 101.602.

(Source: Added at 44 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Major Stationary Sources Construction and Modification

2) Code Citation: 35 Ill. Adm. Code 203

3) Section Number: 203.207 Proposed Action: Amendment

4) Statutory Authority: Implementing Section 9.1 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/9.1, 27, and 28].

5) A Complete Description of the Subjects and Issues Involved: The Illinois Environmental Protection Agency (IEPA) proposed that the Board adopt a new Part 204 of its air pollution rules to create a Prevention of Significant Deterioration (PSD) permitting program. IEPA intends that its proposal will allow it to assume responsibility for PSD permitting from the United States Environmental Protection Agency (USEPA) and also allow the Board to assume responsibility for appeals of PSD permits issued by IEPA. IEPA states that its proposal meets requirements to establish such a program under Section 9.1(c) of the Illinois Environmental Protection Act (Act) [(415 ILCS 5/9.1(c) (2018)]; see PA 99-463, eff. Jan. 1, 2016.

IEPA proposed to amend existing Part 203 of the Board's air pollution rules regarding the construction and modification of major stationary sources to conform with the new Part 204 and accommodate PSD permit appeals.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: 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].

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments must be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at pcb.illinois.gov. Public comments may also be filed with the Clerk of the Board addressed to:

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

Public comments must refer to Board docket number R 19-1.

Interested persons may request copies of the Board's opinion and order in R19-01 by download copies from the Board's Web site at pcb.illinois.gov or by calling the Clerk's office at 312/814-3620.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: The proposal may apply to an entity proposing a new major stationary source of major modification at an existing major stationary source to which the PSD permitting program applies.

B) Reporting, bookkeeping or other procedures required for compliance: Because proposed revisions to a single section of Part 203 conform the Board's existing rules to PSD permit appeals in proposed Part 204, the Board does not expect that the revised Part 203 requires any additional recordkeeping or other procedures for compliance.

C) Types of professional skills necessary for compliance: Because the proposed requirements of Part 204 are in effect under the federal PSD rules, the necessary skills are equivalent to those required to comply with current requirements.

14) Small Business Impact Analysis: The Board does not expect that small businesses will be impacted by this rulemaking.

15) Regulatory Agenda on which this rulemaking was summarized: July 2019

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER a: PERMITS AND GENERAL PROVISIONS

PART 203
MAJOR STATIONARY SOURCES CONSTRUCTION AND MODIFICATION

SUBPART A: GENERAL PROVISIONS

Section
203.101 Definitions
203.103 Actual Construction
203.104 Actual Emissions
203.107 Allowable Emissions
203.110 Available Growth Margin
203.112 Building, Structure and Facility
203.113 Commence
203.116 Construction
203.117 Dispersion Enhancement Techniques
203.119 Emission Baseline
203.121 Emission Offset
203.122 Emissions Unit
203.123 Federally Enforceable
203.124 Fugitive Emissions
203.125 Installation
203.126 Lowest Achievable Emission Rate
203.127 Nonattainment Area
203.128 Potential to Emit
203.131 Reasonable Further Progress
203.134 Secondary Emissions
203.136 Stationary Source
203.145 Volatile Organic Material (Repealed)
203.150 Public Participation
203.155 Severability (Repealed)

SUBPART B: MAJOR STATIONARY
SOURCES IN NONATTAINMENT AREAS

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

Section
203.201 Prohibition
203.202 Coordination With Permit Requirement and Application Pursuant to 35 Ill. Adm. Code 201
203.203 Construction Permit Requirement and Application
203.204 Duration of Construction Permit (Repealed)
203.205 Effect of Permits
203.206 Major Stationary Source
203.207 Major Modification of a Source
203.208 Net Emission Determination
203.209 Significant Emissions Determination
203.210 Relaxation of a Source-Specific Limitation
203.211 Permit Exemption Based on Fugitive Emissions

SUBPART C: REQUIREMENTS FOR MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS

Section
203.301 Lowest Achievable Emission Rate
203.302 Maintenance of Reasonable Further Progress and Emission Offsets
203.303 Baseline and Emission Offsets Determination
203.304 Exemptions from Emissions Offset Requirement (Repealed)
203.305 Compliance by Existing Sources
203.306 Analysis of Alternatives

SUBPART F: OPERATION OF A MAJOR STATIONARY SOURCE OR MAJOR MODIFICATION

Section
203.601 Lowest Achievable Emission Rate Compliance Requirement
203.602 Emission Offset Maintenance Requirement
203.603 Ambient Monitoring Requirement (Repealed)

SUBPART G: GENERAL MAINTENANCE OF EMISSION OFFSETS

Section
203.701 General Maintenance of Emission Offsets

SUBPART H: OFFSETS FOR EMISSION INCREASES FROM ROCKET ENGINES AND

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

MOTOR FIRING

Section
203.801 Offsetting by Alternative or Innovative Means

AUTHORITY: Implementing Sections 9.1 and 10 and authorized by Sections 27 and 28.5 of the Environmental Protection Act [415 ILCS 5/9.1, 10, 27 and 28.5].

SOURCE: Adopted and codified at 7 Ill. Reg. 9344, effective July 22, 1983; codified at 7 Ill. Reg. 13588; amended in R85-20 at 12 Ill. Reg. 6118, effective March 22, 1988; amended in R91-24 at 16 Ill. Reg. 13551, effective August 24, 1992; amended in R92-21 at 17 Ill. Reg. 6973, effective April 30, 1993; amended in R93-9 at 17 Ill. Reg. 16630, effective September 27, 1993; amended in R93-26 at 18 Ill. Reg. 6335, effective April 15, 1994; amended in R98-10 at 22 Ill. Reg. 5674, effective March 10, 1998; amended in R19-1 at 44 Ill. Reg. _____, effective _____.

SUBPART B: MAJOR STATIONARY SOURCES IN NONATTAINMENT AREAS

Section 203.207 Major Modification of a Source

a) Except as provided in subsection (c), (d), (e) or (f)~~ below~~, a physical change, or change in the method of operation of a major stationary source that would result in a significant net emissions increase of any pollutant for which the area is designated a nonattainment area, shall constitute a major modification of a source.

b) Any net emissions increase that is significant for volatile organic material or nitrogen oxides shall be considered significant for ozone.

c) A physical change or change in the method of operation must~~shall~~ not include:

1) Routine maintenance and repair.

2) Use of an alternative fuel or raw material by reason of any order under Section 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (15 USC~~U.S.C.~~ 791), the Power Plant and Industrial Fuel Use Act of 1978 (42 USC~~U.S.C.~~ 8301) (or any superseding legislation) or by reason of a natural gas curtailment plan under~~pursuant to~~ the Federal Power Act (16 USC~~U.S.C.~~ 791, et seq.).

3) Use of an alternative fuel by reason of an order or rule under Section 125 of the Clean Air Act (42 USC~~U.S.C.~~ 7425).

4) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste.

5) Use of an alternative fuel or raw material by a stationary source that~~which~~:

A) Was capable of accommodating the~~such~~ alternative fuel or raw material before December 21, 1976, and that~~which~~ has continuously remained capable of accommodating those~~such~~ fuels or materials unless the~~such~~ change would be prohibited under any enforceable permit condition established after December 21, 1976, under~~pursuant to~~ 40 CFR 52.21, 35 Ill. Adm. Code 204, this Part, or 35 Ill. Adm. Code 201.142 or 201.143;~~,~~ or

B) Is approved for use under any permit issued under~~pursuant to~~ this Part or 35 Ill. Adm. Code 201.142 or 201.143.

6) An increase in the hours of operation or in the production rate, unless that increase~~such change~~ is prohibited under any enforceable permit condition that~~which~~ was established after December 21, 1976 under~~pursuant to~~ 40 CFR 52.21, 35 Ill. Adm. Code 204, this Part, or 35 Ill. Adm. Code 201.142 or 201.143.

7) Any change in ownership at a stationary source.

d) In an area classified as serious or severe nonattainment for ozone, increased emissions of volatile organic material or nitrogen oxides resulting from any physical change in, or change in the method of operation of, a stationary source located in the area shall be considered de minimis for purposes of this Part if the increase in net emissions of the~~such~~ air pollutant from that~~such~~ source does not exceed 25 tons when aggregated with all other net increases in emissions from the source over any period of five consecutive calendar years that includes the year in which the~~such~~ increase occurred.

e) In the case of any major stationary source of volatile organic material or nitrogen oxides located in an area classified as serious or severe nonattainment for ozone

(other than a source that~~which~~ emits or has the potential to emit 100 tons or more of volatile organic material or nitrogen oxides per year), whenever any change at that source results in any increase (other than a de minimis increase) in emissions of volatile organic material or nitrogen oxides, respectively, from any discrete operation, unit, or other pollutant emitting activity at the source, the~~such~~ increase shall be considered a major modification for purposes of this Part. However, the~~except such~~ increase shall not be considered a major modification for these~~such~~ purposes if the owner or operator of the source elects to offset the increase by a greater reduction in emissions of volatile organic material or nitrogen oxides, respectively, from other operations, units, or activities within the source at an internal offset ratio of at least 1.3 to 1.

f) In areas classified as extreme nonattainment for ozone, beginning on the date that an area is classified by USEPA as an extreme nonattainment area for ozone, any physical change in or change in the method of operation of a major stationary source that~~which~~ results in any increase in emissions of volatile organic material or nitrogen oxides from a discrete operation, unit, or other pollutant emitting activity shall be considered a major modification.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

1) Heading of the Part: Prevention of Significant Deterioration

2) Code Citation: 35 Ill. Adm. Code 204

3)

Section Numbers:	Proposed Actions:
204.100	New Section
204.110	New Section
204.120	New Section
204.200	New Section
204.210	New Section
204.220	New Section
204.230	New Section
204.240	New Section
204.250	New Section
204.260	New Section
204.270	New Section
204.280	New Section
204.290	New Section
204.300	New Section
204.310	New Section
204.320	New Section
204.330	New Section
204.340	New Section
204.350	New Section
204.360	New Section
204.370	New Section
204.380	New Section
204.390	New Section
204.400	New Section
204.410	New Section
204.420	New Section
204.430	New Section
204.440	New Section
204.450	New Section
204.460	New Section
204.470	New Section
204.480	New Section
204.490	New Section
204.500	New Section

204.510	New Section
204.520	New Section
204.530	New Section
204.540	New Section
204.550	New Section
204.560	New Section
204.570	New Section
204.580	New Section
204.590	New Section
204.600	New Section
204.610	New Section
204.620	New Section
204.630	New Section
204.640	New Section
204.650	New Section
204.660	New Section
204.670	New Section
204.680	New Section
204.690	New Section
204.700	New Section
204.710	New Section
204.800	New Section
204.810	New Section
204.820	New Section
204.830	New Section
204.840	New Section
204.850	New Section
204.860	New Section
204.900	New Section
204.910	New Section
204.920	New Section
204.930	New Section
204.1000	New Section
204.1100	New Section
204.1110	New Section
204.1120	New Section
204.1130	New Section
204.1140	New Section
204.1200	New Section

204.1300	New Section
204.1310	New Section
204.1320	New Section
204.1330	New Section
204.1340	New Section
204.1400	New Section
204.1500	New Section
204.1600	New Section
204.1610	New Section
204.1620	New Section
204.1630	New Section
204.1640	New Section
204.1650	New Section
204.1660	New Section
204.1670	New Section
204.1680	New Section
204.1690	New Section
204.1700	New Section
204.1710	New Section
204.1720	New Section
204.1730	New Section
204.1740	New Section
204.1750	New Section
204.1760	New Section
204.1770	New Section
204.1780	New Section
204.1790	New Section
204.1800	New Section
204.1810	New Section
204.1820	New Section
204.1830	New Section
204.1840	New Section
204.1850	New Section
204.1860	New Section
204.1870	New Section
204.1880	New Section
204.1890	New Section
204.1900	New Section
204.1910	New Section

4) Statutory Authority: Implementing Section 9.1 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/9.1, 27, and 28].

5) A Complete Description of the Subjects and Issues Involved: The Illinois Environmental Protection Agency (IEPA) proposed that the Board adopt a new Part 204 of its air pollution rules to create a Prevention of Significant Deterioration (PSD) permitting program. IEPA intends that its proposal will allow it to assume responsibility for PSD permitting from the United States Environmental Protection Agency (USEPA) and also allow the Board to assume responsibility for appeals of PSD permits issued by IEPA. IEPA states that its proposal meets requirements to establish such a program under Section 9.1(c) of the Illinois Environmental Protection Act (Act) [(415 ILCS 5/9.1(c) (2018)]; see PA 99-463, eff. Jan. 1, 2016.

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

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

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

9) Does this rulemaking contain incorporations by reference? Yes

40 CFR Part 50 (2018)
40 CFR Part 51 (2018)
40 CFR Part 52 (2018)
40 CFR Part 53 (2018)
40 CFR Part 54 (2018)
40 CFR Part 55 (2018)
40 CFR Part 56 (2018)
40 CFR Part 57 (2018)
40 CFR Part 58 (2018)
40 CFR Part 59 (2018)
40 CFR Part 60 (2018)
40 CFR Part 61 (2018)
40 CFR Part 62 (2018)
40 CFR Part 63 (2018)
40 CFR Part 64 (2018)
40 CFR Part 65 (2018)

40 CFR Part 66 (2018)
40 CFR Part 67 (2018)
40 CFR Part 68 (2018)
40 CFR Part 69 (2018)
40 CFR Part 70 (2018)
40 CFR Part 71 (2018)
40 CFR Part 72 (2018)
40 CFR Part 73 (2018)
40 CFR Part 74 (2018)
40 CFR Part 75 (2018)
40 CFR Part 76 (2018)
40 CFR Part 77 (2018)
40 CFR Part 78 (2018)
40 CFR Part 79 (2018)
40 CFR Part 80 (2018)
40 CFR Part 81 (2018)
40 CFR Part 82 (2018)
40 CFR Part 85 (2018)
40 CFR Part 86 (2018)
40 CFR Part 87 (2018)
40 CFR Part 88 (2018)
40 CFR Part 89 (2018)
40 CFR Part 90 (2018)
40 CFR Part 91 (2018)
40 CFR Part 92 (2018)
40 CFR Part 93 (2018)
40 CFR Part 94 (2018)
40 CFR Part 95 (2018)
40 CFR Part 96 (2018)
40 CFR Part 97 (2018), excluding 40 CFR Part 97, Subpart FFFFF (2018)
40 CFR Part 98 (2018)
Standard Industrial Classification Manual, 1972, as amended by 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively)

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

11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3].

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments must be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at pcb.illinois.gov. Public comments may also be filed with the Clerk of the Board addressed to:

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

Public comments must refer to Board docket number R 19-1.

Interested persons may request copies of the Board's opinion and order in R19-01 by download copies from the Board's Web site at pcb.illinois.gov or by calling the Clerk's office at 312/814-3620.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: The proposal may apply to an entity proposing a new major stationary source of major modification at an existing major stationary source to which the PSD permitting program applies.

B) Reporting, bookkeeping or other procedures required for compliance: Because the proposed requirements of Part 204 are in effect under the federal PSD rules, the Board does not expect that the new Part 204 requires any additional recordkeeping or other procedures for compliance.

C) Types of professional skills necessary for compliance: Because the proposed requirements of Part 204 are in effect under the federal PSD rules, the necessary skills are equivalent to those required to comply with current requirements.

14) Small Business Impact Analysis: The Board does not expect that small businesses will be impacted by this rulemaking.

15) Regulatory Agenda on which this rulemaking was summarized: July 2019

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED RULES

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER a: PERMITS AND GENERAL PROVISIONS

PART 204
PREVENTION OF SIGNIFICANT DETERIORATION

SUBPART A: GENERAL PROVISIONS

Section
204.100 Incorporations by Reference
204.110 Abbreviations and Acronyms
204.120 Severability

SUBPART B: DEFINITIONS

Section
204.200 Definitions
204.210 Actual Emissions
204.220 Adverse Impact on Visibility
204.230 Allowable Emissions
204.240 Baseline Actual Emissions
204.250 Baseline Area
204.260 Baseline Concentration
204.270 Begin Actual Construction
204.280 Best Available Control Technology (BACT)
204.290 Building, Structure, Facility, or Installation
204.300 Clean Coal Technology
204.310 Clean Coal Technology Demonstration Project
204.320 Commence
204.330 Complete
204.340 Construction
204.350 Dispersion Technique
204.360 Electric Utility Steam Generating Unit
204.370 Emissions Unit
204.380 Excessive Concentration
204.390 Federal Land Manager
204.400 Federally Enforceable

204.410 Fugitive Emissions
204.420 Good Engineering Practice
204.430 Greenhouse Gases (GHGs)
204.440 High Terrain
204.450 Indian Reservation
204.460 Indian Governing Body
204.470 Innovative Control Technology
204.480 Low Terrain
204.490 Major Modification
204.500 Major Source Baseline Date
204.510 Major Stationary Source
204.520 Minor Source Baseline Date
204.530 Nearby
204.540 Necessary Preconstruction Approvals or Permits
204.550 Net Emissions Increase
204.560 Potential to Emit
204.570 Prevention of Significant Deterioration (PSD) Permit
204.580 Process Unit
204.590 Project
204.600 Projected Actual Emissions
204.610 Regulated NSR Pollutant
204.620 Replacement Unit
204.630 Repowering
204.640 Reviewing Authority
204.650 Secondary Emissions
204.660 Significant
204.670 Significant Emissions Increase
204.680 Stack in Existence
204.690 Stationary Source
204.700 Subject to Regulation
204.710 Temporary Clean Coal Technology Demonstration Project

SUBPART C: MAJOR STATIONARY SOURCES IN ATTAINMENT AND UNCLASSIFIABLE AREAS

Section
204.800 Applicability
204.810 Source Information
204.820 Source Obligation

204.830 Permit Expiration
204.840 Effect of Permits
204.850 Relaxation of a Source-Specific Limitation
204.860 Exemptions

SUBPART D: INCREMENT

Section
204.900 Ambient Air Increments
204.910 Ambient Air Ceilings
204.920 Restrictions on Area Classifications
204.930 Redesignation

SUBPART E: STACK HEIGHTS

Section
204.1000 Stack Heights

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204.1880 Monitoring Requirements
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204.1900 Reporting and Notification Requirements
204.1910 Transition Requirements

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SUBPART A: GENERAL PROVISIONS

Section 204.100 Incorporations by Reference

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

a) 40 CFR Part 50 (2018)

b) 40 CFR Part 51 (2018)

c) 40 CFR Part 52 (2018)

d) 40 CFR Part 53 (2018)

e) 40 CFR Part 54 (2018)

f) 40 CFR Part 55 (2018)

g) 40 CFR Part 56 (2018)

h) 40 CFR Part 57 (2018)

i) 40 CFR Part 58 (2018)

j) 40 CFR Part 59 (2018)

k) 40 CFR Part 60 (2018)

l) 40 CFR Part 61 (2018)

m) 40 CFR Part 62 (2018)

n) 40 CFR Part 63 (2018)

o) 40 CFR Part 64 (2018)

p) 40 CFR Part 65 (2018)

q) 40 CFR Part 66 (2018)

r) 40 CFR Part 67 (2018)

s) 40 CFR Part 68 (2018)

t) 40 CFR Part 69 (2018)

u) 40 CFR Part 70 (2018)

v) 40 CFR Part 71 (2018)

w) 40 CFR Part 72 (2018)

x) 40 CFR Part 73 (2018)

y) 40 CFR Part 74 (2018)

z) 40 CFR Part 75 (2018)

aa) 40 CFR Part 76 (2018)

bb) 40 CFR Part 77 (2018)

cc) 40 CFR Part 78 (2018)

dd) 40 CFR Part 79 (2018)

ee) 40 CFR Part 80 (2018)

ff) 40 CFR Part 81 (2018)

gg) 40 CFR Part 82 (2018)

hh) (Reserved)

ii) (Reserved)

jj) 40 CFR Part 85 (2018)

kk) 40 CFR Part 86 (2018)

ll) 40 CFR Part 87 (2018)

mm) 40 CFR Part 88 (2018)

nn) 40 CFR Part 89 (2018)

oo) 40 CFR Part 90 (2018)

pp) 40 CFR Part 91 (2018)

qq) 40 CFR Part 92 (2018)

rr) 40 CFR Part 93 (2018)

ss) 40 CFR Part 94 (2018)

tt) 40 CFR Part 95 (2018)

uu) 40 CFR Part 96 (2018)

vv) 40 CFR Part 97 (2018), excluding 40 CFR Part 97, Subpart FFFFF (2018)

ww) 40 CFR Part 98 (2018)

xx) (Reserved)

yy) Standard Industrial Classification Manual, 1972, as amended by 1977 Supplement (U.S. Government Printing Office stock numbers 4101-0066 and 003-005-00176-0, respectively)

Section 204.110 Abbreviations and Acronyms

The following abbreviations, acronyms and terms are used in this Part:

$\mu g/m^3$	micrograms per cubic meter
Act	Illinois Environmental Protection Act
Agency	Illinois Environmental Protection Agency
BACT	Best Available Control Technology
Board	Illinois Pollution Control Board
Btu	British thermal units
CAA	Clean Air Act
CAAPP	Clean Air Act Permit Program
CEMS	Continuous Emissions Monitoring System
CERMS	Continuous Emissions Rate Monitoring System
CO_2	carbon dioxide
CO_2e	carbon dioxide equivalent
CPMS	Continuous Parameter Monitoring System
GHG	Greenhouse Gas
H_2S	hydrogen sulfide
hr	hour
LAER	Lowest Achievable Emission Rate
lbs	pounds
lb/hr	pounds per hour
MW	megawatts
NAAQS	National Ambient Air Quality Standards
NAICS	North American Industry Classification System
NO_2	nitrogen dioxide
NO_X	nitrogen oxides

NSPS	New Source Performance Standards
NSR	New Source Review
O_2	oxygen
PAL	Plantwide Applicability Limitation
PEMS	Predictive Emissions Monitoring System
PM	Particulate Matter
$PM_{2.5}$	Particulate Matter equal to or less than 2.5 microns in diameter (Fine Particulate Matter)
PM_{10}	Particulate Matter equal to or less than 10 microns in diameter
ppm	parts per million
PSD	Prevention of Significant Deterioration
RACT	Reasonably Available Control Technology
SIP	State Implementation Plan
SO_2	sulfur dioxide
tpy	tons per year
TSP	total suspended particulates
US	United States
USEPA	United States Environmental Protection Agency
VOC	Volatile Organic Compound
VOM	Volatile Organic Material
yr	year

Section 204.120 Severability

If any provision of this Part, or the application of that provision to any person or circumstance, is held invalid, the remainder of this Part, or the application of the provision to persons or circumstances other than those as to which it is held invalid, shall not be affected by that holding.

SUBPART B: DEFINITIONS

Section 204.200 Definitions

Unless otherwise specified in this Part, terms used in this Part have the same meaning as the terms used in 35 Ill. Adm. Code 211.

Section 204.210 Actual Emissions

a) "Actual emissions" means the actual rate of emissions of a regulated NSR pollutant from an emissions unit, as determined in accordance with subsections

(b) through (d), except that this definition must not apply for calculating whether a significant emissions increase has occurred, or for establishing a PAL under Subpart K. Instead, Sections 204.240 and 204.600 will apply for those purposes.

b) In general, actual emissions as of a particular date must equal the average rate, in tons per year, at which the unit actually emitted the pollutant during a consecutive 24-month period that precedes the particular date and that is representative of normal source operation. The Agency shall allow the use of a different time period upon a determination that it is more representative of normal source operation. Actual emissions must be calculated using the unit's actual operating hours, production rates, and types of materials processed, stored, or combusted during the selected time period.

c) The Agency may presume that source-specific allowable emissions for the unit are equivalent to the actual emissions of the unit.

d) For any emissions unit that has not begun normal operations on the particular date, actual emissions must equal the potential to emit of the unit on that date.

Section 204.220 Adverse Impact on Visibility

"Adverse impact on visibility" means visibility impairment that interferes with the management, protection, preservation or enjoyment of the visitor's visual experience of the Federal Class I area. This determination shall be made on a case-by-case basis taking into account the geographic extent, intensity, duration, frequency and time of visibility impairment, and how these factors correlate with:

a) Times of visitor use of the Federal Class I area; and

b) Frequency and timing of natural conditions that reduce visibility.

Section 204.230 Allowable Emissions

"Allowable emissions" means the emissions rate of a stationary source calculated using the maximum rated capacity of the source (unless the source is subject to federally enforceable limits that restrict the operating rate, or hours of operation, or both) and the most stringent of the following:

a) The applicable standards as set forth in 40 CFR 60, 61, 62 and 63 (incorporated by reference in Section 204.100);

b) The applicable SIP emissions limitation, including those with a future compliance date; or

c) The emissions rate specified as a federally enforceable permit condition, including those with a future compliance date.

Section 204.240 Baseline Actual Emissions

"Baseline actual emissions" means the rate of emissions, in tons per year, of a regulated NSR pollutant, as determined in accordance with this Section.

a) For any existing electric utility steam generating unit, baseline actual emissions means the average rate, in tons per year, at which the unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 5-year period immediately preceding when the owner or operator begins actual construction of the project. The Agency shall allow the use of a different time period upon a determination that it is more representative of normal source operation.

1) The average rate must include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

2) The average rate must be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above any emission limitation that was legally enforceable during the consecutive 24-month period.

3) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for the emissions units being changed. A different consecutive 24-month period can be used for each regulated NSR pollutant.

4) The average rate must not be based on any consecutive 24-month period for which there is inadequate information for determining annual

emissions, in tons per year, and for adjusting this amount if required by subsection (a)(2).

b) For an existing emissions unit (other than an electric utility steam generating unit), baseline actual emissions means the average rate, in tons per year, at which the emissions unit actually emitted the pollutant during any consecutive 24-month period selected by the owner or operator within the 10-year period immediately preceding either the date the owner or operator begins actual construction of the project, or the date a complete permit application is received by the reviewing authority for a permit required under 40 CFR 52.21 or by the Agency for a permit required by the SIP, whichever is earlier, except that the 10-year period must not include any period earlier than November 15, 1990.

1) The average rate must include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions.

2) The average rate must be adjusted downward to exclude any non-compliant emissions that occurred while the source was operating above an emission limitation that was legally enforceable during the consecutive 24-month period.

3) The average rate must be adjusted downward to exclude any emissions that would have exceeded an emission limitation with which the major stationary source must currently comply, had such major stationary source been required to comply with such limitations during the consecutive 24-month period. "Currently" in the context of a contemporaneous emissions change refers to limitations on emissions and source operation that existed just prior to the date of the contemporaneous change. However, if an emission limitation is part of a Maximum Achievable Control Technology standard that the USEPA proposed or promulgated under 40 CFR 63 (incorporated by reference in Section 204.100), the baseline actual emissions need only be adjusted if the Agency has taken credit for that emissions reductions in an attainment demonstration or maintenance plan consistent with 40 CFR 51.165(a)(3)(ii)(G).

4) For a regulated NSR pollutant, when a project involves multiple emissions units, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all the emissions units being changed. A

different consecutive 24-month period can be used for each regulated NSR pollutant.

5) The average rate must not be based on any consecutive 24-month period for which there is inadequate information for determining annual emissions, in tons per year, and for adjusting this amount if required by subsections (b)(2) and (b)(3).

c) For a new emissions unit, the baseline actual emissions for purposes of determining the emissions increase that will result from the initial construction and operation of the unit must equal zero. Thereafter, for all other purposes, it must equal the unit's potential to emit.

d) For a PAL for a stationary source, the baseline actual emissions must be calculated for existing electric utility steam generating units in accordance with the procedures contained in subsection (a), for other existing emissions units in accordance with the procedures contained in subsection (b), and for a new emissions unit in accordance with the procedures contained in subsection (c).

Section 204.250 Baseline Area

a) "Baseline area" means any intrastate area (and every part thereof) designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the CAA (43 USC 7407(d)(1)(A)(ii) or (iii)) in which the major source or major modification establishing the minor source baseline date would construct or would have an air quality impact for the pollutant for which the baseline date is established, as follows: Equal to or greater than 1 $\mu g/m^3$ (annual average) for SO_2, NO_2, or PM_{10}; or equal to or greater than 0.3 $\mu g/m^3$ (annual average) for $PM_{2.5}$.

b) Area redesignations under section 107(d)(1)(A)(ii) or (iii) of the CAA cannot intersect or be smaller than the area of impact of any major stationary source or major modification that:

1) Establishes a minor source baseline date; or

2) Is subject to this Part and would be constructed in the state proposing the redesignation.

c) Any baseline area established originally for the TSP increments must remain in effect and must apply for purposes of determining the amount of available PM_{10} increments, except that baseline area must not remain in effect if the Agency rescinds the corresponding minor source baseline date in accordance with Section 204.520(c).

Section 204.260 Baseline Concentration

a) "Baseline concentration" means the ambient concentration level that exists in the baseline area at the time of the applicable minor source baseline date. A baseline concentration is determined for each pollutant for which a minor source baseline date is established and must include:

1) The actual emissions, as defined in Section 204.210, representative of sources in existence on the applicable minor source baseline date, except as provided in subsection (b); and

2) The allowable emissions of major stationary sources that commenced construction before the major source baseline date, but were not in operation by the applicable minor source baseline date.

b) The following will not be included in the baseline concentration and will affect the applicable maximum allowable increases:

1) Actual emissions, as defined in Section 204.210, from any major stationary source on which construction commenced after the major source baseline date. For a major stationary source in existence on the major source baseline date, "actual emissions" for the purposes of this subsection (b) means increases or decreases in actual emissions resulting from construction commencing after the major source baseline date; and

2) Actual emissions increases and decreases, as defined in Section 204.210, at any stationary source occurring after the minor source baseline date.

Section 204.270 Begin Actual Construction

"Begin actual construction" means, in general, initiation of physical on-site construction activities on an emissions unit that are of a permanent nature. These activities include, but are not limited to, installation of building supports and foundations, laying underground pipework,

and construction of permanent storage structures. With respect to a change in method of operations, this term refers to those on-site activities other than preparatory activities that mark the initiation of the change.

Section 204.280 Best Available Control Technology (BACT)

"Best Available Control Technology" means an emissions limitation (including a visible emission standard) based on the maximum degree of reduction for each regulated NSR pollutant that would be emitted from any proposed major stationary source or major modification that the Agency, on a case-by-case basis, taking into account energy, environmental, and economic impacts and other costs, determines is achievable for that source or modification through application of production processes or available methods, systems, and techniques, including fuel cleaning or treatment or innovative fuel combustion techniques for control of the pollutant. In no event shall application of BACT result in emissions of any pollutant that would exceed the emissions allowed by any applicable standard under 40 CFR 60, 61, 62 and 63 (incorporated by reference in Section 204.100). If the Agency determines that technological or economic limitations on the application of measurement methodology to a particular emissions unit would make the imposition of an emissions standard infeasible, a design, equipment, work practice, operational standard, or combination thereof, may be prescribed instead to satisfy the requirement for the application of BACT. That standard must, to the degree possible, set forth the emissions reduction achievable by implementation of the design, equipment, work practice or operation, and must provide for compliance by means that achieve equivalent results.

Section 204.290 Building, Structure, Facility, or Installation

a) "Building, structure, facility, or installation" means all of the pollutant-emitting activities that belong to the same industrial grouping, are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant-emitting activities must be considered as part of the same industrial grouping if they belong to the same "Major Group" (i.e., have the same first two-digit code) as described in the Standard Industrial Classification Manual) (incorporated by reference in Section 204.100).

b) Notwithstanding the provisions of subsection (a), building, structure, facility, or installation means, for onshore activities under Standard Industrial Classification (SIC) Major Group 13: Oil and Gas Extraction, all of the pollutant-emitting activities included in Major Group 13 that are located on one or more contiguous or adjacent properties, and are under the control of the same person (or persons under common control). Pollutant emitting activities will be considered adjacent

if they are located on the same surface site, or if they are located on surface sites that are located within ¼ mile of one another (measured from the center of the equipment on the surface site) and they share equipment. Shared equipment includes, but is not limited to, produced fluids storage tanks, phase separators, natural gas dehydrators or emissions control devices. Surface site, as used in this subsection, has the same meaning as in 40 CFR 63.761.

Section 204.300 Clean Coal Technology

"Clean coal technology" means any technology, including technologies applied at the precombustion, combustion, or postcombustion stage, at a new or existing facility that will achieve significant reductions in air emissions of SO_2 or NO_X associated with the utilization of coal in the generation of electricity, or process steam that was not in widespread use as of November 15, 1990.

Section 204.310 Clean Coal Technology Demonstration Project

"Clean coal technology demonstration project" means a project using funds appropriated under the heading "Department of Energy – Clean Coal Technology", up to a total amount of $2,500,000,000 for commercial demonstration of clean coal technology, or similar projects funded through appropriations to USEPA. The federal contribution for a qualifying project must be at least 20 percent of the total cost of the demonstration project.

Section 204.320 Commence

"Commence", as applied to construction of a major stationary source or major modification, means that the owner or operator has all necessary preconstruction approvals or permits and either has:

a) Begun, or caused to begin, a continuous program of actual on-site construction of the source, to be completed within a reasonable time; or

b) Entered into binding agreements or contractual obligations, that cannot be cancelled or modified without substantial loss to the owner or operator, to undertake a program of actual construction of the source, to be completed within a reasonable time.

Section 204.330 Complete

"Complete" means, in reference to an application for a permit, that the application contains all of the information necessary for processing the application.

Section 204.340 Construction

"Construction" means any physical change or change in the method of operation (including fabrication, erection, installation, demolition, or modification of an emissions unit) that would result in a change in emissions.

Section 204.350 Dispersion Technique

a) "Dispersion technique" means any technique that attempts to affect the concentration of a pollutant in the ambient air by:

1) Using the portion of a stack that exceeds good engineering practice stack height;

2) Varying the rate of emission of a pollutant according to atmospheric conditions or ambient concentrations of that pollutant; or

3) Increasing final exhaust gas plume rise by:

A) manipulating source process parameters, exhaust gas parameters, or stack parameters;

B) combining exhaust gases from several existing stacks into one stack; or

C) other selective handling of exhaust gas streams so as to increase the exhaust gas plume rise.

b) "Dispersion technique" does not include:

1) The reheating of a gas stream, following use of a pollution control system, for the purpose of returning the gas to the temperature at which it was originally discharged from the stationary source generating the gas stream;

2) The merging of exhaust gas streams when:

A) The source owner or operator demonstrates that the stationary source was originally designed and constructed with those merged gas streams;

B) After July 8, 1985, the merging is part of a change in operation at the stationary source that includes the installation of pollution controls and is accompanied by a net reduction in the allowable emissions of a pollutant. This exclusion from the definition of dispersion techniques applies only to the emission limitation for the pollutant affected by the change in operation; or

C) Before July 8, 1985, the merging was part of a change in operation at the stationary source that included the installation of emissions control equipment or was carried out for sound economic or engineering reasons. When there was an increase in the emission limitation or, in the event that no emission limitation was in existence prior to the merging, an increase in the quantity of pollutants actually emitted prior to the merging, the Agency must presume that merging was significantly motivated by an intent to gain emissions credit for greater dispersion. Absent a demonstration by the source owner or operator that merging was not significantly motivated by that intent, the Agency must deny credit for the effects of the merging in calculating the allowable emissions for the source;

3) Smoke management in agricultural or silvicultural prescribed burning programs;

4) Episodic restrictions on residential wood burning and open burning; or

5) Techniques under subsection (a)(3) that increase final exhaust gas plume rise when the resulting allowable emissions of SO_2 from the stationary source do not exceed 5,000 tpy.

Section 204.360 Electric Utility Steam Generating Unit

"Electric utility steam generating unit" means any steam electric generating unit that is constructed for the purpose of supplying more than one-third of its potential electric output capacity and more than 25 MW electrical output to any utility power distribution system for sale.

Any steam supplied to a steam distribution system for the purpose of providing steam to a steam-electric generator that would produce electrical energy for sale is also considered in determining the electrical energy output capacity of the affected facility.

Section 204.370 Emissions Unit

"Emissions unit" means any part of a stationary source that emits or would have the potential to emit any regulated NSR pollutant and includes an electric utility steam generating unit as defined in Section 204.360. For purposes of this Part, there are two types of emissions units.

a) A new emissions unit is any emissions unit that is (or will be) newly constructed and that has existed for less than 2 years from the date the emissions unit first operated.

b) An existing emissions unit is any emissions unit that does not meet the requirements of subsection (a). A replacement unit, as defined in Section 204.620, is an existing emissions unit.

Section 204.380 Excessive Concentration

"Excessive concentration" is defined for the purpose of determining good engineering practice stack height under Section 204.430(c) and means:

a) For sources seeking credit for stack height exceeding that established under Section 204.430(b), a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, and eddy effects produced by nearby structures or nearby terrain features that, individually, is at least 40 percent in excess of the maximum concentration experienced in the absence of the downwash, wakes, or eddy effects and that contributes to a total concentration, due to emissions from all, sources that is greater than an ambient air quality standard. For sources subject to this Part, an excessive concentration alternatively means a maximum ground-level concentration due to emissions from a stack due in whole or part to downwash, wakes, or eddy effects produced by nearby structures or nearby terrain features that, individually, is at least 40 percent in excess of the maximum concentration experienced in the absence of the downwash, wakes, or eddy effects and greater than an ambient air increment under Section 204.900. The allowable emission rate to be used in making demonstrations of excessive concentration must be prescribed by the NSPS that is applicable to the source category unless the owner or operator demonstrates that

this emission rate is infeasible. When those demonstrations are approved by the Agency, an alternative emission rate must be established in consultation with the source owner or operator.

b) For sources seeking credit for increases in existing stack heights up to the heights established under Section 204.430(b), either:

1) A maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects as provided in subsection (a), except that the emission rate specified by the SIP (or, in the absence of such a limit, the actual emission rate) must be used; or

2) The actual presence of a local nuisance caused by the existing stack, as determined by the Agency; and

c) For sources seeking credit for a stack height determined under Section 204.430(b) when the Agency requires the use of a field study or fluid model to verify good engineering practice stack height, for sources seeking stack height credit based on the aerodynamic influence of cooling towers, and for sources seeking stack height credit based on the aerodynamic influence of structures not adequately represented by the equations in Section 204.430(b), a maximum ground-level concentration due in whole or part to downwash, wakes or eddy effects that is at least 40 percent in excess of the maximum concentration experienced in the absence of the downwash, wakes, or eddy effects.

Section 204.390 Federal Land Manager

"Federal Land Manager" means, with respect to any lands in the United States, the Secretary of the department with authority over the lands.

Section 204.400 Federally Enforceable

"Federally enforceable" means all limitations and conditions that are enforceable by USEPA, including those requirements developed:

a) Under 40 CFR 60, 61, 62 and 63 (incorporated by reference in Section 204.100), requirements within the SIP, any permit requirements established under 40 CFR 52.21 (incorporated by reference in Section 204.100) or this Part; or

b) Under regulations approved under 40 CFR 51, subpart I (incorporated by reference in Section 204.100), including operating permits issued under a USEPA-approved program that:

1) Is incorporated into the SIP; and

2) Expressly requires adherence to any permit issued under that program.

Section 204.410 Fugitive Emissions

"Fugitive emissions" means those emissions that could not reasonably pass through a stack, chimney, vent, or other functionally equivalent opening.

Section 204.420 Good Engineering Practice

a) "Good engineering practice", with respect to stack height, means the greater of:

1) 65 meters, measured from the ground-level elevation at the base of the stack;

2) The following:

A) For a stack in existence on January 12, 1979, and for which the owner or operator had obtained all necessary preconstruction approvals or permits required under 40 CFR 52 (incorporated by reference in Section 204.100):

$$H_g = 2.5H,$$

provided the owner or operator produces evidence that this equation was actually relied on in establishing an emission limitation;

B) For all other stacks:

$$H_g = H + 1.5L$$

where:

H_g = good engineering practice stack height, measured from the ground-level elevation at the base of the stack;

H = height of nearby structures measured from the ground-level elevation at the base of the stack;

L = lesser dimension, height, or projected width of nearby structures, provided that USEPA or the Agency may require the use of a field study or fluid model to verify good engineering practice stack height for the source; or

3) The height demonstrated by a fluid model or a field study approved by USEPA or the Agency that ensures the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes, or eddy effects created by the source itself, nearby structures, or nearby terrain features.

b) For purposes of this definition, "stack" means any point in a source designed to emit solids, liquids, or gases into the air, including a pipe or duct but not including flares.

Section 204.430 Greenhouse Gases (GHGs)

"Greenhouse gases" or "GHGs" means the air pollutant defined in 40 CFR 86.1818-12(a) as the aggregate group of six greenhouse gases: CO_2, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride. To represent an amount of GHGs emitted, the term "tpy CO_2 equivalent emissions (CO_2e)" shall be used. CO_2e is computed as follows:

a) Multiply the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas' associated global warming potential published at 40 CFR 98, subpart A, table A-1 (Global Warming Potentials) (incorporated by reference in Section 204.100).

b) Sum the resultant value for each gas to compute tpy CO_2e.

Section 204.440 High Terrain

"High terrain" means any area having an elevation 900 feet or more above the base of the stack of a source.

Section 204.450 Indian Reservation

"Indian reservation" means any federally recognized reservation established by treaty, agreement, executive order, or Act of Congress.

Section 204.460 Indian Governing Body

"Indian Governing Body" means the governing body of any tribe, band, or group of Indians subject to the jurisdiction of the U.S. and recognized by the U.S. as possessing power of self-government.

Section 204.470 Innovative Control Technology

"Innovative control technology" means any system of air pollution control that has not been adequately demonstrated in practice, but would have a substantial likelihood of achieving greater continuous emissions reduction than any control system in current practice or of achieving at least comparable reductions at lower cost in terms of energy, economics, or non-air quality environmental impacts.

Section 204.480 Low Terrain

"Low terrain" means any area other than high terrain.

Section 204.490 Major Modification

a) "Major modification" means any physical change in, or change in the method of operation of, a major stationary source that would result in:

1) A significant emissions increase (as defined in Section 204.670) of a regulated NSR pollutant (as defined in Section 204.610) other than GHGs (as defined in Section 204.430); and

2) A significant net emissions increase of that pollutant from the major stationary source.

b) Any significant emissions increase from any emissions units or net emissions increase (as defined in Section 204.550) at a major stationary source that is significant for VOM or NO_X shall be considered significant for ozone.

c) A physical change or change in the method of operation shall not include:

1) Routine maintenance, repair and replacement;

2) Use of an alternative fuel or raw material by reason of:

A) An order under sections 2(a) and (b) of the Energy Supply and Environmental Coordination Act of 1974 (15 USC 791) (or any superseding legislation); or

B) A natural gas curtailment plan under the Federal Power Act (16 USC 791);

3) Use of an alternative fuel by reason of an order or rule under section 125 of the CAA (43 USC 7435);

4) Use of an alternative fuel at a steam generating unit to the extent that the fuel is generated from municipal solid waste;

5) Use of an alternative fuel or raw material by a stationary source that:

A) Was capable of accommodating before January 6, 1975, unless the change would be prohibited under any federally enforceable permit condition established after January 6, 1975 under 40 CFR 52.21, this Part, or 35 Ill. Adm. Code 201.142 or 201.143; or

B) Is approved to use under any permit issued under 40 CFR 52.21, this Part, or 35 Ill. Adm. Code 201.142 or 201.143;

6) An increase in the hours of operation or in the production rate, unless that change would be prohibited under any federally enforceable permit condition established after January 6, 1975, under 40 CFR 52.21, this Part, or 35 Ill. Adm. Code 201.142 or 201.143;

7) Any change in ownership at a stationary source;

8) The installation, operation, cessation, or removal of a temporary clean coal technology demonstration project, provided that the project complies with:

A) The Illinois SIP; and

B) Other requirements necessary to attain and maintain NAAQS during the project and after it is terminated; and

9) The installation or operation of a permanent clean coal technology demonstration project that constitutes repowering, provided that the project does not result in an increase in the potential to emit any regulated pollutant emitted by the unit. This exemption will be applied on a pollutant-by-pollutant basis.

d) This definition must not apply with respect to a particular regulated NSR pollutant when the major stationary source is complying with Subpart K for a PAL for that pollutant. Instead, the definition at Section 204.1720 will apply.

Section 204.500 Major Source Baseline Date

"Major source baseline date" means:

a) In the case of PM_{10} and SO_2, January 6, 1975;

b) In the case of NO_2, February 8, 1988; and

c) In the case of $PM_{2.5}$, October 20, 2010.

Section 204.510 Major Stationary Source

a) "Major stationary source" means:

1) Any of the following stationary sources of air pollutants that emits, or has the potential to emit, 100 tpy or more of any regulated NSR pollutant:

A) Fossil fuel-fired steam electric plants of more than 250 million Btu per hour heat input;

B) Coal cleaning plants (with thermal dryers);

C) Kraft pulp mills;

D) Portland cement plants;

E) Primary zinc smelters;

F) Iron and steel mill plants;

G) Primary aluminum ore reduction plants (with thermal dryers);

H) Primary copper smelters;

I) Municipal incinerators capable of charging more than 50 tons of refuse per day;

J) Hydrofluoric, sulfuric, and nitric acid plants;

K) Petroleum refineries;

L) Lime plants;

M) Phosphate rock processing plants;

N) Coke oven batteries;

O) Sulfur recovery plants;

P) Carbon black plants (furnace process);

Q) Primary lead smelters;

R) Fuel conversion plants;

S) Sintering plants;

T) Secondary metal production plants;

U) Chemical process plants (which does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS Codes 325193 or 312140);

V) Fossil-fuel boilers (or combinations thereof) totaling more than 250 million Btu per hour heat input;

W) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

X) Taconite ore processing plants;

Y) Glass fiber processing plants; and

Z) Charcoal production plants;

2) Notwithstanding the stationary source size specified in subsection (a)(1), any stationary source that emits, or has the potential to emit, 250 tpy or more of a regulated NSR pollutant (except GHGs as defined in Section 204.430); or

3) Any physical change that would occur at a stationary source not otherwise qualifying under this Section as a major stationary source, if the changes would constitute a major stationary source.

b) A major source that is major for VOM or NO_X must be considered major for ozone.

c) The fugitive emissions of a stationary source must not be included in determining, for any of the purposes, whether it is a major stationary source, unless the source belongs to one of the following categories of stationary sources:

1) Coal cleaning plants (with thermal dryers);

2) Kraft pulp mills;

3) Portland cement plants;

4) Primary zinc smelters;

5) Iron and steel mills;

6) Primary aluminum ore reduction plants;

7) Primary copper smelters;

8) Municipal incinerators capable of charging more than 50 tons of refuse per day;

9) Hydrofluoric, sulfuric, or nitric acid plants;

10) Petroleum refineries;

11) Lime plants;

12) Phosphate rock processing plants;

13) Coke oven batteries;

14) Sulfur recovery plants;

15) Carbon black plants (furnace process);

16) Primary lead smelters;

17) Fuel conversion plants;

18) Sintering plants;

19) Secondary metal production plants;

20) Chemical process plants. Chemical processing plant does not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS Codes 325193 or 312140;

21) Fossil-fuel boilers (or combination thereof) totaling more than 250 million Btu per hour heat input;

22) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

23) Taconite ore processing plants;

24) Glass fiber processing plants;

25) Charcoal production plants;

26) Fossil fuel-fired steam electric plants of more than 250 million Btu per hour heat input; and

27) Any other stationary source category that, as of August 7, 1980, is being regulated under section 111 or 112 of the CAA.

Section 204.520 Minor Source Baseline Date

a) "Minor source baseline date" means the earliest date after the trigger date on which a major stationary source or a major modification subject to 40 CFR 52.21 or this Part submits a complete application under the relevant regulations. The trigger date is:

1) In the case of PM_{10} and SO_2, August 7, 1977;

2) In the case of NO_2, February 8, 1988; and

3) In the case of $PM_{2.5}$, October 20, 2011.

b) The baseline date is established for each pollutant for which increments or other equivalent measures have been established if:

1) The area in which the proposed source or modification would be constructed is designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the CAA (43 USC 7407(d)(1)(A)(ii) or (iii)) for the pollutant on the date of its complete application under 40 CFR 52.21 or this Part; and

2) In the case of a major stationary source, the pollutant would be emitted in significant amounts or, in the case of a major modification, there would be a significant net emissions increase of the pollutant.

c) Any minor source baseline date established originally for the TSP increments must remain in effect and must apply for purposes of determining the amount of available PM_{10} increments, except that the Agency shall rescind a minor source baseline date when it can be shown, to the satisfaction of the Agency, that the emissions increase from the major stationary source, or net emissions increase from the major modification, responsible for triggering that date did not result in a significant amount of PM_{10} emissions.

Section 204.530 Nearby

"Nearby", with respect to a specific structure or terrain feature:

a) For purposes of applying the formula provided in Section 204.420(a)(2), means that distance up to five times the lesser of the height or the width dimension of a structure, but not greater than 0.8 km (½ mile); and

b) For conducting demonstrations under Section 204.420(a)(3), means not greater than 0.8 km (½ mile), except that a portion of a terrain feature may be considered to be nearby if it falls within a distance of up to 10 times the maximum height of the feature, not to exceed 2 miles if that feature achieves a height, 0.8 km from the stack, that is at least 40 percent of the good engineering practice stack height determined by the formula provided in Section 204.420(a)(2)(B) or 26 meters, whichever is greater, as measured from the ground-level elevation at the base of the stack. The height of the structure or terrain feature is measured from the ground-level elevation at the base of the stack.

Section 204.540 Necessary Preconstruction Approvals or Permits

"Necessary preconstruction approvals or permits" mean those permits or approvals required under federal air quality control laws and regulations and those air quality control laws and regulations that are part of the applicable SIP.

Section 204.550 Net Emissions Increase

a) "Net emissions increase" means, with respect to any regulated NSR pollutant emitted by a major stationary source, the amount by which the sum of the following exceeds zero:

1) The increase in emissions from a particular physical change, or change in the method of operation, at a stationary source as calculated under Section 204.800(d); and

2) Any other increases and decreases in actual emissions at the major stationary source that are contemporaneous with the particular change and are otherwise creditable. Baseline actual emissions for calculating increases and decreases under this subsection (a)(2) must be determined as provided in Section 204.240, except that Section 204.240(a)(3) and (b)(4) do not apply.

b) An increase or decrease in actual emissions is

1) Contemporaneous with the increase from the particular change only if it occurs between:

A) The date five years before construction or the particular change commences; and

B) The date that the increase from the particular change occurs; and

2) Creditable only if the reviewing authority has not relied on it in issuing a permit, for the source under 40 CFR 52.21 or this Part, that is in effect when the increase in actual emissions from the particular change occurs.

c) An increase or decrease in actual emissions of SO_2, PM, or NO_X that occurs before the applicable minor source baseline date is creditable only if it is required to be considered in calculating the amount of maximum allowable increases remaining available.

d) An increase in actual emissions is creditable only to the extent that the new level of actual emissions exceeds the old level.

e) A decrease in actual emissions is creditable only to the extent that:

1) The old level of actual emissions or the old level of allowable emissions, whichever is lower, exceeds the new level of actual emissions;

2) It is enforceable, as a practical matter, at and after the time that actual construction on the particular change begins; and

3) It has approximately the same qualitative significance for public health and welfare as that attributed to the increase from the particular change.

f) An increase that results from a physical change at a source occurs when the emissions unit on which construction occurred becomes operational and begins to emit a particular pollutant. Any emissions unit that replaces an existing emissions unit that requires shakedown becomes operational only after a reasonable shakedown period, which shall not exceed 180 days.

g) Section 204.210(b) does not apply in determining creditable increases and decreases.

Section 204.560 Potential to Emit

"Potential to emit" means the maximum capacity of a stationary source to emit a pollutant under its physical and operational design. Any physical or operational limitation on the capacity of the source to emit a pollutant, including air pollution control equipment and restrictions on hours of operation or on the type or amount of material combusted, stored, or processed, must be treated as part of its design if the limitation or the effect it would have on emissions is federally enforceable or legally and practicably enforceable by a state or local air pollution control agency. Secondary emissions do not count in determining the potential to emit of a stationary source.

Section 204.570 Prevention of Significant Deterioration (PSD) Permit

"Prevention of Significant Deterioration Permit" or "PSD Permit" *means a permit or the portion of a permit for a new major source or major modification that is issued by the Agency under the construction permit program required by Section 9.1*(c) *of the Act that has been approved by USEPA and incorporated into the Illinois SIP to implement the requirements of section 165 of the CAA and 40 CFR 51.166.* [415 ILCS 5/3.363]

Section 204.580 Process Unit

"Process unit" means any collection of structures and/or equipment that processes, assembles, applies, blends, or otherwise uses material inputs to produce or store an intermediate or completed product. A process unit may contain more than one emissions unit.

Section 204.590 Project

"Project" means a physical change in, or change in the method of operation of, an existing major stationary source.

Section 204.600 Projected Actual Emissions

a) "Projected actual emissions" means the maximum annual rate, in tons per year, at which an existing emissions unit is projected to emit a regulated NSR pollutant in any one of the 5 years (12-month period) following the date the unit resumes regular operation after the project, or in any one of the 10 years following that date, if the project involves increasing the emissions unit's design capacity or its potential to emit that regulated NSR pollutant and if full utilization of the unit would result in a significant emissions increase or a significant net emissions increase at the major stationary source.

b) In determining the projected actual emissions under subsection (a) (before beginning actual construction), the owner or operator of the major stationary source:

1) Must:

A) Consider all relevant information, including, but not limited to, historical operational data, the company's own representations, the company's expected business activity and the company's highest projections of business activity, the company's filings with State or federal regulatory authorities, and compliance plans under Illinois' SIP;

B) Include fugitive emissions to the extent quantifiable, and emissions associated with startups, shutdowns, and malfunctions; and

C) Exclude, in calculating any increase in emissions that results from the particular project, that portion of the unit's emissions following the project that an existing unit could have accommodated during the consecutive 24-month period used to establish the baseline actual emissions under Section 204.240 and that are also unrelated to the particular project, including any increased utilization due to product demand growth; or

2) In lieu of using the method set out in subsection (b)(1), may elect to use the emissions unit's potential to emit, in tons per year, as defined under Section 204.560.

Section 204.610 Regulated NSR Pollutant

"Regulated NSR pollutant" means the following:

a) Any pollutant for which an NAAQS has been promulgated. This includes, but is not limited to, the following:

1) $PM_{2.5}$ emissions and PM_{10} emissions include gaseous emissions from a source or activity, that condense to form PM at ambient temperatures. On or after January 1, 2011, condensable PM was required to be accounted for in applicability determinations and in establishing emissions limitations for $PM_{2.5}$ and PM_{10} in PSD permits. Compliance with emissions limitations for $PM_{2.5}$ and PM_{10} issued prior to that date were not based on condensable PM unless required by the terms and conditions of the permit or the applicable implementation plan. Applicability determinations made prior to this date without accounting for condensable PM will not be considered in violation of this Part unless the applicable implementation plan required condensable PM to be included.

2) Any pollutant identified under this subsection (a) as a constituent or precursor for a pollutant for which an NAAQS has been promulgated. Precursors, for purposes of this Part, are the following:

A) VOM and NO_X are precursors to ozone in all attainment and unclassifiable areas.

B) SO_2 is a precursor to $PM_{2.5}$ in all attainment and unclassifiable areas.

C) NO_X are presumed to be precursors to $PM_{2.5}$ in all attainment and unclassifiable areas, unless the State demonstrates to the satisfaction of USEPA, or USEPA demonstrates, that emissions of NO_X from sources in a specific area are not a significant contributor to that area's ambient $PM_{2.5}$ concentrations.

D) VOM are presumed not to be precursors to $PM_{2.5}$ in any attainment or unclassifiable area, unless the State demonstrates to the satisfaction of USEPA, or USEPA demonstrates, that emissions of VOM from sources in a specific area are a significant contributor to that area's ambient $PM_{2.5}$ concentrations;

b) Any pollutant that is subject to any standard promulgated under section 111 of the CAA (43 USC 7401);

c) Any Class I or II substance subject to a standard promulgated under or established by title VI of the CAA (43 USC 7671, et seq.);

d) Any pollutant that otherwise is subject to regulation, as defined in Section 204.700.

e) Notwithstanding subsections (a) through (d), the term "regulated NSR pollutant" does not include any or all hazardous air pollutants either listed in section 112(b)(1) of the CAA (43 USC 7412(b)(1)) or added to the list under CAA section 112(b)(2) or (b)(3), or substances listed under CAA section 112(r)(3) and that have not been delisted under CAA section 112(b)(3) or (r), unless the listed hazardous air pollutant is also regulated as a constituent or precursor of a pollutant listed under CAA section 108 (43 USC 7408).

Section 204.620 Replacement Unit

"Replacement unit" means an emissions unit for which all the criteria listed in this Section are met. No creditable emission reductions shall be generated from shutting down the existing emissions unit that is replaced.

a) The emissions unit is a reconstructed unit, within the meaning of 40 CFR 60.15(b)(1), or completely takes the place of an existing emissions unit.

b) The emissions unit is identical, to or functionally equivalent to, the replaced emissions unit.

c) The replacement does not alter the basic design parameters of the process unit. Basic design parameters of a process unit shall be determined as follows:

1) Except as provided in subsection (c)(3), for a process unit at a steam electric generating facility, the owner or operator may select as its basic design parameters either maximum hourly heat input and maximum hourly fuel consumption rate or maximum hourly electric output rate and maximum steam flow rate. When establishing fuel consumption specifications in terms of weight or volume, the minimum fuel quality based on Btu content shall be used for determining the basic design parameters for a coal-fired electric utility steam generating unit.

2) Except as provided in subsection (c)(3), the basic design parameters for any process unit that is not at a steam electric generating facility are maximum rate of fuel or heat input, maximum rate of material input, or maximum rate of product output. Combustion process units will typically use maximum rate of fuel input. For sources having multiple end products and raw materials, the owner or operator should consider the primary product or primary raw material when selecting a basic design parameter.

3) If the owner or operator believes the basic design parameters in subsections (c)(1) and (c)(2) are not appropriate for a specific industry or type of process unit, the owner or operator may propose to the Agency alternative basic design parameters for the source's process units. If the Agency approves use of alternative basic design parameters, the Agency shall issue a permit that is legally enforceable, records the basic design parameters and requires the owner or operator to comply with those parameters.

4) The owner or operator must use credible information, such as results of historic maximum capability tests, design information from the manufacturer, or engineering calculations, in establishing the magnitude of the basic design parameters specified in subsections (c)(2) and (c)(3).

5) If design information is not available for a process unit, the owner or operator must determine the process unit's basic design parameters using the maximum value achieved by the process unit in the five-year period immediately preceding the planned activity.

6) Efficiency of a process unit is not a basic design parameter.

d) The replaced emissions unit is permanently removed from the major stationary source, otherwise permanently disabled, or permanently barred from operation by a permit that is enforceable as a practical matter. If the replaced emissions unit is brought back into operation, it must constitute a new emissions unit.

Section 204.630 Repowering

a) "Repowering" means replacement of an existing coal-fired boiler with one of the following clean coal technologies: atmospheric or pressurized fluidized bed combustion; integrated gasification combined cycle; magnetohydrodynamics; direct and indirect coal-fired turbines; integrated gasification fuel cells; or, as determined by USEPA in consultation with the U.S. Secretary of Energy, a derivative of one or more of these technologies. Repowering also means any other technology capable of controlling multiple combustion emissions simultaneously with improved boiler or generation efficiency and with significantly greater waste reduction relative to the performance of technology in widespread commercial use as of November 15, 1990.

b) Repowering also includes any oil and/or gas-fired unit that has been awarded clean coal technology demonstration funding as of January 1, 1991, by the U.S. Department of Energy.

c) The Agency shall give expedited consideration to permit applications for any source that satisfies the requirements of this Section and is granted an extension under section 409 of the CAA (43 USC 7651h).

Section 204.640 Reviewing Authority

"Reviewing authority" means the Agency or, in the case of a permit program under 40 CFR 52.21, USEPA or its delegate (the Agency).

Section 204.650 Secondary Emissions

"Secondary emissions" means emissions that would occur as a result of the construction or operation of a major stationary source or major modification, but do not come from the major stationary source or major modification itself. Secondary emissions include emissions from any offsite support facility that would not be constructed or increase its emissions, except as a result of the construction or operation of the major stationary source or major modification. Secondary emissions do not include any emissions that come directly from a mobile source, such as

emissions from the tailpipe of a motor vehicle, from a train, or from a vessel. For the purposes of this Part, secondary emissions must be specific, well defined, quantifiable, and impact the same general area as the major stationary source or major modification which causes the secondary emissions.

Section 204.660 Significant

a) "Significant" means, in reference to a net emissions increase or the potential of a source to emit any of the following pollutants, a rate of emissions that would equal or exceed any of the following rates:

Pollutant and Emissions Rate	
Carbon monoxide	100 tpy
NO_X	40 tpy
SO_2	40 tpy
PM	25 tpy of particulate matter emissions
PM_{10}	15 tpy
$PM_{2.5}$	10 tpy of direct $PM_{2.5}$emissions; 40 tpy of SO_2 emissions; 40 tpy of NO_X emissions unless demonstrated not to be a $PM_{2.5}$ precursor under Section 204.610(a)(2)(C)
Ozone	40 tpy of VOM or NO_X
Lead	0.6 tpy
Fluorides	3 tpy
Sulfuric acid mist	7 tpy
Hydrogen sulfide (H_2S)	10 tpy
Total reduced sulfur (including H_2S)	10 tpy
Reduced sulfur compounds (including H_2S)	10 tpy
GHGs	75,000 tpy CO_2e
Municipal waste combustor organics (measured as total tetra- through octa-chlorinated dibenzo-*p*-dioxins and dibenzofurans)	3.2×10^{-6} megagrams per year (3.5×10^{-6} tpy)

Municipal waste combustor metals (measured as PM)	14 megagrams per year (15 tpy)
Municipal waste combustor acid gases (measured as SO_2 and hydrogen chloride)	36 megagrams per year (40 tpy)
Municipal solid waste landfills emissions (measured as nonmethane organic compounds)	45 megagrams per year (50 tpy)
Ozone depleting substances	100 tpy

b) "Significant" means, in reference to a net emissions increase or the potential of a source to emit a regulated NSR pollutant that subsection (a) does not list, any emissions rate.

c) Notwithstanding subsection (a), "significant" means any emissions rate or any net emissions increase associated with a major stationary source or major modification that would be constructed within 10 kilometers of a Class I area, and have an impact on that area equal to or greater than 1 $\mu g/m^3$ (24-hr average).

Section 204.670 Significant Emissions Increase

"Significant emissions increase" means, for a regulated NSR pollutant, an increase in emissions that is significant (as defined in Section 204.660) for that pollutant.

Section 204.680 Stack in Existence

"Stack in existence" means that the owner or operator had begun, or caused to begin, a continuous program of physical on-site construction of the stack, or entered into binding agreements or contractual obligations that could not be cancelled or modified without substantial loss to the owner or operator, to undertake a program of construction of the stack to be completed within a reasonable time.

Section 204.690 Stationary Source

"Stationary source" means any building, structure, facility, or installation that emits or may emit a regulated NSR pollutant. Emissions resulting directly from an internal combustion engine for transportation purposes or from a nonroad engine or nonroad vehicle as defined in section 216 of the CAA (43 USC 7550) are not a part of a stationary source.

Section 204.700 Subject to Regulation

"Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the CAA, or a nationally-applicable regulation codified by USEPA in 40 CFR 50 through 99, that requires actual control of the quantity of emissions of that pollutant when the control requirement has taken effect and is operative to control, limit or restrict the quantity of emissions of that pollutant released from the regulated activity. Pollutants subject to regulation include, but are not limited to, GHGs as defined in Section 204.430.

Section 204.710 Temporary Clean Coal Technology Demonstration Project

"Temporary clean coal technology demonstration project" means a clean coal technology demonstration project that is operated for a period of 5 years or less and that complies with Illinois' SIP and other requirements necessary to attain and maintain the NAAQS during the project and after it is terminated.

SUBPART C: MAJOR STATIONARY SOURCES IN ATTAINMENT AND UNCLASSIFIABLE AREAS

Section 204.800 Applicability

a) The requirements of this Part apply to the construction of any new major stationary source (as defined in Section 204.510) or any project at an existing major stationary source in an area designated as attainment or unclassifiable under section 107(d)(1)(A)(ii) or (iii) of the CAA (43 USC 7407(d)(1)(A)(ii) or (iii)).

b) The requirements of Sections 204.810, 204.820, 204.830, 204.840, 204.850, 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, and 204.1200 apply to the construction of any new major stationary source or the major modification of any existing major stationary source, except as this Part otherwise provides.

c) No new major stationary source or major modification to which those Sections apply must begin actual construction without a permit that states that the major

stationary source or major modification will meet those requirements. The Agency has authority to issue any such permit.

d) The requirements of the program will be applied in accordance with the principles set out in this subsection (d).

1) Except as otherwise provided in subsection (f), and consistent with the definition of major modification contained in Section 204.490, a project is a major modification for a regulated NSR pollutant if it causes two types of emissions increases: a significant emissions increase (as defined in Section 204.670) and a significant net emissions increase (as defined in Sections 204.550 and 204.660). The project is not a major modification if it does not cause a significant emissions increase. If the project causes a significant emissions increase, then the project is a major modification only if it also results in a significant net emissions increase.

2) The procedure for calculating (before beginning actual construction) whether a significant emissions increase (i.e., the first step of the process) will occur depends upon the types of emissions units involved in the project, according to subsections (d)(3) through (d)(5). The procedure for calculating (before beginning actual construction) whether a significant net emissions increase will occur at the major stationary source (i.e., the second step of the process) is contained in the definition in Section 204.550. Regardless of any such preconstruction projections, a major modification results if the project causes a significant emissions increase and a significant net emissions increase.

3) Actual-to-Projected-Actual Applicability Test for Projects That Only Involve Existing Emissions Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the projected actual emissions (as defined in Section 204.600) and the baseline actual emissions (as defined in Section 204.240(a) and (b)), for each existing emissions unit, equals or exceeds the significant amount for that pollutant (as defined in Section 204.660).

4) Actual-to-Potential Test for Projects That Only Involve Construction of a New Emissions Unit. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the difference between the potential to emit (as defined in Section 204.560) from each new emissions

unit following completion of the project and the baseline actual emissions (as defined in Section 204.240(c)) of these units before the project equals or exceeds the significant amount for that pollutant (as defined in Section 204.660).

5) Hybrid Test for Projects That Involve Multiple Types of Emissions Units. A significant emissions increase of a regulated NSR pollutant is projected to occur if the sum of the emissions increases for each emissions unit, using the method specified in subsections (d)(3) and (d)(4), as applicable, with respect to each emissions unit, for each type of emissions unit equals or exceeds the significant amount for that pollutant (as defined in Section 204.660).

e) Except as otherwise provided in Section 204.1400(f)(2), the provisions of Section 204.1400 apply with respect to any regulated NSR pollutant emitted from projects involving existing emissions units at a major stationary source (other than projects at a source with a PAL) in circumstances in which there is a reasonable possibility, within the meaning of Section 204.1400(f), that a project that is not a part of a major modification may result in a significant emissions increase of the pollutant, and the owner or operator elects to use the method specified in Section 204.600(b) for calculating projected actual emissions.

f) For any major stationary source for a PAL for a regulated NSR pollutant, the major stationary source must comply with Subpart K.

Section 204.810 Source Information

The owner or operator of a proposed major stationary source or major modification must submit all information necessary to perform any analysis or make any determination required under this Part.

a) With respect to a source or modification to which Sections 204.1100, 204.1110, 204.1130, and 204.1140 apply, this information includes:

1) A description of the nature, location, design capacity, and typical operating schedule of the source or modification, including specifications and drawings showing its design and plant layout;

2) A detailed schedule for construction of the source or modification; and

3) A detailed description as to what system of continuous emission reduction is planned for the source or modification, emission estimates, and any other information necessary to determine that BACT, as applicable, would be applied.

b) Upon request of the Agency, the owner or operator must also provide information on:

1) The air quality impact of the source or modification, including meteorological and topographical data necessary to estimate that impact; and

2) The air quality impacts, and the nature and extent of any or all general commercial, residential, industrial, and other growth that has occurred since August 7, 1977, in the area the source or modification would affect.

Section 204.820 Source Obligation

Any owner or operator who constructs or operates a source or modification not in accordance with the application submitted under this Part or with the terms of any approval to construct, or any owner or operator of a source or modification subject to this Part who begins actual construction after the effective date of this Part without applying for and receiving approval under this Part, is subject to appropriate enforcement action.

Section 204.830 Permit Expiration

Approval to construct will become invalid if construction is not commenced within 18 months after receipt of approval, if construction is discontinued for a period of 18 months or more, or if construction is not completed within a reasonable time. The Agency may extend the 18-month period upon a satisfactory showing that an extension is justified. This provision does not apply to the time period between construction of the approved phases of a phased construction project; each phase must commence construction within 18 months after the projected and approved commencement date.

Section 204.840 Effect of Permits

Approval to construct does not relieve any owner or operator of the responsibility to comply fully with applicable provisions of the SIP and any other requirements under local, State, or federal law.

Section 204.850 Relaxation of a Source-Specific Limitation

When a particular source or modification becomes a major stationary source or major modification solely by virtue of a relaxation in any enforceable limitation, established after August 7, 1980, on the capacity of the source or modification otherwise to emit a pollutant, such as a restriction on hours of operation, then the requirements of Sections 204.810, 204.820, 204.830, 204.840, 204.850, 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, 204.1200, and 204.1400 must apply to the source or modification as though construction had not yet commenced on the source or modification.

Section 204.860 Exemptions

a) The requirements of Sections 204.810, 204.820, 204.830, 204.840, 204.850, 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, 204.1200, and 204.1400 do not apply to a particular major stationary source or major modification, if:

1) The source or modification would be a nonprofit health or nonprofit educational institution, or a major modification would occur at such an institution and the Governor of Illinois exempts it from those requirements; or

2) The source or modification would be a major stationary source or major modification only if fugitive emissions, to the extent quantifiable, are considered in calculating the potential to emit of the stationary source or modification and the source does not belong to any of the following categories:

A) Coal cleaning plants (with thermal dryers);

B) Kraft pulp mills;

C) Portland cement plants;

D) Primary zinc smelters;

E) Iron and steel mills;

F) Primary aluminum ore reduction plants;

G) Primary copper smelters;

H) Municipal incinerators capable of charging more than 50 tons of refuse per day;

I) Hydrofluoric, sulfuric, or nitric acid plants;

J) Petroleum refineries;

K) Lime plants;

L) Phosphate rock processing plants;

M) Coke oven batteries;

N) Sulfur recovery plants;

O) Carbon black plants (furnace process);

P) Primary lead smelters;

Q) Fuel conversion plants;

R) Sintering plants;

S) Secondary metal production plants;

T) Chemical process plants. The term "chemical processing plant" shall not include ethanol production facilities that produce ethanol by natural fermentation included in NAICS Code 325193 or 312140;

U) Fossil-fuel boilers (or combination thereof) totaling more than 250 million Btu per hour heat input;

V) Petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

W) Taconite ore processing plants;

X) Glass fiber processing plants;

Y) Charcoal production plants;

Z) Fossil fuel-fired steam electric plants of more than 250 million Btu per hour heat input;

AA) Any other stationary source category that, as of August 7, 1980, is being regulated under section 111 or 112 of the CAA (43 USC 7411 or 7412); or

3) The source is a portable stationary source that has previously received a permit under 40 CFR 52.21 or this Part and:

A) The owner or operator proposes to relocate the source and emissions of the source at the new location would be temporary;

B) The emissions from the source would not exceed its allowable emissions;

C) The emissions from the source would impact no Class I area and no area where an applicable increment is known to be violated; and

D) Reasonable notice is given to the Agency prior to the relocation identifying the proposed new location and the probable duration of operation at the new location. The notice shall be given to the Agency not less than 10 days in advance of the proposed relocation unless a different time duration is previously approved by the Agency.

b) The requirements of Sections 204.810, 204.820, 204.830, 204.840, 204.850, 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, 204.1200, and 204.1400 do not apply to a major stationary source or major modification with respect to a particular pollutant if the owner or operator demonstrates that, as to that pollutant,

the source or modification is located in an area designated as nonattainment under section 107 of the CAA (43 USC 7407). Nonattainment designations for revoked NAAQS, as contained in 40 CFR 81 (incorporated by reference in Section 204.100), must not be viewed as current designations under section 107 of the CAA (43 USC 7407) for purposes of determining the applicability of Sections 204.810, 204.820, 204.830, 204.840, 204.850, 204.1100, 204.1110, 204.1120, 204.1130, 204.1140, 204.1200, and 204.1400 to a major stationary source or major modification after the revocation of that NAAQS is effective.

c) Sections 204.1110, 204.1130, and 204.1140 do not apply to a major stationary source or major modification with respect to a particular pollutant if the allowable emissions of that pollutant from the source, or the net emissions increase of that pollutant from the modification:

1) Would impact no Class I area and no area where an applicable increment is known to be violated; and

2) Would be temporary.

d) The requirements of Sections 204.1110, 204.1130, and 204.1140, as they relate to any maximum allowable increase for a Class II area, do not apply to a major modification at a stationary source that was in existence on March 1, 1978, if the net increase in allowable emissions of each regulated NSR pollutant from the modification after the application of BACT would be less than 50 tpy.

SUBPART D: INCREMENT

Section 204.900 Ambient Air Increments

a) In areas designated as Class I, II or III, increases in pollutant concentration over the baseline concentration must be limited to the following:

Pollutant	Maximum allowable increase (micrograms per cubic meter)
Class I Area	
$PM_{2.5}$:	
Annual arithmetic mean	1
24-hr maximum	2
PM_{10}:	

Annual arithmetic mean	4
24-hr maximum	8
SO_2:	
Annual arithmetic mean	2
24-hr maximum	5
3-hr maximum	25
NO_2:	
Annual arithmetic mean	2.5
Class II Area	
$PM_{2.5}$:	
Annual arithmetic mean	4
24-hr maximum	9
PM_{10}:	
Annual arithmetic mean	17
24-hr maximum	30
SO_2:	
Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	512
NO_2:	
Annual arithmetic mean	25
Class III Area	
$PM_{2.5}$:	
Annual arithmetic mean	8
24-hr maximum	18
PM_{10}:	
Annual arithmetic mean	34
24-hr maximum	60
SO_2:	
Annual arithmetic mean	40
24-hr maximum	182
3-hr maximum	700
NO_2:	
Annual arithmetic mean	50

b) For any period other than an annual period, the applicable maximum allowable increase may be exceeded during one such period per year at any one location.

Section 204.910 Ambient Air Ceilings

No concentration of a pollutant shall exceed:

a) The concentration permitted under the national secondary ambient air quality standard; or

b) The concentration permitted under the national primary ambient air quality standard, whichever concentration is lowest for the pollutant for a period of exposure.

Section 204.920 Restrictions on Area Classifications

a) All of the following areas that were in existence on August 7, 1977 are Class I areas and may not be redesignated:

1) International parks;

2) National wilderness areas that exceed 5,000 acres in size;

3) National memorial parks that exceed 5,000 acres in size; and

4) National parks that exceed 6,000 acres in size.

b) Areas redesignated as Class I under regulations promulgated before August 7, 1977 shall remain Class I, but may be redesignated as provided in this Part.

c) Any other area, unless otherwise specified in the legislation creating that area, is initially designated Class II, but may be redesignated as provided in this Part.

d) The following areas shall be redesignated only as Class I or II:

1) An area that, as of August 7, 1977, exceeded 10,000 acres in size and was a national monument, a national primitive area, a national preserve, a national recreational area, a national wild and scenic river, a national wildlife refuge, a national lakeshore or seashore; and

2) A national park or national wilderness area established after August 7, 1977 that exceeds 10,000 acres in size.

Section 204.930 Redesignation

a) As of the initial effective date of this Part, all areas of the State (except as otherwise provided by Section 204.920) are designated Class II as of December 5, 1974. Redesignation (except as otherwise precluded by Section 204.920) may be proposed by the State under this Section, subject to approval by USEPA as a revision to the applicable SIP.

b) The State may submit to USEPA a proposal to redesignate areas of the State Class I or Class II, provided that:

1) At least one public hearing has been held in accordance with 35 Ill. Adm. Code 252;

2) Other states, Indian Governing Bodies, and Federal Land Managers whose lands may be affected by the proposed redesignation were notified at least 30 days prior to the public hearing;

3) A discussion of the reasons for the proposed redesignation, including a satisfactory description and analysis of the health, environmental, economic, social, and energy effects of the proposed redesignation, was prepared and made available for public inspection at least 30 days prior to the hearing and the notice announcing the hearing contained appropriate notification of the availability of such discussion;

4) Prior to the issuance of notice respecting the redesignation of an area that includes any federal lands, the State has provided written notice to the appropriate Federal Land Manager and afforded adequate opportunity (not in excess of 60 days) to confer with the State respecting the redesignation and to submit written comments and recommendations. In redesignating any area with respect to which any Federal Land Manager had submitted written comments and recommendations, the State must have published a list of any inconsistency between the redesignation and the comments and recommendations (together with the reasons for making the redesignation against the recommendation of the Federal Land Manager); and

5) The State has proposed the redesignation after consultation with the elected leadership of local and other substate general purpose governments in the area covered by the proposed redesignation.

c) Any area other than an area to which Section 204.920 refers may be redesignated as Class III if:

1) The redesignation would meet the requirements of subsection (b);

2) The redesignation, except any established by an Indian Governing Body, has been specifically approved by the Governor of Illinois:

A) After consultation with the appropriate committees of the legislature, if it is in session, or with the leadership of the legislature, if it is not in session (unless State law provides that the redesignation must be specifically approved by State legislation); and

B) If general purpose units of local government representing a majority of the residents of the area to be redesignated enact legislation or pass resolutions concurring in the redesignation;

3) The redesignation would not cause, or contribute to, a concentration of any air pollutant that would exceed any maximum allowable increase permitted under the classification of any other area or any NAAQS; and

4) Any permit application for any major stationary source or major modification, subject to review under Section 204.1120, that could receive a permit under this Section only if the area in question were redesignated as Class III, and any material submitted as part of that application, were available, insofar as was practicable, for public inspection prior to any public hearing on redesignation of the area as Class III.

d) Lands within the exterior boundaries of Indian Reservations may be redesignated only by the appropriate Indian Governing Body. The appropriate Indian Governing Body may submit to USEPA a proposal to redesignate areas Class I, Class II, or Class III, provided that:

1) The Indian Governing Body has followed procedures equivalent to those required of a state under subsections (b), (c)(3), and (c)(4); and

2) The redesignation is proposed after consultation with the states in which the Indian Reservation is located and that border the Indian Reservation.

e) USEPA must disapprove, within 90 days after submission, a proposed redesignation of any area only if it finds, after notice and opportunity for public hearing, that the redesignation does not meet the procedural requirements or is inconsistent with Section 204.920. If disapproval occurs, the classification of the area will be that which was in effect prior to the proposed redesignation.

f) If USEPA disapproves any proposed redesignation, the State or Indian Governing Body, as appropriate, may resubmit the proposal after correcting the deficiencies noted by USEPA.

SUBPART E: STACK HEIGHTS

Section 204.1000 Stack Heights

a) The degree of emission limitation required for control of any air pollutant under this Part shall not be affected in any manner by:

1) Any portion of the stack height of any source that exceeds good engineering practice; or

2) Any other dispersion technique.

b) Subsection (a) does not apply with respect to stack heights in existence before December 31, 1970 or to dispersion techniques implemented before then.

SUBPART F: REQUIREMENTS FOR MAJOR STATIONARY SOURCES AND MAJOR MODIFICATIONS IN ATTAINMENT AND UNCLASSIFIABLE AREAS

Section 204.1100 Control Technology Review

a) A major stationary source or major modification shall meet each applicable emissions limitation under the SIP and each applicable emissions standard and standard of performance under 40 CFR 60, 61, 62 and 63 (incorporated by reference in Section 204.100).

b) A new major stationary source shall apply BACT for each regulated NSR pollutant that it would have the potential to emit in significant amounts (defined in Section 204.660).

c) A major modification shall apply BACT for each regulated NSR pollutant for which it would result in a significant net emissions increase at the source. This requirement applies to each proposed emissions unit at which a net emissions increase in the pollutant would occur as a result of a physical change or change in the method of operation in the unit.

d) For phased construction projects, the determination of BACT must be reviewed and modified as appropriate at the latest reasonable time that occurs no later than 18 months prior to commencement of construction of each independent phase of the project. At such time, the owner or operator of the applicable stationary source may be required to demonstrate the adequacy of any previous determination of BACT for the source.

Section 204.1110 Source Impact Analysis

The owner or operator of the proposed source or modification must demonstrate that allowable emission increases from the proposed source or modification, in conjunction with all other applicable emissions increases or reductions (including secondary emissions), would not cause or contribute to air pollution in violation of:

a) Any NAAQS in any air quality control region; and

b) Any applicable maximum allowable increase as set forth in Section 204.900 and/or Section 204.1200, as applicable, over the baseline concentration in any area.

Section 204.1120 Air Quality Models

a) All estimates of ambient concentrations required under this Section shall be based on applicable air quality models, databases, and other requirements specified in 40 CFR 51, appendix W (Guideline on Air Quality Models) (incorporated by reference in 35 Ill. Adm. Code 204.100).

b) When an air quality model specified in 40 CFR 51, appendix W (Guideline on Air Quality Models) (incorporated by reference in Section 204.100) is inappropriate,

the model may be modified or another model substituted. The modification or substitution may be made on a case-by-case basis or, when appropriate, on a generic basis for a specific State program. Written approval of USEPA must be obtained for any modification or substitution. In addition, use of a modified or substituted model is subject to notice and opportunity for public comment (see 35 Ill. Adm. Code 252).

Section 204.1130 Air Quality Analysis

a) Preapplication Analysis

1) Any application for a permit under this Part must contain an analysis of ambient air quality in the area that the major stationary source or major modification would affect for each of the following pollutants:

A) For the source, each pollutant that it would have the potential to emit in a significant amount;

B) For the modification, each pollutant for which a significant net emissions increase would result.

2) With respect to any such pollutant for which no NAAQS exists, the analysis must contain air quality monitoring data the Agency determines is necessary to assess ambient air quality for that pollutant in any area that the emissions of that pollutant would affect.

3) With respect to any such pollutant for which an NAAQS does exist, the analysis must contain continuous air quality monitoring data gathered for purposes of determining whether emissions of that pollutant would cause or contribute to a violation of the standard or any maximum allowable increase.

4) In general, the continuous air quality monitoring data that is required must have been gathered over a period of at least one year and must represent at least the year preceding receipt of the application. However, if the Agency determines that a complete and adequate analysis can be accomplished with monitoring data gathered over a period shorter than one year (but not less than four months), the data that is required must have been gathered over at least that shorter period.

5) The owner or operator of a proposed stationary source or modification of VOM who satisfies all conditions of 40 CFR 51, appendix S, section IV, (incorporated by reference in Section 204.100) may provide post-approval monitoring data for ozone in lieu of providing preconstruction data as required by this subsection (a).

b) Postconstruction Monitoring. The owner or operator of a major stationary source or major modification must, after construction of the stationary source or modification, conduct such ambient monitoring as the Agency determines is necessary to determine the effect emissions from the stationary source or modification may have, or are having, on air quality in any area.

c) Operations of Monitoring Stations. The owner or operator of a major stationary source or major modification must meet the requirements of 40 CFR 58, appendix B (incorporated by reference in Section 204.100), during the operation of monitoring stations for purposes of satisfying this Section.

Section 204.1140 Additional Impact Analyses

a) The owner or operator must provide an analysis of the impairment to visibility, soils and vegetation that would occur as a result of the source or modification and general commercial, residential, industrial and other growth associated with the source or modification. The owner or operator need not provide an analysis of the impact on vegetation having no significant commercial or recreational value.

b) The owner or operator must provide an analysis of the air quality impact projected for the area as a result of general commercial, residential, industrial and other growth associated with the source or modification.

SUBPART G: ADDITIONAL REQUIREMENTS FOR CLASS I AREAS

Section 204.1200 Additional Requirements for Sources Impacting Federal Class I Areas

a) Notice to Federal Land Managers. The Agency shall provide written notice of any permit application for a proposed major stationary source or major modification, the emissions from which may affect a Class I area, to the Federal Land Manager and the federal official charged with direct responsibility for management of any lands within any such area. The notification must include a

copy of all information relevant to the permit application and shall be issued within 30 days after receipt and at least 60 days prior to any public hearing on the application for a permit to construct. The notification shall include an analysis of the proposed source's anticipated impacts on visibility in the Federal Class I area. The Agency shall also provide the Federal Land Manager and relevant federal officials with a copy of the preliminary determination required by 35 Ill. Adm. Code 252, and shall make available to them any materials used in making that determination, promptly after the Agency makes the determination. Finally, the Agency shall also notify all affected Federal Land Managers within 30 days after receipt of any advance notification of any permit application.

b) Federal Land Manager. The Federal Land Manager and the federal official charged with direct responsibility for management of the lands have an affirmative responsibility to protect the air quality related values (including visibility) of those lands and to consider, in consultation with the Agency, whether a proposed source or modification will have an adverse impact on those values.

c) Visibility Analysis. The Agency shall consider any analysis performed by the Federal Land Manager, provided within 30 days after the notification required by subsection (a), that shows that a proposed new major stationary source or major modification may have an adverse impact on visibility in any Federal Class I area. When the Agency finds that such an analysis does not demonstrate to its satisfaction that an adverse impact on visibility will result in the Federal Class I area, the Agency shall, in the notice of public hearing on the permit application, either explain its decision or give notice as to where the explanation can be obtained.

d) Denial; Impact On Air Quality Related Values. The Federal Land Manager of any such lands may demonstrate to the Agency that the emissions from a proposed source or modification would have an adverse impact on the air quality-related values (including visibility) of those lands, notwithstanding that the change in air quality resulting from emissions from the source or modification would not cause or contribute to concentrations that would exceed the maximum allowable increases for a Class I area. If the Agency concurs with the demonstration, it shall not issue the permit.

e) Class I Variances. The owner or operator of a proposed source or modification may demonstrate to the Federal Land Manager that the emissions from the source

or modification would have no adverse impact on the air quality related values of any such lands (including visibility), notwithstanding that the change in air quality resulting from emissions from the source or modification would cause or contribute to concentrations that would exceed the maximum allowable increases for a Class I area. If the Federal Land Manager concurs with the demonstration and so certifies, the Agency may, provided that the applicable requirements of this Part are otherwise met, issue the permit with such emission limitations as may be necessary to assure that emissions of SO_2, $PM_{2.5}$, PM_{10}, and NO_X would not exceed the following maximum allowable increases over minor source baseline concentration for those pollutants:

Pollutant	Maximum allowable increase (micrograms per cubic meter)
$PM_{2.5}$:	
Annual arithmetic mean	4
24-hr maximum	9
PM_{10}:	
Annual arithmetic mean	17
24-hr maximum	30
SO_2:	
Annual arithmetic mean	20
24-hr maximum	91
3-hr maximum	325
NO_2:	
Annual arithmetic mean	25

f) Sulfur Dioxide Variance by Governor with Federal Land Manager's Concurrence. The owner or operator of a proposed source or modification that cannot be approved under subsection (e) may demonstrate to the Governor that the source cannot be constructed by reason of any maximum allowable increase for SO_2 for a period of 24 hours or less applicable to any Class I area and, in the case of federal mandatory Class I areas, that a variance under this subsection would not adversely affect the air quality related values of the area (including visibility). The Governor, after consideration of the Federal Land Manager's recommendation (if any) and subject to his or her concurrence, may, after notice and public hearing, grant a variance from the maximum allowable increase. If the variance is granted, the Agency shall issue a permit for the source or modification under subsection (h), provided that the applicable requirements of this Part are otherwise met.

g) Variance by the Governor with the President's Concurrence. In any case in which the Governor recommends a variance in which the Federal Land Manager does not concur, the recommendations of the Governor and the Federal Land Manager shall be transmitted to the President. The President may approve the Governor's recommendation if the President finds that the variance is in the national interest. If the variance is approved, the Agency shall issue a permit under subsection (h), provided that the applicable requirements of this Part are otherwise met.

h) Emissions Limitations for Presidential or Gubernatorial Variance. In the case of a permit issued under subsection (f) or (g), the source or modification must comply with such emission limitations as may be necessary to assure that emissions of SO_2 from the source or modification would not (during any day on which the otherwise applicable maximum allowable increases are exceeded) cause or contribute to concentrations that would exceed the following maximum allowable increases over the baseline concentration and to assure that the emissions would not cause or contribute to concentrations that exceed the otherwise applicable maximum allowable increases for periods of exposure of 24 hours or less for more than 18 days, not necessarily consecutive, during any annual period:

MAXIMUM ALLOWABLE INCREASE (Micrograms per cubic meter)		
Period of exposure	Low Terrain	High Terrain
24-hr maximum	36	62
3-hr maximum	130	221

SUBPART H: GENERAL OBLIGATIONS OF THE ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

Section 204.1300 Notification of Application Completeness to Applicants

The Agency shall notify the applicant within 30 days after receipt as to the completeness of an application for a permit under this Part or any deficiency in the application or information submitted in the application. In the event of such a deficiency, the date of receipt of the application will be the date on which the Agency receives all required information.

Section 204.1310 Transmittal of Application to USEPA

The Agency shall transmit to USEPA a copy of each permit application submitted under this Part relating to a major stationary source or a major modification.

Section 204.1320 Public Participation

Prior to the initial issuance, or a modification of, a permit issued under this Part, the Agency shall provide, at a minimum, notice of the proposed issuance or modification of a permit, a comment period, and opportunity for public hearing under the Agency's public participation procedures (35 Ill. Adm. Code 252).

Section 204.1330 Issuance Within One Year of Submittal of Complete Application

Within one year after receipt of a complete application, a permit shall be granted or denied by the Agency.

Section 204.1340 Permit Rescission

a) Any permit issued under this Part or a prior version of this Part will remain in effect unless and until it expires under Section 204.830 or is rescinded under this Section.

b) An owner or operator of a stationary source or modification who holds a permit issued under this Part or 40 CFR 52.21 for the construction of a new source or modification that meets the requirement in subsection (c) may request that the Agency rescind the permit or a particular portion of the permit.

c) The Agency may grant an application for rescission if the application shows that this Part would not apply to the source or modification.

d) If the Agency rescinds a permit under this Section, it shall post a notice of the rescission determination, on a public web site identified by it, within 60 days after the rescission.

SUBPART I: NONAPPLICABILITY RECORDKEEPING AND REPORTING

Section 204.1400 Recordkeeping and Reporting Requirements for Certain Projects at Major Stationary Sources

a) Except as otherwise provided in subsection (f)(2), this Section applies with respect to any regulated NSR pollutant emitted from projects involving existing emissions units at a major stationary source (other than projects at a source with a

PAL) in circumstances in which there is a reasonable possibility, within the meaning of subsection (f), that a project that is not a major modification for the pollutant may result in a significant emissions increase of that pollutant, and the owner or operator elects to use the method specified in Section 204.600(b)(1) for calculating projected actual emissions.

b) Before beginning actual construction of the project, the owner or operator shall document and maintain a record of the following information:

1) A description of the project;

2) Identification of the emissions units whose emissions of a regulated NSR pollutant could be affected by the project; and

3) A description of the applicability test used to determine that the project is not a major modification for any regulated NSR pollutant, including the baseline actual emissions, the projected actual emissions, the amount of emissions excluded under Section 204.600(b)(1)(C), an explanation for why that amount was excluded, and any netting calculations, if applicable.

c) If the emissions unit is an existing electric utility steam generating unit, before beginning actual construction, the owner or operator must provide a copy of the information set out in subsection (a) to the Agency. Nothing in this subsection shall be construed to require the owner or operator of such a unit to obtain any determination from the Agency before beginning actual construction.

d) The owner or operator shall:

1) Monitor the emissions of any regulated NSR pollutant that could increase as a result of the project and that is emitted by any emissions unit identified in subsection (a)(2); and

2) Calculate and maintain a record of the annual emissions, in tons per year on a calendar year basis:

A) For a period of 5 years following resumption of regular operations after the change; or

B) For a period of 10 years following resumption of regular operations after the change if the project increases the design capacity or potential to emit that regulated NSR pollutant at the emissions unit.

e) If the unit is an existing electric utility steam generating unit, the owner or operator shall submit a report to the Agency within 60 days after the end of each year during which records must be generated under subsection (b) setting out the unit's annual emissions during the calendar year that preceded submission of the report.

f) If the unit is an existing unit other than an electric utility steam generating unit, the owner or operator must submit a report to the Agency if the annual emissions, in tons per year, from the project identified in subsection (a), exceed the baseline actual emissions (as documented and maintained under subsection (b)), by a significant amount (as defined in Section 204.660) for that regulated NSR pollutant, and if the emissions differ from the preconstruction projection as documented and maintained under subsection (b). The report must be submitted to the Agency within 60 days after the end of the year. The report must contain the following:

1) The name, address and telephone number of the major stationary source;

2) The annual emissions as calculated under subsection (d); and

3) Any other information that the owner or operator wishes to include in the report (e.g., an explanation as to why the emissions differ from the preconstruction projection).

g) A "reasonable possibility" under this Section occurs when the owner or operator calculates the project to result in either:

1) A projected actual emissions increase of at least 50 percent of the amount that is a "significant emissions increase", as defined in Section 204.670 (without reference to the amount that is a significant net emissions increase), for the regulated NSR pollutant; or

2) A projected actual emissions increase that, added to the amount of emissions excluded under Section 204.600(b)(1)(C), sums to at least 50

percent of the amount that is a "significant emissions increase" (without reference to the amount that is a significant net emissions increase) for the regulated NSR pollutant. For a project for which a reasonable possibility occurs only within the meaning of this subsection (g)(2), and not also within the meaning of subsection (g)(1), then subsections (b) through (e) do not apply to the project.

h) The owner or operator of the source must make the information required to be documented and maintained under this Section available for review upon a request for inspection by the Agency, USEPA, or the general public under Section 39.5(8)(e) of the Act.

SUBPART J: INNOVATIVE CONTROL TECHNOLOGY

Section 204.1500 Innovative Control Technology

a) An owner or operator of a proposed major stationary source or major modification may request that the Agency, in writing no later than the close of the comment period under 35 Ill. Adm. Code 252, approve a system of innovative control technology.

b) The Agency shall, with the consent of the Governor, determine that the source or modification may employ a system of innovative control technology if:

1) The proposed control system would not cause or contribute to an unreasonable risk to public health, welfare, or safety in its operation or function;

2) The owner or operator agrees to achieve a level of continuous emissions reduction equivalent to that which would have been required under Section 204.1100(b), by a date specified by the Agency. That date shall not be later than 4 years after the time of startup or 7 years after permit issuance;

3) The source or modification would meet the requirements of Sections 204.1100 and 204.1110, based on the emissions rate that the stationary source employing the system of innovative control technology would be required to meet on the date specified by the Agency;

4) The source or modification would not, before the date specified by the Agency:

A) Cause or contribute to a violation of an applicable NAAQS; or

B) Impact any area where an applicable increment is known to be violated;

5) All other applicable requirements, including those for public participation, have been met; and

6) The provisions of Section 204.1200 (relating to Class I areas) have been satisfied with respect to all periods during the life of the source or modification.

c) The Agency shall withdraw any approval to employ a system of innovative control technology made under this Section if:

1) The proposed system fails, by the specified date, to achieve the required continuous emissions reduction rate;

2) The proposed system fails before the specified date so as to contribute to an unreasonable risk to public health, welfare, or safety; or

3) The Agency decides at any time that the proposed system is unlikely to achieve the required level of control or to protect the public health, welfare, or safety.

d) If a source or modification fails to meet the required level of continuous emissions reduction within the specified time period, or the approval is withdrawn in accordance with subsection (c), the Agency may allow the source or modification up to an additional 3 years to meet the requirement for the application of BACT through use of a demonstrated system of control.

SUBPART K: PLANTWIDE APPLICABILITY LIMITATION

Section 204.1600 Applicability

a) The Agency may approve the use of an actuals PAL for any existing major stationary source if the PAL meets the requirements of this Subpart. The term "PAL" means "actuals PAL" throughout this Subpart.

b) Any physical change in, or change in the method of, operation of a major stationary source that maintains its total source-wide emissions below the PAL level meets the requirements in this Subpart and complies with the PAL permit:

1) Is not a major modification for the PAL pollutant;

2) Does not have to be approved through the major NSR program; and

3) Is not subject to the provisions in Section 204.850 (restrictions on relaxing enforceable emission limitations that the major stationary source used to avoid applicability of the major NSR program).

c) Except as provided by subsection (b)(2), a major stationary source must continue to comply with all applicable federal or State requirements, emissions limitations, and work practice requirements that were established prior to the effective date of the PAL.

Section 204.1610 Definitions

For the purposes of this Subpart, the definitions in Sections 204.1620 through 204.1780 apply. When a term is not defined in these Sections, it has the meaning ascribed in this Part, 35 Ill. Admin. Code 211, or the CAA.

Section 204.1620 Actuals PAL

"Actuals PAL", for a major stationary source, means a PAL based on the baseline actual emissions (as defined in Section 204.240) of all emissions units (as defined in Section 204.370) at the source that emit, or have the potential to emit, the PAL pollutant.

Section 204.1630 Allowable Emissions

"Allowable emissions" has the meaning ascribed in Section 204.230, except that the allowable emissions for any emissions unit must be calculated considering any emission limitations that are enforceable as a practical matter on the emissions unit's potential to emit.

Section 204.1640 Continuous Emissions Monitoring System (CEMS)

"Continuous emissions monitoring system" or "CEMS" means all of the equipment that may be required to meet the data acquisition and availability requirements of this Part, to sample, condition (if applicable), analyze, and provide a record of emissions on a continuous basis.

Section 204.1650 Continuous Emissions Rate Monitoring System (CERMS)

"Continuous emissions rate monitoring system" or "CERMS" means the total equipment required for the determination and recording of the pollutant mass emissions rate (in terms of mass per unit of time).

Section 204.1660 Continuous Parameter Monitoring System (CPMS)

"Continuous parameter monitoring system" or "CPMS" means all of the equipment necessary to meet the data acquisition and availability requirements of this Part to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and to record average operational parameter values on a continuous basis.

Section 204.1670 Lowest Achievable Emission Rate (LAER)

"Lowest achievable emission rate" or "LAER" has the meaning ascribed by 35 Ill. Adm. Code 203.301(a).

Section 204.1680 Major Emissions Unit

"Major emissions unit" means any emissions unit that emits or has the potential to emit 100 tpy or more of the PAL pollutant in an attainment area.

Section 204.1690 Plantwide Applicability Limitation (PAL)

"Plantwide applicability limitation" or "PAL" means an emission limitation expressed on a mass basis in tons per year, or expressed in tons per year CO_2e for a GHG emission limitation for a pollutant at a major stationary source, that is enforceable as a practical matter and established source-wide in accordance with this Subpart.

Section 204.1700 PAL Effective Date

"PAL effective date" generally means the date of issuance of the PAL permit. However, the PAL effective date for an increased PAL is the date any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

Section 204.1710 PAL Effective Period

"PAL effective period" means the period beginning with the PAL effective date and ending 10 years later.

Section 204.1720 PAL Major Modification

"PAL major modification" means, notwithstanding Sections 204.490 and 204.550 (the definitions for major modification and net emissions increase), any physical change in, or change in the method of operation of, the PAL source that causes it to emit the PAL pollutant at a level equal to or greater than the PAL.

Section 204.1730 PAL Permit

"PAL permit" means the major NSR permit, the minor NSR permit, or the State operating permit under a program that is approved into the SIP, or the CAAPP permit issued by the Agency, that establishes a PAL for a major stationary source.

Section 204.1740 PAL Pollutant

"PAL pollutant" means the pollutant for which a PAL is established at a major stationary source.

Section 204.1750 Predictive Emissions Monitoring System (PEMS)

"Predictive emissions monitoring system" or "PEMS" means all of the equipment necessary to monitor process and control device operational parameters (for example, control device secondary voltages and electric currents) and other information (for example, gas flow rate, O_2 or CO_2 concentrations), and to calculate and record the mass emissions rate (e.g., lb/hr) on a continuous basis.

Section 204.1760 Reasonably Achievable Control Technology (RACT)

"Reasonably Achievable Control Technology" or "RACT" means devices, systems, process modifications, or other apparatus or techniques that are reasonably available, taking into account:

a) The necessity of imposing RACT in order to attain and maintain a national ambient air quality standard;

b) The social, environmental, and economic impact of RACT; and

c) Alternative means of providing for attainment and maintenance of RACT.

Section 204.1770 Significant Emissions Unit

"Significant emissions unit" means an emissions unit that emits or has the potential to emit a PAL pollutant in an amount that is equal to or greater than the significant level (as defined in Section 204.660 or in the CAA, whichever is lower) for that PAL pollutant, but less than the amount that would qualify the unit as a major emissions unit (as defined in Section 204.1680).

Section 204.1780 Small Emissions Unit

"Small emissions unit" means an emissions unit that emits, or has the potential to emit, the PAL pollutant in an amount less than the significant level for that PAL pollutant, as defined in Section 204.660 or in the CAA, whichever is lower.

Section 204.1790 Permit Application Requirements

As part of a permit application requesting a PAL, the owner or operator of a major stationary source must submit the following information to the Agency for approval:

a) A list of all emissions units at the source designated as small, significant or major based on their potential to emit. In addition, the owner or operator of the source must indicate which, if any, federal or State applicable requirements, emission limitations, or work practices apply to each unit.

b) Calculations of the baseline actual emissions (with supporting documentation). Baseline actual emissions are to include emissions associated not only with operation of the unit, but also emissions associated with startup, shutdown, and malfunction.

c) The calculation procedures that the major stationary source owner or operator proposes to use to convert the monitoring system data to monthly emissions and annual emissions, based on a 12-month rolling total for each month, as required by Section 204.1890(a).

Section 204.1800 General Requirements for Establishing PAL

a) The Agency is allowed to establish a PAL at a major stationary source, provided that, at a minimum, the requirements of this Section are met.

1) The PAL shall impose an annual emission limitation expressed on a mass basis in tons per year, or expressed in tons per year CO_2e for a GHG PAL, that is enforceable as a practical matter, for the entire major stationary source. For each month during the PAL effective period after the first 12 months of establishing a PAL, the major stationary source owner or operator shall show that the sum of the monthly emissions from each emissions unit under the PAL for the previous 12 consecutive months is less than the PAL (a 12-month average, rolled monthly). For each month during the first 11 months after the PAL effective date, the major stationary source owner or operator shall show that the sum of the preceding monthly emissions from the PAL effective date for each emissions unit under the PAL is less than the PAL.

2) The PAL shall be established in a PAL permit that meets the public participation requirements in Section 204.1810.

3) The PAL permit shall contain all the requirements of Section 204.1830.

4) The PAL shall include fugitive emissions, to the extent quantifiable, from all emissions units that emit or have the potential to emit the PAL pollutant at the major stationary source.

5) Each PAL shall regulate emissions of only one pollutant.

6) Each PAL shall have a PAL effective period of 10 years.

7) The owner or operator of the major stationary source with a PAL must comply with the monitoring, recordkeeping, and reporting requirements provided in Sections 204.1880 through 204.1900 for each emissions unit under the PAL, through the PAL effective period.

b) At no time (during or after the PAL effective period) are emissions reductions of a PAL pollutant that occur during the PAL effective period creditable as decreases

for purposes of offsets under 35 Ill. Adm. Code 203 unless the level of the PAL is reduced by the amount of those emissions reductions and the reductions would be creditable in the absence of the PAL.

Section 204.1810 Public Participation Requirements

PALs for existing major stationary sources shall be established, renewed, or increased through a procedure that is consistent with 35 Ill. Adm. Code 252. This includes the requirement that the Agency provide the public with notice of the proposed approval of a PAL permit and provide at least a 30-day period for submittal of public comment. The Agency shall address all material comments before taking final action on the permit.

Section 204.1820 Setting the 10-Year Actuals PAL Level

a) Except as provided in subsection (b), the plan must provide that the actuals PAL level for a major stationary source be established as the sum of the baseline actual emissions (as defined in Section 204.240) of the PAL pollutant for each emissions unit at the source, plus an amount equal to the applicable significant level for the PAL pollutant under Section 204.660 or under the CAA, whichever is lower. When establishing the actuals PAL level for a PAL pollutant, only one consecutive 24-month period shall be used to determine the baseline actual emissions for all existing emissions units. However, a different consecutive 24-month period may be used for each different PAL pollutant. Emissions associated with units that were permanently shut down after this 24-month period must be subtracted from the PAL level. The Agency shall specify in the PAL permit a reduced PAL levels in tons per year (or tons per year CO_2e for a GHG PAL) to become effective on the future compliance dates of any applicable federal or State regulatory requirements that the Agency is aware of prior to issuance of the PAL permit. For instance, if the source owner or operator will be required to reduce emissions from industrial boilers to half the baseline emissions of 60 ppm NO_X to a new rule limit of 30 ppm, then the permit shall contain a future effective PAL level that is equal to the current PAL level reduced by half of the original baseline emissions of the units.

b) For newly constructed units (which do not include modifications to existing units) on which actual construction began after the 24-month period, in lieu of adding the baseline actual emissions as specified in subsection (a), the emissions must be added to the PAL level in an amount equal to the potential to emit of the units.

Section 204.1830 Contents of the PAL Permit

The PAL permit shall contain, at a minimum:

a) The PAL pollutant and the applicable source-wide emission limitation in tons per year, or tons per year CO_2e for a GHG PAL.

b) The PAL permit effective date and the expiration date of the PAL (PAL effective period).

c) Specification in the PAL permit that, if a major stationary source owner or operator applies to renew a PAL in accordance with Section 204.1860 before the end of the PAL effective period, then the PAL will not expire at the end of the PAL effective period. It will remain in effect until a revised PAL permit is issued by the Agency.

d) A requirement that emission calculations for compliance purposes shall include emissions from startups, shutdowns, and malfunctions.

e) A requirement that, once the PAL expires, the major stationary source is subject to Section 204.1850.

f) The calculation procedures that the major stationary source owner or operator must use to convert the monitoring system data to monthly emissions and annual emissions based on a 12-month rolling total, as required by Section 204.1890(a).

g) A requirement that the major stationary source owner or operator monitor all emissions units in accordance with Section 204.1880.

h) A requirement to retain on site the records required by Section 204.1890. The records may be retained in an electronic format.

i) A requirement to submit the reports required by Section 204.1900 by the required deadlines.

j) Any other requirements that the Agency deems necessary to implement and enforce the PAL.

Section 204.1840 Effective Period and Reopening a PAL Permit

The requirements in subsections (a) and (b) apply to actuals PALs.

a) PAL Effective Period. The Agency shall specify a PAL effective period of 10 years.

b) Reopening of the PAL Permit

1) During the PAL effective period, the Agency shall reopen the PAL permit to:

A) Correct typographical/calculation errors made in setting the PAL or reflect a more accurate determination of emissions used to establish the PAL;

B) Reduce the PAL if the owner or operator of the major stationary source creates creditable emissions reductions for use as offsets under 35 Ill. Adm. Code 203; and

C) Revise the PAL to reflect an increase in the PAL (see Section 204.1870).

2) The Agency shall have discretion to reopen the PAL permit for the following:

A) Reduce the PAL to reflect newly applicable federal requirements (for example, NSPS) with compliance dates after the PAL effective date;

B) Reduce the PAL consistent with any other requirement that is enforceable as a practical matter, and that the Agency may impose on the major stationary source under the SIP; and

C) Reduce the PAL if the Agency determines that a reduction is necessary to avoid causing or contributing to an NAAQS or PSD increment violation, or to an adverse impact on an air quality related value that has been identified for a Federal Class I area by a Federal Land Manager and for which information is available to the general public.

c) Except for the permit reopening allowed by subsection (b)(1)(A) for the correction of typographical/calculation errors that do not increase the PAL level, all other reopenings shall be carried out in accordance with the public participation requirements of Section 204.1810.

Section 204.1850 Expiration of a PAL

Any PAL that is not renewed in accordance with Section 204.1860 expires at the end of the PAL effective period, and the requirements in this Section apply.

a) Each emissions unit (or each group of emissions units) that existed under the PAL must comply with an allowable emission limitation under a revised permit established under this subsection (a).

1) Within the time frame specified for PAL renewals in Section 204.1860(b), the major stationary source must submit a proposed allowable emission limitation for each emissions unit (or each group of emissions units, if such a distribution is more appropriate, as decided by the Agency) by distributing the PAL allowable emissions for the major stationary source among each of the emissions units that existed under the PAL. If the PAL had not yet been adjusted for an applicable requirement that became effective during the PAL effective period, as required under Section 204.1860(e), the distribution must be made as if the PAL had been adjusted.

2) The Agency shall decide whether and how the PAL allowable emissions will be distributed and shall issue a revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as the Agency determines appropriate.

b) Each emissions unit must comply with the allowable emission limitation on a 12-month rolling basis. The Agency may approve the use of monitoring systems (source testing, emission factors, etc.) other than CEMS, CERMS, PEMS, or CPMS to demonstrate compliance with the allowable emission limitation.

c) Until the Agency issues the revised permit incorporating allowable limits for each emissions unit, or each group of emissions units, as required by subsection (a)(2),

the source must continue to comply with a source-wide, multi-unit emissions cap equivalent to the level of the PAL emission limitation.

d) Any physical change, or change in the method of operation, at the major stationary source will be subject to major NSR requirements if the change meets the definition of major modification in Section 204.490.

e) The major stationary source owner or operator must continue to comply with any State or federal applicable requirements (BACT, RACT, NSPS, etc.) that may have applied either during the PAL effective period or prior to the PAL effective period, except for those emission limitations that had been established under Section 204.850, but were eliminated by the PAL in accordance with Section 204.1600(b)(3).

Section 204.1860 Renewal of a PAL

a) The Agency shall follow the procedures specified in Section 204.1810 in approving any request to renew a PAL for a major stationary source, and shall provide both the proposed PAL level and a written rationale for the proposed PAL level to the public for review and comment. During public review, any person may propose a PAL level for the source for consideration by the Agency.

b) Application Deadline. A major stationary source owner or operator must submit a timely application to the Agency to request renewal of a PAL. A timely application is one that is submitted at least 6 months before, but not earlier than 18 months before, the date of permit expiration. This deadline for application submittal is to ensure that the permit will not expire before the permit is renewed. If the owner or operator of a major stationary source submits a complete application to renew the PAL within this time period, the PAL will continue to be effective until the revised permit with the renewed PAL is issued.

c) Application Requirements. The application to renew a PAL permit shall contain:

1) The information required in Section 204.1790.

2) A proposed PAL level.

3) The sum of the potential to emit of all emissions units under the PAL (with supporting documentation).

4) Any other information the owner or operator wishes the Agency to consider in determining the appropriate level for renewing the PAL.

d) PAL Adjustment

1) In determining whether and how to adjust the PAL, the Agency shall consider the options outlined in subsections (d)(1) and (d)(2). However, in no case may any such adjustment fail to comply with subsection (d)(3).

A) If the emissions level calculated in accordance with Section 204.1820 is equal to or greater than 80 percent of the PAL level, the Agency may renew the PAL at the same level without considering the factors set forth in subsection (d)(2); or

B) The Agency may set the PAL at a level that it determines to be more representative of the source's baseline actual emissions, or that it determines to be more appropriate considering air quality needs, advances in control technology, anticipated economic growth in the area, desire to reward or encourage the source's voluntary emissions reductions, or other factors specifically identified by the Agency in its written rationale.

2) Notwithstanding subsection (d)(1):

A) If the potential to emit of the major stationary source is less than the PAL, the Agency shall adjust the PAL to a level no greater than the potential to emit of the source; and

B) The Agency shall not approve a renewed PAL level higher than the current PAL, unless the major stationary source has complied with the provisions of Section 204.1870 (increasing a PAL).

e) If the compliance date for a State or federal requirement that applies to the PAL source occurs during the PAL effective period, and if the Agency has not already adjusted for that requirement, the PAL must be adjusted at the time of PAL permit renewal or CAAPP permit renewal, whichever occurs first.

Section 204.1870 Increasing the PAL During the PAL Effective Period

a) The Agency may increase a PAL emission limitation only if the major stationary source complies with this subsection (a).

1) The owner or operator of the major stationary source must submit a complete application to request an increase in the PAL limit for a PAL major modification. The application must identify the emissions units contributing to the increase in emissions so as to cause the major stationary source's emissions to equal or exceed its PAL.

2) As part of the application, the major stationary source owner or operator must demonstrate that the sum of the baseline actual emissions of the small emissions units, plus the sum of the baseline actual emissions of the significant and major emissions units assuming application of BACT equivalent controls, plus the sum of the allowable emissions of the new or modified emissions units exceeds the PAL. The level of control that would result from BACT equivalent controls on each significant or major emissions unit must be determined by conducting a new BACT analysis at the time the application is submitted, unless the emissions unit is currently required to comply with a BACT or LAER requirement that was established within the preceding 10 years. In such a case, the assumed control level for that emissions unit must be equal to the level of BACT or LAER with which that emissions unit must currently comply.

3) The owner or operator obtains a major NSR permit for all emissions units identified in subsection (a)(1), regardless of the magnitude of the emissions increase resulting from them (that is, no significant levels apply). These emissions units must comply with any emissions requirements resulting from the major NSR process (for example, BACT), even though they have also become subject to the PAL or continue to be subject to the PAL.

4) The PAL permit shall require that the increased PAL level must be effective on the day any emissions unit that is part of the PAL major modification becomes operational and begins to emit the PAL pollutant.

b) The Agency shall calculate the new PAL as the sum of the allowable emissions for each modified or new emissions unit, plus the sum of the baseline actual emissions of the significant and major emissions units (assuming application of

BACT equivalent controls as determined in accordance with subsection (a)(2)), plus the sum of the baseline actual emissions of the small emissions units.

c) The PAL permit shall be revised to reflect the increased PAL level under the public notice requirements of Section 204.1810.

Section 204.1880 Monitoring Requirements

a) General Requirements

1) Each PAL permit shall contain enforceable requirements for the monitoring system that accurately determines plantwide emissions of the PAL pollutant in terms of mass per unit of time, or in CO_2e per unit of time for a GHG PAL. Any monitoring system authorized for use in the PAL permit must be based on sound science and meet generally acceptable scientific procedures for data quality and manipulation. Additionally, the information generated by such system must meet minimum legal requirements for admissibility in a judicial proceeding to enforce the PAL permit.

2) The PAL monitoring system must employ one or more of the four general monitoring approaches meeting the minimum requirements set forth in subsection (b) and must be approved by the Agency.

3) Notwithstanding subsection (a)(2), the owner or operator may also employ an alternative monitoring approach that meets subsection (a)(1) if approved by the Agency.

4) Failure to use a monitoring system that meets the requirements of this Section renders the PAL invalid.

b) Minimum Performance Requirements for Approved Monitoring Approaches. The following are acceptable general monitoring approaches when conducted in accordance with the minimum requirements in subsections (c) through (i):

1) Mass balance calculations for activities using coatings or solvents;

2) CEMS;

3) CPMS or PEMS; and

4) Emission factors.

c) Mass Balance Calculations. An owner or operator using mass balance calculations to monitor PAL pollutant emissions from activities using coating or solvents must meet the following requirements:

1) Provide a demonstrated means of validating the published content of the PAL pollutant that is contained in or created by all materials used in or at the emissions unit;

2) Assume that the emissions unit emits all of the PAL pollutant that is contained in or created by any raw material or fuel used in or at the emissions unit, if it cannot otherwise be accounted for in the process; and

3) When the vendor of a material or fuel that is used in or at the emissions unit publishes a range of pollutant content from that material, the owner or operator must use the highest value of the range to calculate the PAL pollutant emissions unless the Agency determines there is site-specific data or a site-specific monitoring program to support another content within the range.

d) CEMS. An owner or operator using CEMS to monitor PAL pollutant emissions must meet the following requirements:

1) CEMS must comply with applicable Performance Specifications found in 40 CFR 60, appendix B (incorporated by reference in Section 204.100); and

2) CEMS must sample, analyze and record data at least every 15 minutes while the emissions unit is operating.

e) CPMS or PEMS. An owner or operator using CPMS or PEMS to monitor PAL pollutant emissions must meet the following requirements:

1) The CPMS or the PEMS must be based on current site-specific data demonstrating a correlation between the monitored parameters and the

PAL pollutant emissions across the range of operation of the emissions unit; and

2) Each CPMS or PEMS must sample, analyze, and record data at least every 15 minutes, or at another less frequent interval approved by the Agency, while the emissions unit is operating.

f) Emission Factors. An owner or operator using emission factors to monitor PAL pollutant emissions must meet the following requirements:

1) All emission factors must be adjusted, if appropriate, to account for the degree of uncertainty or limitations in the factors' development;

2) The emissions unit must operate within the designated range of use for the emission factor, if applicable; and

3) If technically practicable, the owner or operator of a significant emissions unit that relies on an emission factor to calculate PAL pollutant emissions must conduct validation testing to determine a site-specific emission factor within 6 months after PAL permit issuance, unless the Agency determines that testing is not required.

g) A source owner or operator must record and report maximum potential emissions without considering enforceable emission limitations or operational restrictions for an emissions unit during any period of time that there is no monitoring data, unless another method for determining emissions during those periods is specified in the PAL permit.

h) Notwithstanding the requirements of subsections (c) through (g), when an owner or operator of an emissions unit cannot demonstrate a correlation between the monitored parameters and the PAL pollutant emissions rate at all operating points of the emissions unit, the Agency must, at the time of permit issuance:

1) Establish default values for determining compliance with the PAL based on the highest potential emissions reasonably estimated at the operating points; or

2) Determine that operation of the emissions unit during operating conditions when there is no correlation between monitored parameters and the PAL pollutant emissions is a violation of the PAL.

i) Revalidation. All data used to establish the PAL pollutant must be revalidated through performance testing or other scientifically valid means approved by the Agency. The testing must occur at least once every 5 years after issuance of the PAL.

Section 204.1890 Recordkeeping Requirements

a) The PAL permit shall require an owner or operator to retain a copy of all records necessary to determine compliance with any requirement of this Subpart and of the PAL, including a determination of each emissions unit's 12-month rolling total emissions, for 5 years from the date of the record.

b) The PAL permit shall require an owner or operator to retain a copy of the following records for the duration of the PAL effective period plus 5 years:

1) A copy of the PAL permit application and any applications for revisions to the PAL; and

2) Each annual certification of compliance under Section 39.5(7)(p)(v) of the Act and the data relied on in certifying the compliance.

Section 204.1900 Reporting and Notification Requirements

The owner or operator must submit semiannual monitoring reports and prompt deviation reports to the Agency in accordance with the CAAPP. The reports must meet the requirements of this Section.

a) Semiannual Report. The semiannual report must be submitted to the Agency within 30 days after the end of each reporting period. This report must contain the information required in subsection (a).

1) Identification of the owner and operator and the permit number.

2) Total annual emissions (expressed on a mass-basis in tons per year, or expressed in tons per year CO_2e for a GHG PAL) based on a 12-month

rolling total for each month in the reporting period recorded under Section 204.1890(a).

3) All data relied upon, including any Quality Assurance or Quality Control data, in calculating the monthly and annual PAL pollutant emissions.

4) A list of any emissions units modified or added to the major stationary source during the preceding 6-month period.

5) The number, duration, and cause of any deviations or monitoring malfunctions (other than the time associated with zero and span calibration checks), and any corrective action taken.

6) A notification of a shutdown of any monitoring system, whether the shutdown was permanent or temporary, the reason for the shutdown, the anticipated date that the monitoring system will be fully operational or replaced with another monitoring system, whether the emissions unit monitored by the monitoring system continued to operate, and the calculation of the emissions of the pollutant or the number determined by the method included in the permit (see Section 204.1880(g)).

7) A signed statement by the responsible official (as defined by the CAAPP) certifying the truth, accuracy, and completeness of the information provided in the report.

b) Deviation Report. The major stationary source owner or operator must promptly submit reports of any deviations or exceedance of the PAL requirements, including periods when no monitoring is available. A report submitted under 40 CFR 70.6(a)(3)(iii)(B) will satisfy this reporting requirement. The deviation reports shall be submitted within the time limits prescribed by the applicable program implementing 40 CFR 70.6(a)(3)(iii)(B). The reports must contain the following information:

1) The identification of owner and operator and the permit number;

2) The PAL requirement that experienced the deviation or that was exceeded;

3) Emissions resulting from the deviation or the exceedance; and

4) A signed statement by the responsible official (as defined by the CAAPP) certifying the truth, accuracy, and completeness of the information provided in the report.

c) Revalidation Results. The owner or operator must submit to the Agency the results of any revalidation test or method within 3 months after completion of that test or method.

Section 204.1910 Transition Requirements

The Agency may not issue a PAL that does not comply with this Subpart after the initial effective date of this Part.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Definitions and General Provisions

2) Code Citation: 35 Ill. Adm. Code 211

3) Section Number: 211.7150 Proposed Action: Amendment

4) Statutory Authority: Implementing Section 9.1 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/9.1, 27, and 28].

5) A Complete Description of the Subjects and Issues Involved: The Illinois Environmental Protection Agency (IEPA) proposed that the Board adopt a new Part 204 of its air pollution rules to create a Prevention of Significant Deterioration (PSD) permitting program. IEPA intends that its proposal will allow it to assume responsibility for PSD permitting from the United States Environmental Protection Agency (USEPA) and also allow the Board to assume responsibility for appeals of PSD permits issued by IEPA. IEPA states that its proposal meets requirements to establish such a program under Section 9.1(c) of the Illinois Environmental Protection Act (Act) [415 ILCS 5/9.1(c) (2018]; see PA 99-463, eff. Jan. 1, 2016.

IEPA proposed to amend existing Part 211 of the Board's existing volatile organic material (VOM) rules to conform with the new Part 204 and accommodate PSD permit appeals.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

11) Statement of Statewide Policy Objective: 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].

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments must be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at pcb.illinois.gov. Public comments may also be filed with the Clerk of the Board addressed to:

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

Public comments must refer to Board docket number R 19-1.

Interested persons may request copies of the Board's opinion and order in R19-01 by download copies from the Board's Web site at pcb.illinois.gov or by calling the Clerk's office at 312/814-3620.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: The proposal may apply to an entity proposing a new major stationary source of major modification at an existing major stationary source to which the PSD permitting program applies.

B) Reporting, bookkeeping or other procedures required for compliance: Because proposed revisions to Part 211 conform the Board's existing volatile organic material (VOM) rules to PSD permit appeals in proposed Part 204, the Board does not expect that the revised Part 211 requires any additional recordkeeping or other procedures for compliance.

C) Types of professional skills necessary for compliance: Because the proposed requirements of Part 204 are in effect under the federal PSD rules, the necessary skills are equivalent to those required to comply with current requirements.

14) Small Business Impact Analysis: The Board does not expect that small businesses will be impacted by this rulemaking.

15) Regulatory Agenda on which this rulemaking was summarized: July 2019

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSION STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCES

PART 211
DEFINITIONS AND GENERAL PROVISIONS

SUBPART A: GENERAL PROVISIONS

Section
211.101 Incorporated and Referenced Materials
211.102 Abbreviations and Conversion Factors

SUBPART B: DEFINITIONS

Section
211.121 Other Definitions
211.122 Definitions (Repealed)
211.130 Accelacota
211.150 Accumulator
211.170 Acid Gases
211.200 Acrylonitrile Butadiene Styrene (ABS) Welding
211.210 Actual Heat Input
211.230 Adhesive
211.233 Adhesion Primer
211.235 Adhesive Primer
211.240 Adhesion Promoter
211.250 Aeration
211.260 Aerosol Adhesive and Adhesive Primer
211.270 Aerosol Can Filling Line
211.290 Afterburner
211.310 Air Contaminant
211.330 Air Dried Coatings
211.350 Air Oxidation Process
211.370 Air Pollutant
211.390 Air Pollution
211.410 Air Pollution Control Equipment

211.430	Air Suspension Coater/Dryer
211.450	Airless Spray
211.470	Air Assisted Airless Spray
211.474	Alcohol
211.479	Allowance
211.481	Ammunition Sealant
211.484	Animal
211.485	Animal Pathological Waste
211.490	Annual Grain Through-Put
211.492	Antifoulant Coating
211.493	Antifouling Sealer/Tie Coat
211.495	Anti-Glare/Safety Coating
211.510	Application Area
211.530	Architectural Coating
211.540	Architectural Structure
211.550	As Applied
211.560	As-Applied Fountain Solution
211.570	Asphalt
211.590	Asphalt Prime Coat
211.610	Automobile
211.630	Automobile or Light-Duty Truck Assembly Source or Automobile or Light-Duty Truck Manufacturing Plant
211.650	Automobile or Light-Duty Truck Refinishing
211.660	Automotive/Transportation Plastic Parts
211.665	Auxiliary Boiler
211.670	Baked Coatings
211.680	Bakery Oven
211.685	Basecoat/Clearcoat System
211.690	Batch Loading
211.695	Batch Operation
211.696	Batch Process Train
211.710	Bead-Dipping
211.715	Bedliner
211.730	Binders
211.735	Black Coating
211.740	Brakehorsepower (rated-bhp)
211.750	British Thermal Unit
211.770	Brush or Wipe Coating
211.790	Bulk Gasoline Plant

211.810	Bulk Gasoline Terminal
211.820	Business Machine Plastic Parts
211.825	Camouflage Coating
211.830	Can
211.850	Can Coating
211.870	Can Coating Line
211.880	Cap Sealant
211.890	Capture
211.910	Capture Device
211.930	Capture Efficiency
211.950	Capture System
211.953	Carbon Adsorber
211.954	Cavity Wax
211.955	Cement
211.960	Cement Kiln
211.965	Ceramic Tile Installation Adhesive
211.970	Certified Investigation
211.980	Chemical Manufacturing Process Unit
211.990	Choke Loading
211.995	Circulating Fluidized Bed Combustor
211.1000	Class II Finish
211.1010	Clean Air Act
211.1050	Cleaning and Separating Operation
211.1070	Cleaning Materials
211.1090	Clear Coating
211.1110	Clear Topcoat
211.1120	Clinker
211.1128	Closed Molding
211.1130	Closed Purge System
211.1150	Closed Vent System
211.1170	Coal Refuse
211.1190	Coating
211.1210	Coating Applicator
211.1230	Coating Line
211.1250	Coating Plant
211.1270	Coil Coating
211.1290	Coil Coating Line
211.1310	Cold Cleaning
211.1312	Combined Cycle System

211.1315 Combustion Tuning
211.1316 Combustion Turbine
211.1320 Commence Commercial Operation
211.1324 Commence Operation
211.1328 Common Stack
211.1330 Complete Combustion
211.1350 Component
211.1370 Concrete Curing Compounds
211.1390 Concentrated Nitric Acid Manufacturing Process
211.1410 Condensate
211.1430 Condensible PM-10
211.1435 Container Glass
211.1455 Contact Adhesive
211.1465 Continuous Automatic Stoking
211.1467 Continuous Coater
211.1470 Continuous Process
211.1490 Control Device
211.1510 Control Device Efficiency
211.1515 Control Period
211.1520 Conventional Air Spray
211.1530 Conventional Soybean Crushing Source
211.1550 Conveyorized Degreasing
211.1560 Cove Base
211.1565 Cove Base Installation Adhesive
211.1570 Crude Oil
211.1590 Crude Oil Gathering
211.1610 Crushing
211.1630 Custody Transfer
211.1650 Cutback Asphalt
211.1655 Cyanoacrylate Adhesive
211.1670 Daily-Weighted Average VOM Content
211.1690 Day
211.1700 Deadener
211.1710 Degreaser
211.1730 Delivery Vessel
211.1740 Diesel Engine
211.1745 Digital Printing
211.1750 Dip Coating
211.1770 Distillate Fuel Oil

211.1780 Distillation Unit
211.1790 Drum
211.1810 Dry Cleaning Operation or Dry Cleaning Facility
211.1830 Dump-Pit Area
211.1850 Effective Grate Area
211.1870 Effluent Water Separator
211.1872 Ejection Cartridge Sealant
211.1875 Elastomeric Materials
211.1876 Electric Dissipating Coating
211.1877 Electric-Insulating Varnish
211.1878 Electrical Apparatus Component
211.1880 Electrical Switchgear Compartment Coating
211.1882 Electrodeposition Primer (EDP)
211.1883 Electromagnetic Interference/Radio Frequency Interference (EMI/RFI) Shielding Coatings
211.1885 Electronic Component
211.1890 Electrostatic Bell or Disc Spray
211.1900 Electrostatic Prep Coat
211.1910 Electrostatic Spray
211.1920 Emergency or Standby Unit
211.1930 Emission Rate
211.1950 Emission Unit
211.1970 Enamel
211.1990 Enclose
211.2010 End Sealing Compound Coat
211.2030 Enhanced Under-the-Cup Fill
211.2040 Etching Filler
211.2050 Ethanol Blend Gasoline
211.2055 Ethylene Propylenediene Monomer (DPDM) Roof Membrane
211.2070 Excess Air
211.2080 Excess Emissions
211.2090 Excessive Release
211.2110 Existing Grain-Drying Operation (Repealed)
211.2130 Existing Grain-Handling Operation (Repealed)
211.2150 Exterior Base Coat
211.2170 Exterior End Coat
211.2190 External Floating Roof
211.2200 Extreme High-Gloss Coating
211.2210 Extreme Performance Coating

211.2230 Fabric Coating
211.2250 Fabric Coating Line
211.2270 Federally Enforceable Limitations and Conditions
211.2285 Feed Mill
211.2290 Fermentation Time
211.2300 Fill
211.2310 Final Repair Coat
211.2320 Finish Primer Surfacer
211.2330 Firebox
211.2350 Fixed-Roof Tank
211.2355 Flare
211.2357 Flat Glass
211.2358 Flat Wood Paneling
211.2359 Flat Wood Paneling Coating Line
211.2360 Flexible Coating
211.2365 Flexible Operation Unit
211.2368 Flexible Packaging
211.2369 Flexible Vinyl
211.2370 Flexographic Printing
211.2390 Flexographic Printing Line
211.2410 Floating Roof
211.2415 Fog Coat
211.2420 Fossil Fuel
211.2425 Fossil Fuel-Fired
211.2430 Fountain Solution
211.2450 Freeboard Height
211.2470 Fuel Combustion Emission Unit or Fuel Combustion Emission Source
211.2490 Fugitive Particulate Matter
211.2510 Full Operating Flowrate
211.2525 Gasket/Gasket Sealing Material
211.2530 Gas Service
211.2550 Gas/Gas Method
211.2570 Gasoline
211.2590 Gasoline Dispensing Operation or Gasoline Dispensing Facility
211.2610 Gel Coat
211.2615 General Work Surface
211.2620 Generator
211.2622 Glass Bonding Primer
211.2625 Glass Melting Furnace

211.2630 Gloss Reducers
211.2650 Grain
211.2670 Grain-Drying Operation
211.2690 Grain-Handling and Conditioning Operation
211.2710 Grain-Handling Operation
211.2730 Green-Tire Spraying
211.2750 Green Tires
211.2770 Gross Heating Value
211.2790 Gross Vehicle Weight Rating
211.2800 Hardwood Plywood
211.2810 Heated Airless Spray
211.2815 Heat Input
211.2820 Heat Input Rate
211.2825 Heat-Resistant Coating
211.2830 Heatset
211.2840 Heatset Web Letterpress Printing Line
211.2850 Heatset Web Offset Lithographic Printing Line
211.2870 Heavy Liquid
211.2890 Heavy Metals
211.2910 Heavy Off-Highway Vehicle Products
211.2930 Heavy Off-Highway Vehicle Products Coating
211.2950 Heavy Off-Highway Vehicle Products Coating Line
211.2955 High Bake Coating
211.2956 High Build Primer Surfacer
211.2958 High Gloss Coating
211.2960 High-Performance Architectural Coating
211.2965 High Precision Optic
211.2970 High Temperature Aluminum Coating
211.2980 High Temperature Coating
211.2990 High Volume Low Pressure (HVLP) Spray
211.3010 Hood
211.3030 Hot Well
211.3050 Housekeeping Practices
211.3070 Incinerator
211.3090 Indirect Heat Transfer
211.3095 Indoor Floor Covering Installation Adhesive
211.3100 Industrial Boiler
211.3110 Ink
211.3120 In-Line Repair

211.3130	In-Process Tank
211.3150	In-Situ Sampling Systems
211.3170	Interior Body Spray Coat
211.3190	Internal-Floating Roof
211.3210	Internal Transferring Area
211.3215	Janitorial Cleaning
211.3230	Lacquers
211.3240	Laminate
211.3250	Large Appliance
211.3270	Large Appliance Coating
211.3290	Large Appliance Coating Line
211.3300	Lean-Burn Engine
211.3305	Letterpress Printing Line
211.3310	Light Liquid
211.3330	Light-Duty Truck
211.3350	Light Oil
211.3355	Lime Kiln
211.3370	Liquid/Gas Method
211.3390	Liquid-Mounted Seal
211.3410	Liquid Service
211.3430	Liquids Dripping
211.3450	Lithographic Printing Line
211.3470	Load-Out Area
211.3475	Load Shaving Unit
211.3480	Loading Event
211.3483	Long Dry Kiln
211.3485	Long Wet Kiln
211.3487	Low-NO_x Burner
211.3490	Low Solvent Coating
211.3500	Lubricating Oil
211.3505	Lubricating Wax/Compound
211.3510	Magnet Wire
211.3530	Magnet Wire Coating
211.3550	Magnet Wire Coating Line
211.3555	Maintenance Cleaning
211.3570	Major Dump Pit
211.3590	Major Metropolitan Area (MMA)
211.3610	Major Population Area (MPA)
211.3620	Manually Operated Equipment

211.3630	Manufacturing Process
211.3650	Marine Terminal
211.3660	Marine Vessel
211.3665	Mask Coating
211.3670	Material Recovery Section
211.3690	Maximum Theoretical Emissions
211.3695	Maximum True Vapor Pressure
211.3705	Medical Device
211.3707	Medical Device and Pharmaceutical Manufacturing
211.3710	Metal Furniture
211.3730	Metal Furniture Coating
211.3750	Metal Furniture Coating Line
211.3760	Metallic Coating
211.3770	Metallic Shoe-Type Seal
211.3775	Metal to Urethane/Rubber Molding or Casting Adhesive
211.3780	Mid-Kiln Firing
211.3785	Military Specification Coating
211.3790	Miscellaneous Fabricated Product Manufacturing Process
211.3810	Miscellaneous Formulation Manufacturing Process
211.3820	Miscellaneous Industrial Adhesive Application Operation
211.3830	Miscellaneous Metal Parts and Products
211.3850	Miscellaneous Metal Parts and Products Coating
211.3870	Miscellaneous Metal Parts or Products Coating Line
211.3890	Miscellaneous Organic Chemical Manufacturing Process
211.3910	Mixing Operation
211.3915	Mobile Equipment
211.3925	Mold Seal Coating
211.3930	Monitor
211.3950	Monomer
211.3960	Motor Vehicles
211.3961	Motor Vehicle Adhesive
211.3965	Motor Vehicle Refinishing
211.3966	Motor Vehicle Weatherstrip Adhesive
211.3967	Mouth Waterproofing Sealant
211.3968	Multi-Colored Coating
211.3969	Multi-Component Coating
211.3970	Multiple Package Coating
211.3975	Multipurpose Construction Adhesive
211.3980	Nameplate Capacity

211.3985	Natural Finish Hardwood Plywood Panel
211.3990	New Grain-Drying Operation (Repealed)
211.4010	New Grain-Handling Operation (Repealed)
211.4030	No Detectable Volatile Organic Material Emissions
211.4050	Non-Contact Process Water Cooling Tower
211.4052	Non-Convertible Coating
211.4055	Non-Flexible Coating
211.4065	Non-Heatset
211.4067	NO_x Trading Program
211.4070	Offset
211.4080	One-Component Coating
211.4090	One Hundred Percent Acid
211.4110	One-Turn Storage Space
211.4130	Opacity
211.4150	Opaque Stains
211.4170	Open Top Vapor Degreasing
211.4190	Open-Ended Valve
211.4210	Operator of a Gasoline Dispensing Operation or Operator of a Gasoline Dispensing Facility
211.4220	Optical Coating
211.4230	Organic Compound
211.4250	Organic Material and Organic Materials
211.4260	Organic Solvent
211.4270	Organic Vapor
211.4280	Other Glass
211.4285	Outdoor Floor Covering Installation Adhesive
211.4290	Oven
211.4310	Overall Control
211.4330	Overvarnish
211.4350	Owner of a Gasoline Dispensing Operation or Owner of a Gasoline Dispensing Facility
211.4370	Owner or Operator
211.4390	Packaging Rotogravure Printing
211.4410	Packaging Rotogravure Printing Line
211.4430	Pail
211.4450	Paint Manufacturing Source or Paint Manufacturing Plant
211.4455	Pan-Backing Coating
211.4460	Panel
211.4470	Paper Coating

211.4490 Paper Coating Line
211.4510 Particulate Matter
211.4530 Parts Per Million (Volume) or PPM (Vol)
211.4540 Perimeter Bonded Sheet Flooring
211.4550 Person
211.4590 Petroleum
211.4610 Petroleum Liquid
211.4630 Petroleum Refinery
211.4650 Pharmaceutical
211.4670 Pharmaceutical Coating Operation
211.4690 Photochemically Reactive Material
211.4710 Pigmented Coatings
211.4720 Pipeline Natural Gas
211.4730 Plant
211.4735 Plastic
211.4740 Plastic Part
211.4750 Plasticizers
211.4760 Plastic Solvent Welding Adhesive
211.4765 Plastic Solvent Welding Adhesive Primer
211.4768 Pleasure Craft
211.4769 Pleasure Craft Surface Coating
211.4770 PM-10
211.4790 Pneumatic Rubber Tire Manufacture
211.4810 Polybasic Organic Acid Partial Oxidation Manufacturing Process
211.4830 Polyester Resin Material(s)
211.4850 Polyester Resin Products Manufacturing Process
211.4870 Polystyrene Plant
211.4890 Polystyrene Resin
211.4895 Polyvinyl Chloride Plastic (PVC Plastic)
211.4900 Porous Material
211.4910 Portable Grain-Handling Equipment
211.4930 Portland Cement Manufacturing Process Emission Source
211.4950 Portland Cement Process or Portland Cement Manufacturing Plant
211.4960 Potential Electrical Output Capacity
211.4970 Potential to Emit
211.4990 Power Driven Fastener Coating
211.5010 Precoat
211.5012 Prefabricated Architectural Coating
211.5015 Preheater Kiln

211.5020 Preheater/Precalciner Kiln
211.5030 Pressure Release
211.5050 Pressure Tank
211.5060 Pressure/Vacuum Relief Valve
211.5061 Pretreatment Coating
211.5062 Pretreatment Wash Primer
211.5065 Primary Product
211.5070 Prime Coat
211.5075 Primer Sealant
211.5080 Primer Sealer
211.5090 Primer Surfacer Coat
211.5110 Primer Surfacer Operation
211.5130 Primers
211.5140 Printed Interior Panel
211.5150 Printing
211.5170 Printing Line
211.5185 Process Emission Source
211.5190 Process Emission Unit
211.5195 Process Heater
211.5210 Process Unit
211.5230 Process Unit Shutdown
211.5245 Process Vent
211.5250 Process Weight Rate
211.5270 Production Equipment Exhaust System
211.5310 Publication Rotogravure Printing Line
211.5330 Purged Process Fluid
211.5335 Radiation Effect Coating
211.5340 Rated Heat Input Capacity
211.5350 Reactor
211.5370 Reasonably Available Control Technology (RACT)
211.5390 Reclamation System
211.5400 Red Coating
211.5410 Refiner
211.5430 Refinery Fuel Gas
211.5450 Refinery Fuel Gas System
211.5470 Refinery Unit or Refinery Process Unit
211.5480 Reflective Argent Coating
211.5490 Refrigerated Condenser
211.5500 Regulated Air Pollutant

211.5510 Reid Vapor Pressure
211.5520 Reinforced Plastic Composite
211.5530 Repair
211.5535 Repair Cleaning
211.5550 Repair Coat
211.5570 Repaired
211.5580 Repowering
211.5585 Research and Development Operation
211.5590 Residual Fuel Oil
211.5600 Resist Coat
211.5610 Restricted Area
211.5630 Retail Outlet
211.5640 Rich-Burn Engine
211.5650 Ringelmann Chart
211.5670 Roadway
211.5690 Roll Coater
211.5710 Roll Coating
211.5730 Roll Printer
211.5750 Roll Printing
211.5770 Rotogravure Printing
211.5790 Rotogravure Printing Line
211.5800 Rubber
211.5810 Safety Relief Valve
211.5830 Sandblasting
211.5850 Sanding Sealers
211.5860 Scientific Instrument
211.5870 Screening
211.5875 Screen Printing
211.5880 Screen Printing on Paper
211.5885 Screen Reclamation
211.5890 Sealer
211.5910 Semi-Transparent Stains
211.5930 Sensor
211.5950 Set of Safety Relief Valves
211.5970 Sheet Basecoat
211.5980 Sheet-Fed
211.5985 Sheet Rubber Lining Installation
211.5987 Shock-Free Coating
211.5990 Shotblasting

211.6010	Side-Seam Spray Coat
211.6012	Silicone-Release Coating
211.6015	Single-Ply Roof Membrane
211.6017	Single-Ply Roof Membrane Adhesive Primer
211.6020	Single-Ply Roof Membrane Installation and Repair Adhesive
211.6025	Single Unit Operation
211.6030	Smoke
211.6050	Smokeless Flare
211.6060	Soft Coat
211.6063	Solar-Absorbent Coating
211.6065	Solids Turnover Ratio (R_T)
211.6070	Solvent
211.6090	Solvent Cleaning
211.6110	Solvent Recovery System
211.6130	Source
211.6140	Specialty Coatings
211.6145	Specialty Coatings for Motor Vehicles
211.6150	Specialty High Gloss Catalyzed Coating
211.6170	Specialty Leather
211.6190	Specialty Soybean Crushing Source
211.6210	Splash Loading
211.6230	Stack
211.6250	Stain Coating
211.6270	Standard Conditions
211.6290	Standard Cubic Foot (scf)
211.6310	Start-Up
211.6330	Stationary Emission Source
211.6350	Stationary Emission Unit
211.6355	Stationary Gas Turbine
211.6360	Stationary Reciprocating Internal Combustion Engine
211.6370	Stationary Source
211.6390	Stationary Storage Tank
211.6400	Stencil Coat
211.6405	Sterilization Indicating Ink
211.6410	Storage Tank or Storage Vessel
211.6420	Strippable Spray Booth Coating
211.6425	Stripping
211.6427	Structural Glazing
211.6430	Styrene Devolatilizer Unit

211.6450	Styrene Recovery Unit
211.6460	Subfloor
211.6470	Submerged Loading Pipe
211.6490	Substrate
211.6510	Sulfuric Acid Mist
211.6530	Surface Condenser
211.6535	Surface Preparation
211.6540	Surface Preparation Materials
211.6550	Synthetic Organic Chemical or Polymer Manufacturing Plant
211.6570	Tablet Coating Operation
211.6580	Texture Coat
211.6585	Thin Metal Laminating Adhesive
211.6587	Thin Particleboard
211.6590	Thirty-Day Rolling Average
211.6610	Three-Piece Can
211.6620	Three or Four Stage Coating System
211.6630	Through-the-Valve Fill
211.6635	Tileboard
211.6640	Tire Repair
211.6650	Tooling Resin
211.6670	Topcoat
211.6690	Topcoat Operation
211.6695	Topcoat System
211.6710	Touch-Up
211.6720	Touch-Up Coating
211.6730	Transfer Efficiency
211.6740	Translucent Coating
211.6750	Tread End Cementing
211.6770	True Vapor Pressure
211.6780	Trunk Interior Coating
211.6790	Turnaround
211.6810	Two-Piece Can
211.6825	Underbody Coating
211.6830	Under-the-Cup Fill
211.6850	Undertread Cementing
211.6860	Uniform Finish Blender
211.6870	Unregulated Safety Relief Valve
211.6880	Vacuum Metallizing
211.6885	Vacuum Metalizing Coating

211.6890 Vacuum Producing System
211.6910 Vacuum Service
211.6930 Valves Not Externally Regulated
211.6950 Vapor Balance System
211.6970 Vapor Collection System
211.6990 Vapor Control System
211.7010 Vapor-Mounted Primary Seal
211.7030 Vapor Recovery System
211.7050 Vapor-Suppressed Polyester Resin
211.7070 Vinyl Coating
211.7090 Vinyl Coating Line
211.7110 Volatile Organic Liquid (VOL)
211.7130 Volatile Organic Material Content (VOMC)
211.7150 Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)
211.7170 Volatile Petroleum Liquid
211.7190 Wash Coat
211.7200 Washoff Operations
211.7210 Wastewater (Oil/Water) Separator
211.7220 Waterproof Resorcinol Glue
211.7230 Weak Nitric Acid Manufacturing Process
211.7240 Weatherstrip Adhesive
211.7250 Web
211.7270 Wholesale Purchase − Consumer
211.7290 Wood Furniture
211.7310 Wood Furniture Coating
211.7330 Wood Furniture Coating Line
211.7350 Woodworking
211.7400 Yeast Percentage

211.APPENDIX A Rule into Section Table
211.APPENDIX B Section into Rule Table

AUTHORITY: Implementing Sections 9, 9.1, 9.9 and 10 and authorized by Sections 27 of the Environmental Protection Act [415 ILCS 5/9, 9.1, 9.9, 10, and 27].

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 201: Definitions, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R74-2 and R75-5, 32 PCB 295, at 3 Ill. Reg. 5, p. 777, effective February 3, 1979; amended in R78-3 and 4, 35 PCB 75 and 243, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5, at 7 Ill. Reg. 1244, effective January 21,

1983; codified at 7 Ill. Reg. 13590; amended in R82-1 (Docket A) at 10 Ill. Reg. 12624, effective July 7, 1986; amended in R85-21(A) at 11 Ill. Reg. 11747, effective June 29, 1987; amended in R86-34 at 11 Ill. Reg. 12267, effective July 10, 1987; amended in R86-39 at 11 Ill. Reg. 20804, effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 787, effective December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7284, effective April 8, 1988; amended in R86-10 at 12 Ill. Reg. 7621, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg. 10862, effective June 27, 1989; amended in R89-8 at 13 Ill. Reg. 17457, effective January 1, 1990; amended in R89-16(A) at 14 Ill. Reg. 9141, effective May 23, 1990; amended in R88-30(B) at 15 Ill. Reg. 5223, effective March 28, 1991; amended in R88-14 at 15 Ill. Reg. 7901, effective May 14, 1991; amended in R91-10 at 15 Ill. Reg. 15564, effective October 11, 1991; amended in R91-6 at 15 Ill. Reg. 15673, effective October 14, 1991; amended in R91-22 at 16 Ill. Reg. 7656, effective May 1, 1992; amended in R91-24 at 16 Ill. Reg. 13526, effective August 24, 1992; amended in R93-9 at 17 Ill. Reg. 16504, effective September 27, 1993; amended in R93-11 at 17 Ill. Reg. 21471, effective December 7, 1993; amended in R93-14 at 18 Ill. Reg. 1253, effective January 18, 1994; amended in R94-12 at 18 Ill. Reg. 14962, effective September 21, 1994; amended in R94-14 at 18 Ill. Reg. 15744, effective October 17, 1994; amended in R94-15 at 18 Ill. Reg. 16379, effective October 25, 1994; amended in R94-16 at 18 Ill. Reg. 16929, effective November 15, 1994; amended in R94-21, R94-31 and R94-32 at 19 Ill. Reg. 6823, effective May 9, 1995; amended in R94-33 at 19 Ill. Reg. 7344, effective May 22, 1995; amended in R95-2 at 19 Ill. Reg. 11066, effective July 12, 1995; amended in R95-16 at 19 Ill. Reg. 15176, effective October 19, 1995; amended in R96-5 at 20 Ill. Reg. 7590, effective May 22, 1996; amended in R96-16 at 21 Ill. Reg. 2641, effective February 7, 1997; amended in R97-17 at 21 Ill. Reg. 6489, effective May 16, 1997; amended in R97-24 at 21 Ill. Reg. 7695, effective June 9, 1997; amended in R96-17 at 21 Ill. Reg. 7856, effective June 17, 1997; amended in R97-31 at 22 Ill. Reg. 3497, effective February 2, 1998; amended in R98-17 at 22 Ill. Reg. 11405, effective June 22, 1998; amended in R01-9 at 25 Ill. Reg. 108, effective December 26, 2000; amended in R01-11 at 25 Ill. Reg. 4582, effective March 15, 2001; amended in R01-17 at 25 Ill. Reg. 5900, effective April 17, 2001; amended in R05-16 at 29 Ill. Reg. 8181, effective May 23, 2005; amended in R05-11 at 29 Ill. Reg. 8892, effective June 13, 2005; amended in R04-12/20 at 30 Ill. Reg. 9654, effective May 15, 2006; amended in R07-18 at 31 Ill. Reg. 14254, effective September 25, 2007; amended in R08-6 at 32 Ill. Reg. 1387, effective January 16, 2008; amended in R07-19 at 33 Ill. Reg. 11982, effective August 6, 2009; amended in R08-19 at 33 Ill. Reg. 13326, effective August 31, 2009; amended in R10-7 at 34 Ill. Reg. 1391, effective January 11, 2010; amended in R10-8 at 34 Ill. Reg. 9069, effective June 25, 2010; amended in R10-20 at 34 Ill. Reg. 14119, effective September 14, 2010; amended in R11-23 at 35 Ill. Reg. 13451, effective July 27, 2011; amended in R12-24 at 37 Ill. Reg. 1662, effective January 28, 2013; amended in R13-1 at 37 Ill. Reg. 1913, effective February 4, 2013; amended in R14-7 at 37 Ill. Reg. 19824, effective November 27, 2013; amended in R14-16 at 38 Ill. Reg. 12876, effective June 9, 2014; amended in R15-5 at 39 Ill. Reg. 5410, effective March 24, 2015;

amended in R17-2 at 41 Ill. Reg. 1096, effective January 23, 2017; amended in R17-9 at 41 Ill. Reg. 4173, effective March 24, 2017; amended in R17-11 at 41 Ill. Reg. 13389, effective October 23, 2017; amended at 44 Ill. Reg. _____, effective _____.

SUBPART B: DEFINITIONS

Section 211.7150 Volatile Organic Material (VOM) or Volatile Organic Compound (VOC)

"Volatile organic material" (also "VOM") or "volatile organic compound" (also "VOC") means any compound of carbon, excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that participates in atmospheric photochemical reactions.

a) This definition of VOM includes any organic compound that participates in atmospheric photochemical reactions, other than the compounds listed in this subsection (a). USEPA has determined that the compounds listed in this subsection (a) have negligible photochemical reactivity.

2-Amino-2-methylpropan-1-ol (CAS No. 124-68-5)
Bis(difluoromethoxy)difluoromethane (HFE-236cal2, CAS No. 78522-47-1)
1,2-Bis(difluoromethoxy)-1,1,2,2-tetrafluoroethane (HFE-338pcc13, CAS No. 188690-78-0)
tertiary-Butyl acetate (1,1-dimethylethyl acetic acid ester, CAS No. 540-88-5)
1-Chloro-1,1-difluoroethane (HCFC-142b, CAS No. 75-68-3)
Chlorodifluoromethane (CFC-22, CAS No. 75-45-6)
1-Chloro-1-fluoroethane (HCFC-151a, CAS No. 1615-75-4)
Chlorofluoromethane (HCFC-31, CAS No. 593-70-4)
Chloropentafluoroethane (CFC-115, CAS No. 76-15-3)
2-Chloro-1,1,1,2-tetrafluoroethane (HCFC-124, CAS No. 2837-89-0)
1-Chloro-4-(trifluoromethyl)benzene (parachlorobenzotrifluoride (PCBTF), CAS No. 98-56-6)
(1E)-1-Chloro-3,3,3-trifluoroprop-1-ene (trans-1-chloro-3,3,3-trifluoroprop-1-ene, CAS No. 102687-65-0)
1,1,1,2,2,3,4,5,5,5-Decafluoro-3-methoxy-4-trifluoromethylpentane (HFE-7300, CAS No. 132182-92-4)
1,1,1,2,3,4,4,5,5,5-Decafluoropentane (HFC 43-10mee, CAS No. 138495-42-8)

Dichlorodifluoromethane (CFC-12, CAS No. 75-71-8)
1,1-Dichloro-1-fluoroethane (HCFC-141b, CAS No. 1717-00-6)
Dichloromethane (methylene chloride, CAS No. 75-09-2)
3,3-Dichloro-1,1,1,2,2-pentafluoropropane (HCFC-225ca, CAS No. 422-56-0)
1,3-Dichloro-1,1,2,2,3-pentafluoropropane (HCFC-225cb, CAS No. 507-55-1)
1,2-Dichloro-1,1,2,2-tetrafluoroethane (CFC-114, CAS No. 76-14-2)
1,1-Dichloro-2,2,2-trifluoroethane (HCFC-123, CAS No. 306-83-2)
1,2-Dichloro-1,1,2-trifluoroethane (HCFC-123a, CAS No. 354-23-4)
1,1-Difluoroethane (HFC-152a, CAS No. 75-37-6)
Difluoromethane (HFC-32, CAS No. 75-10-5)
(Difloromethoxy)difluoromethane (HFE-134, CAS No. 1691-17-4)
1-(Difloromethoxy)-2-[(difluoromethoxy)(difluoro)methoxy]-1,1,2,2-tetrafluoroethane (HFE-43-10pccc124, CAS No. 188690-77-9)
2-(Difluoromethoxymethyl)-1,1,1,2,3,3,3-heptafluoropropane (CAS No. 163702-08-7)
Dimethyl carbonate (CAS No. 616-38-6)
Ethane (CAS No. 74-84-0)
2-(Ethoxydifluoromethyl)-1,1,1,2,3,3,3-heptafluoropropane (CAS No. 163702-06-5)
3-Ethoxy-1,1,1,2,3,4,4,5,5,6,6,6-dodecafluoro-2-(trifluoromethyl)hexane (HFE-7500, CAS No. 297730-93-9)
1-Ethoxy-1,1,2,2,3,3,4,4,4-nonafluorobutane (HFE-7200, CAS No. 163702-05-4)
Ethylfluoride (HFC-161, CAS No. 353-36-6)
1,1,1,2,2,3,3-Heptafluoro-3-methoxypropane (HFE-7000, CAS No. 375-03-1)
1,1,1,2,3,3,3-Heptafluoropropane (HFC-227ea, CAS No. 431-89-0)
1,1,1,2,3,3-Hexafluoropropane (HFC-236ea, CAS No. 431-63-0)
1,1,1,3,3,3-Hexafluoropropane (HFC-236fa, CAS No. 690-39-1)
Methane (CAS No. 74-82-8)
Methyl acetate (methyl ethanoate, CAS No. 79-20-9)
4-Methyl-1,3-dioxolan-2-one (propylene carbonate, CAS No. 108-32-7)
Methyl formate (methyl methanoate, CAS No. 107-31-3)
1,1,1,2,2,3,3,4,4-Nonafluoro-4-methoxybutane (HFE-7100, CAS No. 163702-07-6)
1,1,1,3,3-Pentafluorobutane (HFC-365mfc, CAS No. 406-58-6)
Pentafluoroethane (HFC-125, CAS No. 354-33-6)

1,1,2,2,3-Pentafluoropropane (HFC-245ca, CAS No. 679-86-7)
1,1,2,3,3-Pentafluoropropane (HFC-245ea, CAS No. 24270-66-4)
1,1,1,2,3-Pentafluoropropane (HFC-245eb, CAS No. 431-31-2)
1,1,1,3,3-Pentafluoropropane (HFC-245fa, CAS No. 460-73-1)
Perfluorocarbon compounds that fall into the following classes:
Cyclic, branched, or linear, completely fluorinated alkanes
Cyclic, branched, or linear, completely fluorinated ethers with no unsaturations
Cyclic, branched, or linear, completely fluorinated tertiary amines with no unsaturations
Sulfur-containing perfluorocarbons with no unsaturations and with sulfur bonds only to carbon and fluorine
Propan-2-one (acetone or dimethylketone, CAS No. 67-64-1)
Siloxanes: cyclic, branched, or linear completely-methylated
Tetrachloroethene (perchloroethylene, CAS No. 127-18-4)
1,1,2,2-Tetrafluoroethane (HFC-134, CAS No. 359-35-3)
1,1,1,2-Tetrafluoroethane (HFC-134a, CAS No. 811-97-2)
(1E)-1,3,3,3-Tetrafluoropropene (trans-1,3,3,3-tetrafluoropropene, HFO-1234ze, CAS No. 29118-24-9)
2,3,3,3-Tetrafluoroprop-1-ene (HFO-1234yf, CAS No. 754-12-1)
1,1,1-Trichloroethane (methyl chloroform, CAS No. 71-55-6)
1,1,2,2-tetrafluoro-1-(2,2,2-trifluoroethoxy)ethane (HFE-347pcf2, CAS No. 406-78-0)
Trichlorofluoromethane (CFC-11, CAS No. 75-69-4)
1,1,2-Trichloro-1,2,2-trifluoroethane (CFC-113, CAS No. 76-13-1)
1,1,1-Trifluoroethane (HFC-143a, CAS No. 420-46-2)
Trifluoromethane (HFC-23, CAS No. 75-46-7)

b) For purposes of determining VOM emissions and compliance with emissions limits, VOM will be measured by the test methods in the approved implementation plan or 40 CFR 60, appendix A, incorporated by reference at 35 Ill. Adm. Code 215.105, 218.112, and 219.112, as applicable, or by source-specific test methods that have been established under~~pursuant to~~ a permit issued under a program approved or promulgated under Title V of the Clean Air Act; under 35 Ill. Adm. Code 203~~40 CFR 51, subpart I or appendix S, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112~~; or under Section 9.1(d) of the Act~~under 40 CFR 52.21, incorporated by reference at 35 Ill. Adm. Code 218.112 and 219.112, as applicable~~. Where such a method also measures compounds with negligible photochemical reactivity, these negligibly-reactive

compounds may be excluded as VOM if the amount of such compounds is accurately quantified and the exclusion is approved by the Agency.

c) As a precondition to excluding these negligibly-reactive compounds as VOM, or at any time thereafter, the Agency may require an owner or operator to provide monitoring or testing methods and results demonstrating, to the satisfaction of the Agency, the amount of negligibly-reactive compounds in the source's emissions.

d) The USEPA will not be bound by any State determination as to appropriate methods for testing or monitoring negligibly-reactive compounds if such determination is not reflected in any of the test methods in subsection (b).

(Source: Amended at 44 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Organic Material Emission Standards and Limitations

2) Code Citation: 35 Ill. Adm. Code 215

3)

Section Numbers:	Proposed Actions:
215.920	Amendment
215.940	Amendment
215.960	Amendment

4) Statutory Authority: Implementing Section 9.1 and authorized by Sections 27 and 28 of the Environmental Protection Act [415 ILCS 5/9.1, 27, and 28].

5) A Complete Description of the Subjects and Issues Involved: The Illinois Environmental Protection Agency (IEPA) proposed that the Board adopt a new Part 204 of its air pollution rules to create a Prevention of Significant Deterioration (PSD) permitting program. IEPA intends that its proposal will allow it to assume responsibility for PSD permitting from the United States Environmental Protection Agency (USEPA) and also allow the Board to assume responsibility for appeals of PSD permits issued by IEPA. IEPA states that its proposal meets requirements to establish such a program under Section 9.1(c) of the Illinois Environmental Protection Act (Act) [415 ILCS 5/9.1(c) (2018)]; see PA 99-463, eff. Jan. 1, 2016.

IEPA proposed to amend existing Part 215 of the Board's organic material emissions and limitations rules to conform with the new Part 204 and accommodate PSD permit appeals.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

11) Statement of Statewide Policy Objective: These proposed amendments do not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3].

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: The Board will accept written public comments on this proposal for a period of at least 45 days after the date of publication in the *Illinois Register*. Public comments must be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at pcb.illinois.gov. Public comments may also be filed with the Clerk of the Board addressed to:

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

Public comments must refer to Board docket number R 19-1.

Interested persons may request copies of the Board's opinion and order in R19-01 by download copies from the Board's Web site at pcb.illinois.gov or by calling the Clerk's office at 312/814-3620.

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: The proposal may apply to an entity proposing a new major stationary source of major modification at an existing major stationary source to which the PSD permitting program applies.

B) Reporting, bookkeeping or other procedures required for compliance: Because proposed revisions to Part 215 conform the Board's existing procedural rules to PSD permit appeals in proposed Part 204, the Board does not expect that the revised Part 215 requires any additional recordkeeping or other procedures for compliance.

C) Types of professional skills necessary for compliance: Because the proposed requirements of Part 204 are in effect under the federal PSD rules, the necessary skills are equivalent to those required to comply with current requirements.

14) Small Business Impact Analysis: The Board does not expect that small businesses will be impacted by this rulemaking.

15) Regulatory Agenda on which this rulemaking was summarized: July 2019

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

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE B: AIR POLLUTION
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER c: EMISSIONS STANDARDS AND LIMITATIONS
FOR STATIONARY SOURCES

PART 215
ORGANIC MATERIAL EMISSION STANDARDS AND LIMITATIONS

SUBPART A: GENERAL PROVISIONS

Section
215.100 Introduction
215.101 Clean-up and Disposal Operations
215.102 Testing Methods
215.103 Abbreviations and Conversion Factors
215.104 Definitions
215.105 Incorporation by Reference
215.106 Afterburners
215.107 Determination of Applicability
215.108 Measurement of Vapor Pressures
215.109 Monitoring for Negligibly-Reactive Compounds

SUBPART B: ORGANIC EMISSIONS FROM STORAGE
AND LOADING OPERATIONS

Section
215.121 Storage Containers
215.122 Loading Operations
215.123 Petroleum Liquid Storage Tanks
215.124 External Floating Roofs
215.125 Compliance Dates and Geographical Areas
215.126 Compliance Plan
215.127 Emissions Testing
215.128 Measurement of Seal Gaps

SUBPART C: ORGANIC EMISSIONS FROM
MISCELLANEOUS EQUIPMENT

Section
215.141 Separation Operations
215.142 Pumps and Compressors
215.143 Vapor Blowdown
215.144 Safety Relief Valves

SUBPART E: SOLVENT CLEANING

Section
215.181 Solvent Cleaning in General
215.182 Cold Cleaning
215.183 Open Top Vapor Degreasing
215.184 Conveyorized Degreasing
215.185 Compliance Plan

SUBPART F: COATING OPERATIONS

Section
215.202 Compliance Schedules
215.204 Emission Limitations for Manufacturing Plants
215.205 Alternative Emission Limitations
215.206 Exemptions from Emission Limitations
215.207 Compliance by Aggregation of Emission Units
215.208 Testing Methods for Volatile Organic Material Content
215.209 Exemption from General Rule on Use of Organic Material
215.210 Alternative Compliance Schedule
215.211 Compliance Dates and Geographical Areas
215.212 Compliance Plan
215.213 Special Requirements for Compliance Plan
215.214 Roadmaster Emissions Limitations (Repealed)
215.215 DMI Emissions Limitations

SUBPART H: SPECIAL LIMITATIONS FOR SOURCES IN MAJOR URBANIZED AREAS WHICH ARE NONATTAINMENT FOR OZONE

Section
215.240 Applicability
215.241 External Floating Roofs
215.245 Flexographic and Rotogravure Printing

215.249 Compliance Dates

SUBPART I: ADJUSTED RACT EMISSIONS LIMITATIONS

Section
215.260 Applicability
215.261 Petition
215.263 Public Hearing
215.264 Board Action
215.267 Agency Petition

SUBPART K: USE OF ORGANIC MATERIAL

Section
215.301 Use of Organic Material
215.302 Alternative Standard
215.303 Fuel Combustion Emission Sources
215.304 Operations with Compliance Program
215.305 Viscose Exemption (Repealed)

SUBPART N: VEGETABLE OIL PROCESSING

Section
215.340 Hexane Extraction Soybean Crushing
215.342 Hexane Extraction Corn Oil Processing
215.344 Recordkeeping for Vegetable Oil Processes
215.345 Compliance Determination
215.346 Compliance Dates and Geographical Areas
215.347 Compliance Plan

SUBPART P: PRINTING AND PUBLISHING

Section
215.401 Flexographic and Rotogravure Printing
215.402 Exemptions
215.403 Applicability of Subpart K
215.404 Testing and Monitoring (Repealed)
215.405 Compliance Dates and Geographical Areas
215.406 Alternative Compliance Plan

215.407 Compliance Plan
215.408 Heatset Web Offset Lithographic Printing
215.409 Testing Methods for Volatile Organic Material Content
215.410 Emissions Testing

SUBPART Q: LEAKS FROM SYNTHETIC ORGANIC CHEMICAL AND POLYMER MANUFACTURING EQUIPMENT

Section
215.420 Applicability
215.421 General Requirements
215.422 Inspection Program Plan for Leaks
215.423 Inspection Program for Leaks
215.424 Repairing Leaks
215.425 Recordkeeping for Leaks
215.426 Report for Leaks
215.427 Alternative Program for Leaks
215.428 Compliance Dates
215.429 Compliance Plan
215.430 General Requirements
215.431 Inspection Program Plan for Leaks
215.432 Inspection Program for Leaks
215.433 Repairing Leaks
215.434 Recordkeeping for Leaks
215.435 Report for Leaks
215.436 Alternative Program for Leaks
215.437 Open-Ended Valves
215.438 Standards for Control Devices
215.439 Compliance Plan

SUBPART R: PETROLEUM REFINING AND RELATED INDUSTRIES; ASPHALT MATERIALS

Section
215.441 Petroleum Refinery Waste Gas Disposal
215.442 Vacuum Producing Systems
215.443 Wastewater (Oil/Water) Separator
215.444 Process Unit Turnarounds
215.445 Leaks: General Requirements

215.446 Monitoring Program Plan for Leaks
215.447 Monitoring Program for Leaks
215.448 Recordkeeping for Leaks
215.449 Reporting for Leaks
215.450 Alternative Program for Leaks
215.451 Sealing Device Requirements
215.452 Compliance Schedule for Leaks
215.453 Compliance Dates and Geographical Areas

SUBPART S: RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS

Section
215.461 Manufacture of Pneumatic Rubber Tires
215.462 Green Tire Spraying Operations
215.463 Alternative Emission Reduction Systems
215.464 Emissions Testing
215.465 Compliance Dates and Geographical Areas
215.466 Compliance Plan
215.467 Testing Methods for Volatile Organic Material Content

SUBPART T: PHARMACEUTICAL MANUFACTURING

Section
215.480 Applicability of Subpart T
215.481 Control of Reactors, Distillation Units, Crystallizers, Centrifuges and Vacuum Dryers
215.482 Control of Air Dryers, Production Equipment Exhaust Systems and Filters
215.483 Material Storage and Transfer
215.484 In-Process Tanks
215.485 Leaks
215.486 Other Emission Sources
215.487 Testing
215.488 Monitors for Air Pollution Control Equipment
215.489 Recordkeeping (Renumbered)
215.490 Compliance Schedule (Renumbered)

SUBPART U: COKE MANUFACTURING AND BY-PRODUCT RECOVERY

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section
215.500 Exceptions
215.510 Coke By-Product Recovery Plants
215.512 Coke By-Product Recovery Plant Leaks
215.513 Inspection Program
215.514 Recordkeeping Requirements
215.515 Reporting Requirements
215.516 Compliance Dates
215.517 Compliance Plan

SUBPART V: AIR OXIDATION PROCESSES

Section
215.520 Applicability
215.521 Definitions
215.525 Emission Limitations for Air Oxidation Processes
215.526 Testing and Monitoring
215.527 Compliance Date

SUBPART W: AGRICULTURE

Section
215.541 Pesticide Exception

SUBPART X: CONSTRUCTION

Section
215.561 Architectural Coatings
215.562 Paving Operations
215.563 Cutback Asphalt

SUBPART Y: GASOLINE DISTRIBUTION

Section
215.581 Bulk Gasoline Plants
215.582 Bulk Gasoline Terminals
215.583 Gasoline Dispensing Facilities – Storage Tank Filling Operations
215.584 Gasoline Delivery Vessels
215.585 Gasoline Volatility Standards (Repealed)

215.586 Emissions Testing

SUBPART Z: DRY CLEANERS

Section
215.601 Perchloroethylene Dry Cleaners (Repealed)
215.602 Exemptions (Repealed)
215.603 Leaks (Repealed)
215.604 Compliance Dates and Geographical areas (Repealed)
215.605 Compliance Plan (Repealed)
215.606 Exception to Compliance Plan (Repealed)
215.607 Standards for Petroleum Solvent Dry Cleaners
215.608 Operating Practices for Petroleum Solvent Dry Cleaners
215.609 Program for Inspection and Repair of Leaks
215.610 Testing and Monitoring
215.611 Exemption for Petroleum Solvent Dry Cleaners
215.612 Compliance Dates and Geographical Areas
215.613 Compliance Plan
215.614 Testing Method for Volatile Organic Material Content of Wastes
215.615 Emissions Testing

SUBPART AA: PAINT AND INK MANUFACTURING

Section
215.620 Applicability
215.621 Exemption for Waterbase Material and Heatset Offset Ink
215.623 Permit Conditions
215.624 Open-top Mills, Tanks, Vats or Vessels
215.625 Grinding Mills
215.628 Leaks
215.630 Clean Up
215.636 Compliance Date

SUBPART BB: POLYSTYRENE PLANTS

Section
215.875 Applicability of Subpart BB
215.877 Emissions Limitation at Polystyrene Plants
215.879 Compliance Date

215.881 Compliance Plan
215.883 Special Requirements for Compliance Plan
215.886 Emissions Testing

SUBPART PP: MISCELLANEOUS FABRICATED PRODUCT MANUFACTURING PROCESSES

Section
215.920 Applicability
215.923 Permit Conditions
215.926 Control Requirements

SUBPART QQ: MISCELLANEOUS FORMULATION MANUFACTURING PROCESSES

Section
215.940 Applicability
215.943 Permit Conditions
215.946 Control Requirements

SUBPART RR: MISCELLANEOUS ORGANIC CHEMICAL MANUFACTURING PROCESSES

Section
215.960 Applicability
215.963 Permit Conditions
215.966 Control Requirements

215.APPENDIX A Rule into Section Table
215.APPENDIX B Section into Rule Table
215.APPENDIX C Past Compliance Dates
215.APPENDIX D List of Chemicals Defining Synthetic Organic Chemical and Polymer Manufacturing
215.APPENDIX E Reference Methods and Procedures
215.APPENDIX F Coefficients for the Total Resource Effectiveness Index (TRE) Equation

AUTHORITY: Implementing Sections 9.1 and 10 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/9.1, 10 and 27].

SOURCE: Adopted as Chapter 2: Air Pollution, Rule 205: Organic Material Emission Standards and Limitations, R71-23, 4 PCB 191, filed and effective April 14, 1972; amended in R77-3, 33 PCB 357, at 3 Ill. Reg. 18, p. 41, effective May 3, 1979; amended in R78-3 and R78-4, 35 PCB 75, at 3 Ill. Reg. 30, p. 124, effective July 28, 1979; amended in R80-5 at 7 Ill. Reg. 1244, effective January 21, 1983; codified at 7 Ill. Reg. 13601 Corrected at 7 Ill. Reg. 14575; amended in R82-14 at 8 Ill. Reg. 13254, effective July 12, 1984; amended in R83-36 at 9 Ill. Reg. 9114, effective May 30, 1985; amended in R82-14 at 9 Ill. Reg. 13960, effective August 28, 1985; amended in R85-28 at 11 Ill. Reg. 3127, effective February 3, 1987; amended in R82-14 at 11 Ill. Reg. 7296, effective April 3, 1987; amended in R85-21(A) at 11 Ill. Reg. 11770, effective June 29, 1987; recodified in R86-39 at 11 Ill. Reg. 13541; amended in R82-14 and R86-12 at 11 Ill. Reg. 16706, effective September 30, 1987; amended in R85-21(B) at 11 Ill. Reg. 19117, effective November 9, 1987; amended in R86-36, R86-39, R86-40 at 11 Ill. Reg. 20829, effective December 14, 1987; amended in R82-14 and R86-37 at 12 Ill. Reg. 815, effective December 24, 1987; amended in R86-18 at 12 Ill. Reg. 7311, effective April 8, 1988; amended in R86-10 at 12 Ill. Reg. 7650, effective April 11, 1988; amended in R88-23 at 13 Ill. Reg. 10893, effective June 27, 1989; amended in R88-30(A) at 14 Ill. Reg. 3555, effective February 27, 1990; emergency amendments in R88-30A at 14 Ill. Reg. 6421, effective April 11, 1990, for a maximum of 150 days; amended in R88-19 at 14 Ill. Reg. 7596, effective May 8, 1990; amended in R89-16(A) at 14 Ill. Reg. 9173, effective May 23, 1990; amended in R88-30(B) at 15 Ill. Reg. 3309, effective February 15, 1991; amended in R88-14 at 15 Ill. Reg. 8018, effective May 14, 1991; amended in R91-7 at 15 Ill. Reg. 12217, effective August 19, 1991; amended in R91-10 at 15 Ill. Reg. 15595, effective October 11, 1991; amended in R89-7(B) at 15 Ill. Reg. 17687, effective November 26, 1991; amended in R91-9 at 16 Ill. Reg. 3132, effective February 18, 1992; amended in R91-24 at 16 Ill. Reg. 13555, effective August 24, 1992; amended in R91-30 at 16 Ill. Reg. 13849, effective August 24, 1992; amended in R98-15 at 22 Ill. Reg. 11427, effective June 19, 1998; amended in R12-24 at 37 Ill. Reg. 1683, effective January 28, 2013; expedited correction at 37 Ill. Reg. 16858, effective January 28, 2013; amended in R19-1 at 44 Ill. Reg. _____, effective _____.

SUBPART PP: MISCELLANEOUS FABRICATED PRODUCT MANUFACTURING PROCESSES

Section 215.920 Applicability

a) The requirements of this Subpart ~~shall~~ apply to the following counties: Cook, DuPage, Kane, Lake, Macoupin, Madison, McHenry, Monroe, St. Clair and Will.

b) The requirements of this Subpart ~~shall~~ apply to a plant's miscellaneous fabricated product manufacturing process emission sources that~~which~~ are not regulated by

Subparts B, E, F, N, P, Q, R, S, U, V, X, Y, or Z if the plant is subject to this Subpart. A plant is subject to this Subpart if it contains process emission sources, not regulated by Subparts B, E, F, N, P, Q, R, S, U, V, X, Y, or Z, which as a group would emit 100 tons or more per year of volatile organic material if no air pollution control equipment were used.

c) If a plant ceases to fulfill the criteria of subsection (b), the requirements of this Subpart ~~shall~~ continue to apply to a miscellaneous fabricated products manufacturing process emission source which was subject to and met the control requirements of Section 215.926.

d) No limits under this Subpart ~~shall~~ apply to:

1) Emission sources with emissions of volatile organic material to the atmosphere less than or equal to 1.0 tons per year if the total emissions from those~~such~~ sources not complying with Section 215.926 do~~does~~ not exceed 5.0 tons per year;~~,~~ and

2) Emission sources whose emissions of volatile organic material are subject to limits in 35 Ill. Adm. Code 230 or 35 Ill. Adm. Code 231; or the Lowest Achievable Emission Rate, under~~pursuant to~~ 35 Ill. Adm. Code 203; or Best Available Control Technology, under a permit issued under Section 9.1(d) of the Act~~pursuant to 40 CFR 52.21 (1987)~~ or under Section 9.4 of the Act.~~ The Board incorporates by reference 40 CFR 52.21 (1987). This incorporation includes no subsequent amendments or editions.~~

e) For the purposes of this Subpart, an emission source shall be considered regulated by a Subpart if it is subject to the limits of that Subpart or it would be subject to the limits of that Subpart if the emission sources, emitting VOM, had sufficient size, throughput or emissions, or if the emission source did not meet a specific exemption contained in that Subpart.

f) For the purposes of this Subpart, uncontrolled volatile organic material emissions are the emissions of volatile organic material that~~which~~ would result if no air pollution control equipment were used.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART QQ: MISCELLANEOUS FORMULATION

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

MANUFACTURING PROCESSES

Section 215.940 Applicability

a) The requirements of this Subpart ~~shall~~ apply to the following counties: Cook, DuPage, Kane, Lake, Macoupin, Madison, McHenry, Monroe, St. Clair and Will.

b) The requirements of this Subpart ~~shall~~ apply to a plant's miscellaneous formulation manufacturing process emission sources, which are not regulated by Subpart~~Subparts~~ B, E, F, N, P, Q, R, S, U, V, X, Y, or Z, if the plant is subject to this Subpart. A plant is subject to this Subpart if it contains process emission sources, not regulated by Subpart~~Subparts~~ B, E, F, N, P, Q, R, S, U, V, X, Y, or Z, which as a group would emit 100 tons or more per year of volatile organic material if no air pollution control equipment were used.

c) If a plant ceases to fulfill the criteria of subsection (b), the requirements of this Subpart ~~shall~~ continue to apply to a miscellaneous formulation manufacturing process emission source that~~which~~ was subject to and met the control requirements of Section 215.946.

d) No limits under this Subpart ~~shall~~ apply to:

1) Emission sources with emissions of volatile organic material to the atmosphere less than or equal to 2.5 tons per year if the total emissions from those~~such~~ sources not complying with Section 215.946 do~~does~~ not exceed 5.0 tons per year;~~,~~ and

2) Emission sources whose emissions of volatile organic material are subject to limits in 35 Ill. Adm. Code 230 or 35 Ill. Adm. Code 231; or the Lowest Achievable Emission Rate, under~~pursuant to~~ 35 Ill. Adm. 203; or Best Available Control Technology, under a permit issued under Section 9.1(d) of the Act~~pursuant to 40 CFR 52.21 (1987)~~ or under Section 9.4 of the Act.~~ The Board incorporates by reference 40 CFR 52.21 (1987). This incorporation includes no subsequent amendments or editions.~~

e) For the purposes of this Subpart, an emission source shall be considered regulated by a Subpart if it is subject to the limits of that Subpart or it would be subject to the limits of that Subpart if the emission sources, emitting VOM, had sufficient size, throughput or emissions, or if the emission source did not meet a specific

exemption contained in that Subpart.

f) For the purposes of this Subpart, uncontrolled volatile organic material emissions are the emissions of volatile organic material that~~which~~ would result if no air pollution control equipment were used.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART RR: MISCELLANEOUS ORGANIC CHEMICAL MANUFACTURING PROCESSES

Section 215.960 Applicability

a) The requirements of this Subpart ~~shall~~ apply to the following counties: Cook, DuPage, Kane, Lake, Macoupin, Madison, McHenry, Monroe, St. Clair and Will.

b) The requirements of this Subpart ~~shall~~ apply to a plant's miscellaneous organic chemical manufacturing process emission sources which are not regulated by Subpart~~Subparts~~ B, E, F, N, P, Q, R, S, U, V, X, Y, or Z if the plant is subject to this Subpart. A plant is subject to this Subpart if it contains process emission sources, not regulated by Subpart~~Subparts~~ B, E, F, N, P, Q, R, S, U, V, X, Y, or Z, which as a group would emit 100 tons or more per year of volatile organic material if no air pollution control equipment were used.

c) If a plant ceases to fulfill the criteria of subsection (b), the requirements of this Subpart shall continue to apply to a miscellaneous organic chemical manufacturing process emission source which was subject to and met the control requirements of Section 215.966.

d) No limits under this Subpart ~~shall~~ apply to:

1) Emission sources with emissions of volatile organic material to the atmosphere less than or equal to 1.0 ton per year if the total emissions from those~~such~~ sources not complying with Section 215.966 do~~does~~ not exceed 5.0 tons per year;~~,~~ and

2) Emission sources whose emissions of volatile organic material are subject to limits in 35 Ill. Adm. Code 230 or 35 Ill. Adm. Code 231; or the Lowest Achievable Emission Rate, under~~pursuant to~~ 35 Ill. Adm. Code 203; or

Best Available Control Technology, under a permit issued under Section 9.1(d) of the Act~~pursuant to 40 CFR 52.21 (1987)~~ or under Section 9.4 of the Act.~~ The Board incorporates by reference 40 CFR 52.21 (1987). This incorporation includes no subsequent amendments or editions.~~

e) For the purposes of this Subpart, an emission source shall be considered regulated by a Subpart if it is subject to the limits of that Subpart or it would be subject to the limits of that Subpart if the emission sources, emitting VOM, had sufficient size, throughput or emissions, or if the emission source did not meet a specific exemption contained in that Subpart.

f) For the purposes of this Subpart, uncontrolled volatile organic material emissions are the emissions of volatile organic material that~~which~~ would result if no air pollution control equipment were used.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Grade "A" Pasteurized Milk and Milk Products

2) Code Citation: 77 Ill. Adm. Code 775

3) Section Number: 775.20 — Proposed Action: Amendment

4) Statutory Authority: Grade "A" Pasteurized Milk and Milk Products Act [410 ILCS 635]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking updates materials incorporated by reference.

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

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

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

9) Does this rulemaking contain incorporations by reference? Yes

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

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand any State mandates on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written or e-mail comments may be submitted within 45 days after 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
rules@idph.state.il.us

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Bulk milk hauler/samplers, milk tank truck owners, dairy producers and processors

B) Reporting, bookkeeping or other procedures required for compliance: There will be no change in the reporting, bookkeeping or other procedures required for compliance.

C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis:

A) Types of businesses subject to the proposed rule:

11 Agriculture, Forestry, Fishing and Hunting
72 Accommodation and Food Services
18 Other Services (except Public Administration)

B) Categories that the agency reasonably believes the rulemaking will impact, including:

ii. regulatory requirements

15) Regulatory Agenda on which this rulemaking was summarized: January 2020

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICS

PART 775
GRADE A PASTEURIZED MILK AND MILK PRODUCTS

Section

775.1 Minimum Regulations (Renumbered)
775.10 Definitions
775.20 Incorporated and Referenced Materials
775.30 Minimum Requirements
775.40 Local Government Implementation
775.50 Permits
775.55 Raw Milk Permit
775.60 Suspension of Permits
775.70 Inspections and Investigations
775.80 Approval of Construction Plans
775.90 Administrative Hearings
775.100 Milk Hauler-Samplers Examination
775.110 Milk Tank Trucks
775.115 Certified Pasteurizer Sealer Program
775.120 Cleaning and Sanitizing Procedures
775.130 Action Levels for Added Water in Milk
775.140 Pesticide, Herbicide and Mycotoxin Residue Control Program (Repealed)
775.150 Drug Residue Control Program

AUTHORITY: Authorized by and implementing the Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635].

SOURCE: Adopted and codified at 8 Ill. Reg. 4190, effective March 16, 1984; amended at 11 Ill. Reg. 1464, effective February 1, 1987; amended at 12 Ill. Reg. 17925, effective December 1, 1988; amended at 17 Ill. Reg. 14015, effective August 15, 1993; amended at 19 Ill. Reg. 12271, effective August 10, 1995; amended at 22 Ill. Reg. 20633, effective November 10, 1998; amended at 25 Ill. Reg. 11904, effective September 1, 2001; amended at 25 Ill. Reg. 12629, effective September 25, 2001; amended at 27 Ill. Reg. 15979, effective October 1, 2003; amended at 32 Ill. Reg. 8432, effective May 21, 2008; amended at 35 Ill. Reg. 14193, effective August 2, 2011; amended at 37 Ill. Reg. 7166, effective May 13, 2013; amended at 38 Ill. Reg. 11796, effective May 21, 2014; amended at 39 Ill. Reg. 420, effective December 19, 2014;

amended at 40 Ill. Reg. 2964, effective January 29, 2016; amended at 42 Ill. Reg. 6732, effective March 29, 2018; amended at 44 Ill. Reg. _____, effective _____.

Section 775.20 Incorporated and Referenced Materials

a) The following regulations, guidelines and standards are incorporated in this Part:

1) Federal government guidelines:

A) The Grade A Pasteurized Milk Ordinance (PMO), and Appendices A through R (except Sections 16 and 17) Recommendations of the United States Public Health Service/Food and Drug Administration, 2017~~2015~~ Revision (Publication 229). U.S. Department of Health and Human Services, Public Health Service, Food and Drug Administration, Milk Safety Branch (HFS-316), 5100 Paint Branch Parkway, College Park MD 20740-3835. In addition, the jurisdiction name, left blank in Sections 1, 2, 3, 5, and 11 of the PMO, for the purposes of this Part, shall mean the State of Illinois; and the regulatory agency referred to in Section 1 shall mean the Illinois Department of Public Health. (See Section 775.30(a).)

B) Evaluation of Milk Laboratories (2017~~2015~~ Revision), U.S. Department of Health and Human Services, Public Health Service/Food and Drug Administration, Milk Safety Branch (HFS-316), 5100 Paint Branch Parkway, College Park MD 20740-3835.

C) Methods of Making Sanitation Ratings of Milk Supplies (2017~~2015~~ Revision), U.S. Department of Health and Human Services, Public Health Service/Food and Drug Administration, Milk Safety Branch (HFS-316), 5100 Paint Branch Parkway, College Park MD 20740-3835.

D) Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments (2017~~2015~~ Revision), U.S. Department of Health and Human Services, Public Health Service/Food and Drug Administration, Milk Safety Branch (HFS-316), 5100 Paint Branch Parkway, College Park MD 20740-3835.

2) Private and professional standards:

A) Standard Methods for the Examination of Dairy Products (17th Edition, 2004, American Public Health Association, 1015 – 18th Street, N.W., Washington, DC 20036). (See Section 775.70(b).)

B) Official Methods of Analysis of the Association of Official Analytical Chemists (18th Edition, 2010, Association of Official Analytical Chemists, P.O. Box 540, Ben Franklin Station, Washington, DC 20044). (See Section 775.70(b).)

C) 3-A Sanitary Standards and Accepted Practices (January 5, 2015) (3-A Standards), 3-A Sanitary Standards, Inc., 6888 Elm Street, Suite 2D, McLean VA 22101 (http://www.3-a.org).

3) Federal regulations:

A) 21 CFR 131.110, Milk (2019~~2015~~). (See Section 775.10, the definition of "milkfat and nonfat solid content standards".)

B) 21 CFR 556, Tolerances for Residues or New Animal Drugs in Food (2019~~2015~~). (See Section 775.10, the definition of "violative drug residue".)

C) 40 CFR 180, Tolerances and Exemptions from Tolerances for Pesticide Chemicals in Food (2019~~2015~~). (See Section 775.140(a)(1).)

b) The following rules and statutes are referenced in this Part:

1) Illinois Plumbing Code (77 Ill. Adm. Code 890), Illinois Department of Public Health. (See Section 775.30(c)(4).)

2) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100), Illinois Department of Public Health. (See Section 775.90.)

3) Food Service Sanitation Code (77 Ill. Adm. Code 750).

4) The Veterinary Medicine and Surgery Practice Act of 2004 [225 ILCS 115].

5) Illinois Administrative Procedure Act [5 ILCS 100].

6) Food Handling Regulation Enforcement Act [410 ILCS 625].

c) All incorporations by reference of federal guidelines and regulations and the standards of professional organizations refer to the materials on the date specified and do not include any amendments or editions subsequent to the date specified.

d) All citations to federal regulations in this Part concern the specified regulation in the 2019~~2015~~ Code of Federal Regulations, unless another date is specified.

e) Copies of all incorporated materials are available for inspection and copying by the public at the Department's Central Office, Division of Food, Drugs, and Dairies, 525 West Jefferson Street, Springfield IL 62761.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Drinking Water Systems Code

2) Code Citation: 77 Ill. Adm. Code 900

3)

Section Numbers:	Proposed Actions:
900.10	Amendment
900.15	Amendment
900.20	Amendment
900.35	New Section
900.40	Amendment

4) Statutory Authority: Implementing and authorized by Section 9 of the Illinois Groundwater Protection Act [415 ILCS 55/9].

5) A Complete Description of the Subjects and Issues Involved: This rulemaking adds a new section for the Revised Total Coliform Rule (RTCR), which applies to Illinois Non-Community Public Water Systems (NCPWSs), such as schools, daycares, camp grounds, restaurants that operate their own water system. This new RTCR Section adds an assessment process that requires water systems that have Total Coliform or E. Coli Bacteria contamination to determine what caused the contamination and take corrective action. It also adds a requirement for seasonal water systems to perform a start-up procedure to ensure the water system is free of contamination prior to serving water to the public.

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

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

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

9) Does this rulemaking contain incorporations by reference? Yes

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

11) Statement of Statewide Policy Objective: NCPWSs must comply with the Primary Drinking Water Regulations administered in 77 IAC 900.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons 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
dph.rules@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: These amendments will impact small businesses, small municipalities, and not-for-profit corporations that own or operate a non-community public water system.

B) Reporting, bookkeeping or other procedures required for compliance: Seasonal Systems start-up certifications. Water system assessment forms will be completed by IDPH and Local Health Departments.

C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis:

A) Types of businesses subject to the proposed rule:

11 Agriculture, Forestry, Fishing and Hunting
71 Arts, Entertainment, and Recreation
72 Accommodation and Food Services
81 Other Services (except Public Administration)

B) Categories that the agency reasonably believes the rulemaking will impact, including:

ii. regulatory requirements;

iii. equipment and material needs;
iv. training requirements;
v. record keeping;

15) Regulatory Agenda on which this rulemaking was summarized: July 2019

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER r: WATER AND SEWAGE

PART 900
DRINKING WATER SYSTEMS CODE

Section
900.10 Definitions
900.15 Incorporated and Referenced Materials
900.20 General Requirements
900.30 Special Requirements
900.35 Revised Total Coliform Rule for Non-Community Public Water Systems
900.40 Water System Design
900.45 Non-Transient, Non-Community Public Water System Operator Certification
900.50 Inorganic Chemicals (Repealed)
900.60 Turbidity (Repealed)
900.65 Organic Chemicals (Repealed)
900.70 Microbiological (Repealed)
900.80 Public Notification (Repealed)
900.90 Record Maintenance and Reporting (Repealed)
900.100 Variances and Exemptions (Repealed)

900.TABLE A Sources of Pollution in Location to Wells and/or Finished Water Storage Facilities
900.TABLE B Design Capacity for a Non/Community Public Water System
900.TABLE C Pressure Factors
900.TABLE D Coliform Sampling Frequency According to Population Served (Repealed)
900.TABLE E Lead and Copper Sampling Frequency-Requirements for First Year of Sampling (Repealed)
900.TABLE F Lead and Copper Sampling Frequency-Requirements After First Year of Sampling (Repealed)
900.TABLE G Water Quality Sampling Requirements (Repealed)
900.TABLE H Water Quality Sampling Requirements-Reduced Sampling (Repealed)
900.TABLE I Table of Factors to be Used in Saturation Index Calculations (Repealed)
900.EXHIBIT A Values of A Based Upon Total Solids (Repealed)

900.EXHIBIT B	Values of B Based Upon Water Temperature (Repealed)
900.EXHIBIT C	Values of C Based Upon Calcium Hardness Expressed as $CaCO_3$ (Repealed)
900.EXHIBIT D	Values of D Based Upon Alkalinity Expressed as $CaCO_3$ (Repealed)

AUTHORITY: Implementing and authorized by Section 9 of the Illinois Groundwater Protection Act [415 ILCS 55].

SOURCE: Adopted at 6 Ill. Reg. 2215, effective February 3, 1982; old rules repealed, new rules adopted and codified at 8 Ill. Reg. 3301, effective March 2, 1984; amended at 9 Ill. Reg. 9139, effective June 3, 1985; amended at 13 Ill. Reg. 12578, effective August 1, 1989; amended at 14 Ill. Reg. 14844, effective September 1, 1990; amended at 17 Ill. Reg. 4388, effective March 23, 1993; amended at 19 Ill. Reg. 7217, effective May 31, 1995; emergency amendment at 20 Ill. Reg. 3968, effective February 16, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 9997, effective July 22, 1996; amended at 23 Ill. Reg. 11707, effective September 1, 1999; amended at 44 Ill. Reg. _____, effective _____.

Section 900.10 Definitions

"Applicant" means any person making application for a permit to construct or alter a public water system.

"Cistern" means a source of water supply developed by intercepting rainfall with roof surfaces.

"Contaminant" means any physical, chemical, biological or radiological substance or matter in water.

"CT" means the product of the chlorine residual and chlorine contact time at the point of treatment required for 99.9 percent or 3-log inactivation of Giardia lamblia cysts.

"Department" means the Illinois Department of Public Health.

"Filtration" means a process for removing particulate matter from water by passing through porous media.

"Groundwater Under the Influence" means surface water or water obtained from a

well or a collector that~~which~~ is not in compliance with the Illinois Water Well Construction Code.

"Illinois Environmental Protection Act" means 415 ILCS 5.

"Illinois Water Well Construction Code means 415 ILCS 30. The rules implementing this statute are at 77 Ill. Adm. Code 920 (Water Well Construction Code).

"Maximum Contaminant Level" or "MCL" means the maximum permissible level of contaminant in water that~~which~~ is delivered to the free flowing outlet of the ultimate user of a public water system, except in the case of turbidity, in which~~where~~ the maximum permissible level is measured at the point of entry to the distribution system. Contaminants added to the water under circumstances controlled by the user are excluded from this definition.

"Monitoring Assessment" means an assessment conducted in response to a monitoring violation to:

determine the cause of the monitoring violation;

require systems to collect replacement samples for any missed routine, repeat, additional routine or clearance sample; and

prevent monitoring violations from occurring in the future.

"Non-Transient Non-Community System" means a non-community water system that~~which~~ regularly serves the same 25 or more persons at least 6 months a year.

"On-site Assessment" means an assessment of the water system that is conducted by the Department, or by a third party approved by the Department, to evaluate minimum elements that include:

review and identification of inadequacies in sample sites; sampling protocol;

sample processing;

atypical events that could affect distributed water quality or indicate that

distributed water quality was impaired;

changes in distribution system maintenance and operation that could affect distributed water quality (including water storage);

source and treatment considerations that bear on distributed water quality, when appropriate (e.g., small ground water systems); and

existing water quality monitoring data.

The assessment must be consistent with assessment elements regarding the size and type of the system and the size, type and characteristics of the distribution system.

"Operating Season" means a defined time period during the year when a water system is providing water to the public.

"Person" means any individual, group of individuals, association, trust, partnership, corporation, person doing business under an assumed name, county, municipality, the State of Illinois or any political subdivision or department thereof, or any other entity.

"Potential Primary Source" means any unit at a facility or site not currently subject to a removal or remedial action that~~which~~:

is utilized for the treatment, storage, or disposal of any hazardous or special waste not generated at the site;~~ or~~

is utilized for the disposal of municipal waste not generated at the site, other than landscape waste and construction and demolition debris;~~ or~~

is utilized for the landfilling, land treating, surface impounding or piling of any hazardous or special waste that is generated on the site or at other sites owned, controlled or operated by the same person; or

stores or accumulates at any time more than 75,000 pounds above ground, or more than 7,500 pounds below ground, of any hazardous substances. ~~(Section 3.59 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1003.59)~~ [415 ILCS 5/3.59]~~)~~

"Potential Route" means abandoned and improperly plugged wells of all kinds, drainage wells, all injection wells, including closed loop heat pump wells, and any excavation for the discovery, development or production of stone, sand or gravel. ~~(Section 3.58 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1003.58)~~ [415 ILCS 5/3.58]~~)~~

"Potential Secondary Source" means any unit at a facility or a site not currently subject to a removal or remedial action, other than a potential primary source, that~~which~~:

is utilized for the landfilling, land treating, or surface impounding of waste that is generated on the site or at other sites owned, controlled or operated by the same person, other than livestock and landscape waste, and construction and demolition debris;~~ or~~

stores or accumulates at any time more than 25,000 but not more than 75,000 pounds above ground, or more than 2,500 but not more than 7,500 pounds below ground, of any hazardous substances;~~ or~~

stores or accumulates at any time more than 25,000 gallons above ground, or more than 500 gallons below ground, of petroleum, including crude oil or any fraction thereof that~~which~~ is not otherwise specifically listed or designated as a hazardous substance;~~ or~~

stores or accumulates pesticides, fertilizers, or road oils for purposes of commercial application or for distribution to retail sales outlets; or stores or accumulates at any time more than 50,000 pounds of any de-icing agent; or

is utilized for handling livestock waste or for treating domestic wastewaters other than private sewage disposal systems as defined in the ~~"~~Private Sewage Disposal Licensing Act~~" (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 116.301) [225 ILCS 225]~~. ~~(Section 3.60 of the Environmental Protection Act (Ill. Rev. Stat. 1991, ch. 111 1/2, par. 1003.60)~~ [415 ILCS 5/3.60]~~)~~

"Public Water System" or "PWS" means a system for the provision to the public of piped water for human consumption, if the system has at least 15 service

connections or regularly serves an average of at least 25 individuals daily at least 60 days per year. The term public water system~~Public Water System~~ includes any collection, treatment, storage and distribution facilities under control of the operator of the~~such~~ system and used primarily in connection with that~~such~~ system and any collection or pretreatment storage facilities not under the operator's~~such~~ control that~~which~~ are used primarily in connection with the~~such~~ system.

"Community Water System" means a public water system that~~which~~ serves at least 15 service connections used by residents or regularly serves at least 25 residents for at least 60 days a year.

"Non-Community Water System" means a public water system that is not a community water system and~~,~~ that has at least 15 service connections used by non-residents, or regularly serves 25 or more non-resident individuals daily for at least 60 days a year, and shall include vending machines.

"Sanitary Survey" means an on-site inspection of the water source, facilities, equipment, operation, and maintenance of a public water system for the purpose of evaluating their adequacy for producing and distributing safe drinking water.

"Seasonal System" means a non-community water system that is not operated as a public water system on a year-round basis and starts up and shuts down at the beginning and end of each operating season.

"Service Connection" means the opening, including all fittings and appurtenances, at the water main through which water is supplied to the user.

"Slow Sand Filtration" means a process involving passage of raw water through a bed of sand at low velocity resulting in substantial particulate removal by physical and biological mechanisms.

"State" means the State of Illinois, Illinois Department of Public Health or the Illinois Environmental Protection Agency, as appropriate.

"Surface Water" means all water that~~which~~ is open to the atmosphere and subject to surface runoff.

"Supplier of Water" or "Supplier" means any person who owns or operates a public

water system.

"Vending Machine" means a device that~~which~~ provides treatment and/or dispenses a specific amount of water after money has been inserted into the device or after the water has been purchased.

"Waterborne Disease Outbreak" means the significant occurrence of acute infectious illness, epidemiologically associated with the ingestion of water from a non-community public water system.

"Water Well Construction Code" means the DPH rules at 77 Ill. Adm. Code 920. The underlying statute for these rules is 415 ILCS 30 (Illinois Water Well Construction Code).

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 900.15 Incorporated and Referenced Materials

a) The following State statutes are referenced in this Part:

1) Illinois Environmental Protection Act [415 ILCS 5]

2) Illinois Water Well Construction Code [415 ILCS 30]

3) Private Sewage Disposal Licensing Act [225 ILCS 225]

b)~~a)~~ The following State regulations are referenced in this Part:

1) Department of Public Health Rules~~rules~~

A) Certification and Operation of Environmental Laboratories (77~~35~~ Ill. Adm. Code 465~~183.105~~)

B) ~~Illinois~~ Water Well Construction Code (77 Ill. Adm. Code 920)

C) Illinois Water Well Pump Installation Code (77 Ill. Adm. Code 925)

D) Surface Source Water Treatment Code (77 Ill. Adm. Code 930)

E) Illinois Plumbing Code (77 Ill. Adm. Code 890)

2) Illinois Pollution Control Board Rules

~~A)~~Primary Drinking Water Standards (35 Ill. Adm. Code 611)~~Operation and Recordkeeping (35 Ill. Adm. Code 607)~~
For purposes of compliance with this Part, all references to the "Agency" and "Board" shall be replaced by the "Illinois Department of Public Health" or "~~(~~Department"~~)~~ for regulation of non-community water supplies (NCWS).

3) Illinois Environmental Protection Agency Rules

Accreditation of Laboratories for Drinking Water, Wastewater, and Hazardous Waste Analysis (35 Ill. Adm. Code 186)

c)~~b)~~ The following standard is incorporated in this Part: "Recommended Standards for Water Works" − Great Lakes Upper Mississippi River Board of State Sanitary Engineers − Ten States' Standards ~~–~~(2012~~1982~~ Edition), ~~and~~ published by:

Health Education Service
P.O. Box 7283
Albany, New York 12224

d)~~c)~~ All incorporations by reference of the standards of nationally recognized organizations refer to the standards on the date specified and do not include any additions or deletions subsequent to the date specified.

e)~~d)~~ All materials incorporated by reference are available for inspection and copying at the Department's Central Office, Division of Environmental Health, 525 West Jefferson − Third Floor, Springfield, Illinois 62761.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 900.20 General Requirements

a) Coverage. This Part shall apply to all non-community public water systems.

b) Exception. This Part shall not apply to a public water system that~~which~~ meets all of the following conditions:

1) Consists only of distribution and storage facilities (and does not have any collection and treatment facilities);~~.~~

2) Obtains all of its water from, but is not owned or operated by, a public water system subject to the requirements of 77 Ill. Adm. Code 900 and 35 Ill. Adm. Code 611~~to which such regulations apply;~~.~~.~~

3) Does not sell water to any person; and~~.~~

4) Is not a carrier that~~which~~ conveys passengers in interstate commerce.

c) Consecutive Systems. When a public water system supplies water to one or more other public water systems, the Department shall modify the monitoring requirements if one sampling point can be shown to be representative of the water supply and the supply can be shown to have a contamination free sampling history to the extent that the interconnection of the systems justifies treating them as a single system for monitoring purposes. Any modification in monitoring shall be approved in writing by the Department, with concurrence by U.S. Environmental Protection Agency.

d) Permit to Construct. A permit to construct a non-community public water system must be obtained from the Department prior to construction. When~~Where~~ a water well is to be constructed, altered or extended, a permit fee, which is established in Section 920.130 of the ~~Illinois~~ Water Well Construction Code, shall be required for the water well.

e) Permit to Alter or Extend. A permit for any major alteration of, or extension to, a non-community public water system must be obtained from the Department prior to construction.

f) Plans. All applications for a permit to construct, alter or extend a non-community public water system must be accompanied by plans and specifications. The plans and specifications must indicate all sources of contamination, the layout and design of the system and all associated equipment which will indicate compliance with this Part as stated in Section 900.40.

g) Major Alterations or Extensions. Major alterations or extensions shall include, but not be limited to, the following:

1) Change in source of water supply.

2) Construction of additional sources of water supply.

3) Provision of any new treatment to the system.

4) Changes in system capacity.

5) Increase in the water well depth.

h) Notification of Completion. Upon completion of any construction for which a permit has been issued, the owner shall notify the Department.

i) System Disinfection. All components of new non-community public water system construction, alteration, or expansion shall be disinfected with a strong chlorine solution; and satisfactory bacteriological sample results, in compliance with this Part, shall be obtained prior to placing the components into service.

j) Certified Laboratory. All samples requiring laboratory analysis shall be analyzed only by a laboratory that~~which~~ has been certified for the analysis in question, except that turbidity analyses may be conducted by anyone approved by the Department. The certification shall be made by the Department, in accordance with Certification and Operation of Environmental Laboratories~~ (77 Ill. Adm. Code 465)~~, or the Illinois Environmental Protection Agency, in accordance with Accreditation of Laboratories for Drinking Water, Wastewater, and Hazardous Waste Analysis~~ (35 Ill. Adm. Code 186)~~. The results from any analysis not conducted in accordance with this subsection~~the above~~ shall not be considered valid for purposes of this Part.

k) The following State regulations shall apply to all non-community public water supplies:~~1)35 Ill. Adm. Code 607, Operation and Recordkeeping. 2)~~ 35 Ill. Adm. Code 611, Primary Drinking Water Standards, excluding Sections 611.1054 and 611.1058 through 611.1061.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 900.35 Revised Total Coliform Rule for Non-Community Public Water Systems

a) Sanitary Surveys

1) A biennial sanitary survey shall be obtained by all non-community public water systems that are not recreational facilities licensed by the Department.

2) All non-community public water supplies licensed by the Department as recreational facilities shall obtain an annual sanitary survey.

3) Special Monitoring Evaluation

A) To determine whether the system is on an appropriate monitoring schedule, the Department will perform a special monitoring evaluation during each sanitary survey. After the Department has performed the special monitoring evaluation, it may modify the system's monitoring schedule.

B) For seasonal systems on quarterly or annual monitoring, the special monitoring evaluation will include review of the approved sample siting plan, which must designate the time period or periods for monitoring based on site-specific considerations (e.g., during periods of highest demand or highest vulnerability to contamination).

b) Monitoring

1) Routine Monitoring

A) A non-community water system supplier using only groundwater, excluding groundwater under the direct influence of surface water, as defined in 35 Ill. Adm. Code 611.102, and serving 1,000 persons or fewer must conduct the following total coliform and E.coli monitoring:

i) Quarterly Monitoring. The supplier must monitor each calendar quarter that the system provides water to the public.

ii) Reduced Monitoring. The Department may reduce the quarterly monitoring frequency to not less than annually, if the most recent sanitary survey shows that the system is free of sanitary defects, has a protected water source and the wells conform to the requirements of the Water Well Construction Code.

B) Non-community water systems that do not meet the requirements of subsection (b)(1)(A) are subject to the monitoring requirements of 35 Ill Adm. Code 611.1056 and 611.1057 except vending machines classified as non-community water systems, which must comply with (b)(1)(A).

C) Monitoring after E. coli Violations

i) A water system that incurs an E. coli violation, as specified in subsection (h)(1), shall be placed on monthly monitoring for a minimum of one year beginning in the next month in which the supplier provides water to the public, unless the cause of the violation has been definitely determined by the Department and corrected prior to water being served to the public.

ii) When the cause of the violation has not been definitely determined by the Department and corrected, monitoring must be conducted during the most vulnerable times each month for the next 12 months following an E. coli MCL violation. If any sample result (routine, repeat, additional routine, or clearance sample) is Total Coliform Positive within 12 months following the MCL violation, the system must collect monthly samples for a minimum of 12 consecutive months. Monthly monitoring must begin in the next month in which the supplier provides water to the public.

iii) After 12 consecutive months of monitoring, the Department may allow the water system to return to quarterly monitoring in accordance with subsection (b)(1)(A) if the

water system meets the criteria specified in subsection (b)(1)(E).

D) A water system that incurs a coliform treatment technique violation, as specified in subsection (h)(2), shall be placed on monthly monitoring for a minimum of one year beginning in the next month in which the supplier provides water to the public. After 12 consecutive months of monitoring, the Department may allow the water system to return to quarterly monitoring in accordance with subsection (b)(1)(A).

E) A supplier may return to quarterly monitoring after being triggered to monthly monitoring under subsection (b)(1)(C), once all of the following criteria are met:

i) The system is free of sanitary defects, has a protected source, and the wells conform to the requirements of the Water Well Construction Code;

ii) The on-site assessment and all corrective actions specified by the Department have been completed;

iii) The system has conducted any increased monitoring required by the Department; and

iv) The system is in compliance with cross-connection requirements in Section 900.40(l).

2) Repeat Monitoring

A) If a sample taken under subsection (b)(1) or (b)(4) is total coliform-positive, the supplier must collect a set of repeat samples within 24 hours after being notified of the positive result. The supplier must collect no fewer than three repeat samples for each total coliform-positive sample found. The Department will extend the 24- hour limit if the supplier has a logistical problem in collecting the repeat samples within 24 hours that is beyond its control. The Department will not waive the requirement for a

supplier to collect the repeat samples described in subsections (b)(2)(A) through (C).

B) The supplier must collect all repeat samples on the same day, except the Department will allow a supplier with a single service connection to collect the required set of repeat samples over a three-day period or to collect a larger volume of repeat samples in one or more sample containers of any size, as long as the total volume collected is at least 300 milliliters.

C) The supplier must collect an additional set of repeat samples in the manner specified in subsections (b)(2)(A) through (C) if one or more repeat samples in the current set of repeat samples is total coliform-positive. The supplier must collect the additional set of repeat samples within 24 hours after being notified of the positive result, unless the Department extends the limit as provided in subsection (b)(2)(A). The supplier must continue to collect additional sets of repeat samples until either total coliforms are not detected in one complete set of repeat samples or the supplier determines that a coliform treatment technique trigger specified in subsection (d) has been exceeded as a result of a repeat sample being total coliform-positive and notifies the Department. If a trigger identified in subsection (d) is exceeded as a result of a routine sample being total coliform-positive, the supplier is required to conduct only one round of repeat monitoring for each total coliform-positive routine sample.

D) After a supplier collects a routine sample and before it learns the results of the analysis of that sample, if the supplier collects another routine sample from within five adjacent service connections of the initial sample, and the initial sample, after analysis, is found to contain total coliforms, then the supplier may count the subsequent sample as a repeat sample instead of as a routine sample.

E) Results of all routine and repeat samples taken under subsection (b) not invalidated by the Department must be used to determine whether a coliform treatment technique trigger specified in subsection (d) has been exceeded.

3) Escherichia coli (E. coli) Testing

A) If any routine or repeat sample is total coliform-positive, the supplier's certified laboratory must analyze that total coliform-positive culture medium to determine if E. coli are present. If E. coli are present, the supplier must notify the Department by the end of the day when the supplier is notified of the test result. If the supplier is notified of the result after the Department office is closed and the Department does not have either an after-hours phone line or an alternative notification procedure, the supplier must notify the Department before the end of the next business day.

B) The Department will allow a supplier to forego E. coli testing on a total coliform-positive sample if that supplier assumes that the total coliform-positive sample is E. coli-positive. Accordingly, the supplier must notify the Department as specified in subsection (b)(3)(A) and must notify the public in accordance with 35 Ill. Adm. Code 611.Subpart V.

4) Additional Routine Monitoring the Month Following a Total Coliform-Positive Sample

A) Except as provided in subsection (b)(4)(D), a supplier conducting monitoring pursuant to subsection (b)(1)(A) must collect at least three routine samples during the month following a total coliform-positive sample.

B) The supplier shall either collect samples at regular time intervals throughout the month or shall collect all required routine samples on a single day if samples are taken from different sites.

C) The supplier must use the results of additional routine samples in coliform treatment technique trigger calculations under subsection (d).

D) Waiver. Except as provided in subsection (b)(4)(F), the Department will waive the requirement to collect three routine

samples the next month in which the supplier provides water to the public if:

i) The Department performs a site visit before the end of the next month in which the supplier provides water to the public. Although a sanitary survey is not required, the site visit must be sufficiently detailed to allow the Department to determine whether additional monitoring or any corrective action is needed;

ii) The Department determines why the sample was total coliform-positive and establishes that the supplier has corrected the problem or will correct the problem before the end of the next month in which the supplier serves water to the public; or

iii) The Department determines that the supplier has corrected the contamination problem before the supplier takes the set of repeat samples required in subsection (b)(2) and all repeat samples were total coliform-negative.

E) The Department must document any decision to waive the additional monitoring requirements in writing, have it approved and signed by the supervisor of the Department official who recommends that decision, and make this document available to USEPA and the public. The written documentation must describe the specific cause of the total coliform-positive sample and what action the supplier has taken or will take to correct this problem.

F) Any supplier that fails to collect all required repeat samples following any total coliform-positive sample must collect three routine samples the next month in which the supplier provides water to the public.

5) Sample Siting Plans. A supplier must develop a written sample siting plan that identifies sampling sites and a sample collection schedule that are representative of water throughout the distribution system. These plans are subject to Department review and revision. The supplier must collect total coliform samples according to the sample siting plan. Routine and

repeat sample sites and any raw water sampling sites necessary to conduct triggered source water monitoring must be reflected in the sampling plan.

c) All seasonal non-community public water system suppliers must demonstrate completion of a Department-approved start-up procedure, which shall include a requirement for startup sampling to demonstrate coliform bacteria is not present prior to serving water to the public. This demonstration must be certified by the supplier on a form provided by the Department and submitted to the Department prior to serving water to the public. This requirement may be waived for seasonal systems if the entire distribution system remains pressurized during the entire period that the system is not operating. In addition to the start-up sampling, seasonal systems must have an approved sample siting plan that designates the time period for monitoring based on site-specific considerations (e.g., during periods of highest demand or highest vulnerability to contamination). Seasonal suppliers must collect compliance samples during this time period.

d) Coliform Treatment Technique Triggers. A supplier must conduct assessments in accordance with subsection (e) after exceeding treatment technique triggers in subsection (d)(1) or (d)(2).

1) Monitoring Assessment Triggers

A) The supplier fails to take a routine sample as required in subsection (b)(1)(A).

B) The supplier fails to take every required repeat sample after any single total coliform-positive sample, as required in subsection (b)(2).

C) The supplier fails to take additional routine monitoring samples as required in subsection (b)(4).

2) On-site Assessment Triggers

A) An E. coli MCL violation, as specified in subsection (h)(1).

B) A system has two or more total coliform-positive samples in the same month.

e) Requirements for Assessments

1) A supplier must ensure that monitoring assessments are conducted in order to identify the cause of the monitoring violation and to institute procedures to prevent future monitoring violations.

2) A supplier must ensure that on-site assessments are conducted in order to identify the possible presence of sanitary defects and defects in distribution system coliform monitoring practices. On-site assessments must be conducted by the Department or parties approved by the Department.

3) When conducting on-site assessments, the supplier must ensure that the assessor evaluates minimum elements that include review and identification of inadequacies in sample sites; sampling protocol; sample processing; atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., small ground water systems); and existing water quality monitoring data. The supplier must conduct the assessment consistent with specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system.

4) Monitoring Assessments. A supplier shall obtain a monitoring assessment if the water system exceeds one of the treatment technique triggers in subsection (d)(1).

A) The supplier must complete a monitoring assessment as soon as practical after any trigger in subsection (d)(1). In the completed assessment form, the supplier must describe corrective actions completed, and a proposed timetable for any corrective actions not already completed. The supplier must submit the completed monitoring assessment form to the Department within 30 days after the supplier learns that it has exceeded a trigger.

B) If the Department reviews the completed monitoring assessment and determines that the assessment is not sufficient (including any

proposed timetable for any corrective actions not already completed), the Department must consult with the supplier. If the Department requires revisions after consultation, the supplier must submit a revised assessment form to the Department on an agreed-upon schedule not to exceed 30 days after the date of the consultation.

C) Upon completion and submission of the assessment form by the supplier, the Department must determine if the supplier has identified a likely cause for the monitoring assessment trigger and, if so, establish that the supplier has corrected the problem, or has included a schedule acceptable to the Department for correcting the problem.

D) Monitoring assessments must include submittal of replacement samples for all missed samples that caused a monitoring assessment trigger to be exceeded.

E) Monitoring Assessments do not require an on-site visit and may be conducted by telephone or electronic correspondence.

5) On-site Assessments. A supplier shall obtain an on-site assessment if the water system exceeds one of the treatment technique triggers in subsection (d)(2). The supplier must comply with any expedited actions or additional actions required by the Department in the case of an E. coli MCL violation.

A) The supplier must ensure that an on-site assessment is completed by the Department or by a third party approved by the Department as soon as practical after any trigger in subsection (d)(2). The supplier must submit a completed on-site assessment form to the Department within 30 days after the supplier learns that it has exceeded a trigger. The assessment form must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. The assessment form may also note that no sanitary defects were identified.

B) If the Department reviews the completed on-site assessment and determines that the assessment is not sufficient (including any proposed timetable for any corrective actions not already completed), the Department must consult with the supplier. If the Department requires revisions after consultation, the supplier must submit a revised assessment form to the Department on an agreed-upon schedule not to exceed 30 days.

C) Upon completion and submission of the assessment form by the supplier, the Department must determine if a definitive cause for the on-site trigger has been identified and determine whether the supplier has corrected the problem or has included a schedule acceptable to the Department for correcting the problem.

D) On-site assessments must include clearance samples and submittal of replacement samples for all missed routine, repeat and additional routine samples.

f) Corrective Action. A supplier must correct sanitary defects found through either monitoring or on-site assessments conducted under subsection (e). For corrections not completed by the time of submission of the assessment form, the supplier must complete the corrective actions in compliance with a timetable approved by the Department in consultation with the supplier. The supplier must notify the Department when each scheduled corrective action is completed.

g) Consultation. At any time during the assessment or corrective action phase, either the supplier or the Department may request a consultation with the other party to determine the appropriate actions to be taken. The supplier may consult with the Department on all relevant information that may impact on its ability to comply with a requirement of this Section, including the method of accomplishment, an appropriate timeframe, and other relevant information.

h) Violations

1) E. coli MCL Violations. A supplier is in violation of the MCL for E. coli when any of the conditions identified in this subsection (h)(1) occur.

A) The supplier has an E. coli-positive repeat sample following a total coliform-positive routine sample.

B) The supplier has a total coliform-positive repeat sample following an E. coli-positive routine sample.

C) The supplier fails to take all required repeat samples following an E. coli-positive routine sample.

D) The supplier fails to test for E. coli when any repeat sample tests positive for total coliform.

2) Treatment Technique Violation

A) A treatment technique violation occurs when a supplier exceeds a treatment technique trigger specified in subsection (d) and then fails to complete the required assessment or corrective actions, including the collection of all required samples in accordance with subsections (d)(1) and (d)(2), within the timeframe specified in subsections (e) and (f).

B) A treatment technique violation occurs when a seasonal supplier fails to complete a Department-approved start-up procedure prior to serving water to the public.

3) Monitoring Violations

A) Failure to take every required routine or additional routine sample in a compliance period is a monitoring violation.

B) Failure to analyze for E. coli following a total coliform-positive routine sample is a monitoring violation.

4) Reporting Violations

A) Failure to submit a monitoring report or completed assessment form after a supplier properly conducts monitoring or assessment in a timely manner is a reporting violation.

B) Failure to notify the Department following an E. coli-positive sample as required by subsection (b)(3)(A) in a timely manner is a reporting violation.

C) Failure to submit certification of completion of Department-approved start-up procedure by a seasonal supplier is a reporting violation.

i) Reporting

1) E. coli

A) A supplier must notify the Department by the end of the day when the system learns of an E. coli MCL violation. If the supplier learns of the violation after the Department office is closed and the Department does not have either an after-hours phone line or an alternative notification procedure, the supplier must notify the Department before the end of the next business day. The supplier must also notify the public in accordance with 35 Ill. Adm. Code 611.Subpart V.

B) A supplier must notify the Department by the end of the day when the supplier is notified of an E. coli-positive routine sample. If the supplier is notified of the result after the Department office is closed and the Department does not have either an after-hours phone line or an alternative notification procedure, the supplier must notify the Department before the end of the next business day.

2) A supplier that has violated the treatment technique for coliforms in subsections (e) and (f) must report the violation to the Department no later than the end of the next business day after it learns of the violation and must notify the public in accordance with 35 Ill. Adm. Code 611.Subpart V.

3) A supplier required to conduct an assessment under subsection (e) must submit the assessment report within 30 days. The supplier must notify the Department in accordance with subsection (f) when each scheduled

corrective action is completed for corrections not completed by the time of submission of the assessment form.

4) A supplier that has failed to comply with a coliform monitoring requirement must report the monitoring violation to the Department within 10 days after the supplier discovers the violation and must notify the public in accordance with 35 Ill. Adm. Code 611.Subpart V.

5) A seasonal supplier must certify, prior to serving water to the public, that it has complied with the Department-approved start-up procedure.

j) Recordkeeping

1) The supplier must maintain all assessment forms, and documentation of corrective actions completed as a result of those assessments, or other available summary documentation of the sanitary defects and corrective actions taken under subsections (e) and (f) for Department review. This record must be maintained by the supplier for a period not less than five years after completion of the assessment or corrective action.

2) The supplier must maintain a record of any repeat sample taken that meets Department criteria for an extension of the 24-hour period for collecting repeat samples as provided for under subsection (b)(2)(A).

(Source: Added at 44 Ill. Reg. _____, effective _____)

Section 900.40 Water System Design

a) Siting Requirements. Construction, alteration or expansion of a public water system shall be accomplished so as to:

1) Avoid locating any or all of the facility at a site that~~which~~ is subject to undue risk from earthquakes, floods, or other disasters.

2) Except for the intake structures, avoid locating any or all of the facility within the floodplain of a 100-year flood.

3) Sources of pollution shall be located no closer to wells and finished water storage facilities than indicated in Table~~TABLE~~ A. Beginning January 1,

1988, no new non-community water system well may be located within 200 feet of any potential primary or potential secondary source or any potential route, unless specifically allowed in Table~~TABLE~~ A. When~~Where~~ the owner of a potable well is the same owner of a potential primary source, potential secondary source, or a potential route, the Department may allow a variance to the minimum separation distances required in this Part provided the owner complies with the variance provisions of Section 920.30(c) of the ~~Illinois~~ Water Well Construction Code.

b) Existing Water System. The sanitary quality of an existing water system shall be determined by a survey of facilities and laboratory analyses of water samples. Defects in facilities or contamination shown present by laboratory analyses~~,~~ shall be considered sufficient grounds for requiring repairs, chlorination or other treatment, or termination of the use of the system. All repairs, modifications, and alterations to existing wells and pump equipment shall be in accordance with the ~~Illinois~~ Water Well Construction Code ~~(77 Ill. Adm. Code 920)~~, the Illinois Plumbing Code ~~(77 Ill. Adm. Code 890)~~, and the Illinois Water Well Pump Installation Code ~~(77 Ill. Adm. Code 925)~~. Treatment will not be considered ~~as~~ a substitute for location and construction in accordance with the ~~Illinois~~ Water Well Construction Code. Wells terminating in pits shall not be allowed. Existing pits shall be eliminated and the floor or one wall of the pit shall be broken or removed, the pit shall be filled with compacted earth, and the casing shall be extended to terminate 8 inches above grade.

c) New Well Construction. All new wells shall be constructed in accordance with the ~~Illinois~~ Water Well Construction Code.

d) New Pumping Equipment. All new well pumps shall be installed in conformance with the Illinois Water Well Pump Installation Code.

e) Surface Water. Gravity filtration and disinfection shall be provided as the minimum treatment facilities for all supplies obtained from ponds, lakes, streams, rivers, groundwater under the influence of surface water, and other surface collectors of water. Surface water supply treatment facilities shall be designed, constructed, operated, and maintained as described in the Surface Source Water Treatment Code ~~(77 Ill. Adm. Code 930)~~ or in accordance with the Ten States' Standards~~"Recommended Standards for Water Works - Great Lakes Upper Mississippi River Board of State Sanitary Engineers" ("Ten States' Standards")~~.

Where average turbidity, based upon 30 daily samples, of the source exceeds 50 nephelometric turbidity units, complete treatment must be provided in accordance with "the Ten States' Standards." All systems thatwhich use surface water, in whole or in part shall be operated by personnel whowhich have taken a water treatment course approved by the Department, and have received a certificate or other evidence that the course has been completed satisfactorily, (such as a letter from the school), or shall be operated by personnel thatwhich have received certification fromby the Illinois Environmental Protection Agency as a Class A or Class B public water supply operator. The Department will approve asuch course ifprovided the course is given by an accredited college or university, the course is at least equivalent to .7 continuing education units, and the course addresses water filtration, disinfection, water supply, and the measurement of disinfectant residual and turbidity. The Department willshall make available a list of such approved courses upon request.

f) Springs. Spring water supplies shall not be allowed except where it is impossible to develop a well thatwhich meets the water quality and capacity standards of this Part. Where springs are used for potable water, they shall be protected from entry of surface water, shall be housed in a permanent structure, and chlorinated in accordance with subsectionSection 900.40 (n). Spring water supplies located in an area with sink-holes or outcropping rock, with a history of periodic discolored discharge, or subject to fecal contamination, as demonstrated by laboratory analysis, shall not be approved unless provided with treatment consistent with that required for surface water.

g) Cisterns. Cisterns shall not be used for public water supply except where groundwater resources will not produce the quantity of water needed for the population to be served. Cistern water shall receive treatment consistent with that required for surface water (see subsection See Section 900.40(e)).

h) Design Capacity. The design capacity for a non-community public water system shall be determined based on the estimated peak demand or the average daily consumption rate obtained from TableTABLE B.

i) Hydropneumatic Storage. The minimum requirements for designing a hydropneumatic storage system are as follows:

1) Well and Pump Sizing. The capacity of the wellswell(s) and pumpspump(s) in a hydropneumatic system shall be at least eight times

the average daily consumption rate or shall be sufficient to meet the estimated peak demand, whichever is greater. (Calculate the average daily consumption rate from Table~~TABLE~~ B). If it can be shown that a specified amount of water is more appropriate, or if the Department can be shown that the storage requirements are excessive, the Department will permit other sizing alternatives dependent upon~~ such things as~~, but not limited to, water demand at the facility in question or water usage reports from a similar facility.

2) Pressure Tank Sizing. The minimum capacity of the pressure storage tank shall be calculated by the following formula:

$$Q = Qm(3)/Pf$$

Where:

QM = Pump capacity (g.p.m.)

Pf = Pressure factor obtained from TABLE C.

3) Precharged Pressure Tanks. The capacity of a precharge pressure storage tank shall be calculated by the following formula:

$$Qp = 1.50m/Pf$$

Where:

Qp = Precharged pressure tank volume, gal.

4) Existing Hydropneumatic Storage. An existing undersized pressure storage system may be allowed provided a history of adequate water supply exists. Major alterations shall comply with all requirements of subsection ~~Section 900.40~~(i).

j) Storage Reservoir. All nonpressure underground reservoirs shall be constructed of permanently watertight material and shall be provided with a watertight insect-proof cover. Examples of permanently watertight materials are steel, plastic, concrete or fiberglass. On new water system installations, all nonpressure storage reservoirs in or on the ground shall be located in such a manner that surface water

will flow away from the structure. When the bottom of any such reservoir is located below the ground surface, the reservoir shall be located with respect to sources of pollution as outlined in Table~~TABLE~~ A. Where manholes are necessary, they shall have a raised curb and be provided with a cover of the overhanging type. Vents and openings shall be insect-proof and shall be installed so there is no hazard to the sanitary quality of the water supply. Piping shall enter the reservoir through the top of underground tanks or through the exposed vertical extension of the manhole opening. Points of entry must be sealed in a watertight manner. No suction lines may enter the reservoir underground unless protected by an external pipe enclosure maintained at system pressure.

k) Water Distribution Lines. The system shall be designed to maintain a minimum positive pressure of 20 p.s.i. in all parts of the system at all times. Water pipe shall conform to applicable specifications and standards of the Illinois Plumbing Code~~ (77 Ill. Adm. Code 890)~~ for the type of pipe to be used. The following shall govern the separation of water lines from possible sources of pollution:

1) Whenever possible, a water line shall be laid at least 10 feet horizontally from any existing or proposed sewer line.

2) Whenever water lines must cross sewers, the water line shall be laid at such an elevation that the bottom of the water line is 18 inches above the top of the sewer. This vertical separation shall be maintained for that portion of the water line located within 10 feet horizontally of any sewer or drain it crosses, with the~~said~~ 10 feet to be measured as the normal distance from the water line to the drain or sewer. The sewer shall be constructed of cast iron pipe, type K copper, or Drain, Waste and Vent (DWV) plastic pipe (Schedule 40) with water-tight joints for a distance of 10 feet from each side of the water line. All crossings shall be made at right angles.

3) Where conditions prevent the minimum horizontal and/or vertical separation specified in subsections (k)(1) and (2)~~above~~, special consultation shall be obtained from the Department to determine other routes of water piping. In all cases, construction shall meet the applicable provisions of Section 1150 of the Illinois Plumbing Code.

4) No water line shall pass through, or come into contact with, any part of a sewer manhole.

5) There shall be no physical connection between a community water system and a non-community or private water system, unless the non-community or private water system is in compliance with cross-connection requirements in subsection (l)~~conforms to community water system requirements, as specified by the Illinois Pollution Control Board's Public Water Supplies (35 Ill. Adm. Code 607.104)~~.

6) Lines for potable water shall be laid at least 25 feet horizontally from any underground sewage seepage field.

1) Plumbing Fixture Backflow Protection. The water supply lines shall have no physical connection with nonpotable water supplies. All plumbing shall be in accord with the Illinois Plumbing Code~~ available from this Department~~. All plumbing fixtures and other equipment connected to the water system shall be~~ so~~ constructed and installed~~ so as~~ to safeguard the water system from the possibility of contamination through cross-connections or backsiphonage. Laundry units and equipment shall be so constructed and installed~~ so as~~ to prevent the contamination of the contents by the backflow of sewage. When required by the Illinois Plumbing Code~~ (77 Ill. Adm. Code 890)~~, the fixture or appliance shall be connected indirectly with the drainage system by means of an open, funnel-type fitting with a suitable air gap.

m) Drinking Fountains. All outlets established for the provision of drinking water shall consist of drinking fountains in accordance with requirements contained in the Illinois Plumbing Code, or a supply of single service drinking cups shall be provided. Common drinking cups are prohibited.

n) Disinfection. Disinfection may be accomplished with calcium or sodium hypochlorites or gas chlorine. Other disinfecting agents will be considered, providing reliable application equipment is available, and testing procedures for residual are recognized in "Standard Methods for the Examination of Water and Wastewater". Proposals for use of disinfecting agents must be approved by the Department prior to preparation of final plans and specifications. Approval will be given only when the information shows that the chemical to be used as a disinfecting agent will not jeopardize the health of the user and that the chemical will eliminate bacteria from the water supply. Disinfection is required at all surface, spring, and cistern water supplies; and at any groundwater supplies that~~which~~ are of questionable sanitary quality or where any treatment that~~which~~

exposes the water to the atmosphere is provided. Disinfection shall not be a substitute for proper well location and construction.

1) Chlorination Equipment. The chlorinator shall be designed to provide a free chlorine residual of at least 2~~two~~ milligrams per liter in the water after contact time of at least 30 minutes at maximum flow rates. The equipment shall be of such design that it will operate accurately over the desired feeding range. Where flow is uniform, actuation of a constant volume feeder by the pump circuit is required. Where flow is variable, automatic flow proportioning is required.

2) Contact Time and Point of Application. Chlorine shall be applied at a point that~~which~~ will provide the maximum contact time. At facilities treating surface water, chlorine shall be applied to the water after filtration. At facilities chlorinating groundwater, provisions should be made for applying chlorine to the detention basin inlet. When~~Where~~ chlorination is required, minimum free chlorine residual at distant points in a water distribution system shall be at least 0.1 milligram per liter, except that systems utilizing surface water as a source~~,~~ shall have a minimum free chlorine residual of 0.2 mg/l maintained at all distant points in the distribution system and a minimum free chlorine residual of 0.4 mg/l shall maintained in the water storage tank. Those systems utilizing surface water as a source and groundwater under the influence of surface water shall be designed in accordance with the Surface Water Treatment Code~~ (77 Ill. Adm. Code 930),~~ and shall meet disinfection requirements and CT values of 40 CFR 141~~ and 142 (1990)~~.

3) Testing Equipment. Chlorine residual test equipment capable of measuring free chlorine residual shall be provided and should be capable of measuring residuals to the nearest 0.1 mg/1 in the range below 0.5 mg/1, to the nearest 0.3 mg./1 between 0.5 and 1.0 mg/1, and to the nearest 0.5 mg/1 between 1.0 mg/1 and 2.0 mg/1. Systems utilizing surface water as a source shall test the chlorine residual in the distribution system daily and keep a record of the results. Whenever the chlorine residual falls below the values specified in subsection (n)(2)~~ above~~, the supplier of water shall notify the Department as soon as possible but no later than the end of the next business day.

4) Hypochlorinator. Positive displacement pumps shall be provided to inject

hypochlorite solution. The pump shall be of variable flow type and shall be of sufficient capacity to feed the required amount of disinfectant. If calcium hypochlorite is used, the concentration of calcium hypochlorite in the solution shall not exceed 5 percent. The solution container shall have a minimum capacity equal to the volume of solution required per day. The hypochlorinator shall be interlocked with the pump so that both will start and stop together.

5) Gas Chlorinators~~.~~

A) The chlorine supply and gas feeding equipment shall be in a separate, air-tight room. The room shall be provided with an exhaust system that~~which~~ takes its suction not more than 8 inches from the floor and discharges out-of-doors in a direction to minimize exposure to toxic fumes. The fan shall be capable of producing one air change per minute. Means for introducing a fresh air supply to the enclosure shall be provided through appropriate openings, such as filters, grill openings, etc., at a high point opposite the exhaust fan intake. The room shall have a window at least 18 inches square and artificial illumination so that the chlorinator equipment is visible from the operating area outside the room. Electrical switches for lighting and ventilation shall be outside the room and adjacent to the door. Scales for weighing chlorine cylinders in service shall be provided and should have the platform at floor level.

B) All chlorine cylinders, both full and empty, shall be anchored to prevent their falling over.

C) The chlorine feeding device shall be designed so that, during interruptions of the flow of the water supply, gas feed is automatically terminated. Chlorinator vent lines shall terminate out-of-doors.

D) The gas feed equipment shall be solution feed type capable of delivering chlorine at its maximum rate without releasing chlorine gas to the atmosphere.

E) The water supply for the gas feeding equipment shall produce the

flow rate and pressure required according to the manufacturer's specifications for proper operation of the equipment. The release of chlorine shall be automatically terminated when the pump is shut off. The water supply line to the chlorine injector shall be equipped with an electric shut-off valve interlocked with the pump and shall be equipped with a suitable backflow preventer.

F) Gas chlorinators shall be repaired and operated only in accordance with the manufacturer's directions. The owner/operator shall determine the appropriate emergency personnel to contact in the event of a chlorine gas emergency and have the telephone number of emergency personnel conspicuously posted within view of operating personnel.

6) General. The chlorinator water supply piping shall be designed to prevent contamination of the treated water supply by sources of questionable water that~~which~~ may be contaminated. Housing must be provided for the chlorination equipment and for storing the chlorine.

o) Hauled Water. When it is necessary to use hauled water as a source of public supply, the water shall be obtained only from a regulated public water system.

1) Transport Equipment. Equipment used for hauling water, including tank trucks or trailers, hoses, etc., shall be used only for handling potable water. In an emergency, equipment used for handling other potable materials, such as milk, syrup, etc., may be used after cleaning and disinfection with not less than 100 ppm of free chlorine.

2) Storage Facilities. Equipment used for the storage of hauled water shall be used only for that purpose and shall be constructed in accordance with subsection ~~Section 900.40~~(j). A minimum free chlorine residual of 0.4 mg/l shall be maintained in the water storage tank.

p) Vending Machines. Vending machines that~~which~~ serve water to the public shall meet the following conditions:

1) The source of water to a vending machine shall be obtained from a community water system or a supply that~~which~~ meets the construction and location requirements of this Part.

2) A dual check backflow device approved in accordance with the Illinois Plumbing Code~~ (77 Ill. Adm. Code 890)~~ shall be installed in the water supply pipe between the vending machine and the source of water.

3) An air gap shall be provided between the water dispensing spout and the water container that~~which~~ is at least equal to 4 times the diameter of the water dispensing supply pipe.

4) The machine shall be kept in an area that~~which~~ is free of dirt and debris. The~~and the~~ area shall be maintained to prevent insect and rodent harborage.

5) Any overflow or discharge of water from the vending machine shall be indirectly connected to a sewer or to waste in accordance with the Illinois Plumbing Code.

q) Sample Siting Plan. All non-community supplies shall designate sampling points from which to collect all required samples. If a kitchen tap is available, one sample shall be taken from this location.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Income Tax

2) Code Citation: 86 Ill. Adm. Code 100

3) Section Number: 100.7390 — Proposed Action: New Section

4) Statutory Authority: 35 ILCS 5/704A(i)

5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements the new minimum wage credit found in Section 704A(i) of the Illinois Income Tax Act, 35 ILCS 5/704A(i), created by PA 101-1. For reporting periods beginning on or after January 1, 2020, taxpayers may claim a withholding credit based on the increased wages attributable to the new minimum wage which took effect on January 1, 2020. The credit is reduced every year until it expires for reporting periods beginning on January 1, 2028.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

Section Numbers:	Proposed Actions:	*Illinois Register* Citations:
100.2197	Amendment	44 Ill. Reg. 97; January 3, 2020
100.2590	Amendment	44 Ill. Reg. 97; January 3, 2020
100.3100	Amendment	44 Ill. Reg. 97; January 3, 2020
100.3120	Amendment	44 Ill. Reg. 97; January 3, 2020
100.7010	Amendment	44 Ill. Reg. 97; January 3, 2020
100.2430	Amendment	44 Ill. Reg 1785; January 24, 2020

11) Statement of Statewide Policy Objective: These rules do not create or enlarge a mandate as described in Section 3(b) of the State Mandates Act.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

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

Michael D. Mankowski
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield IL 62794

217/782-2844

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Small businesses, small municipalities and not-for-profit corporations with 50 or fewer full-time equivalent employees as defined in 35 ILCS 704A(i)

B) Reporting, bookkeeping or other procedures required for compliance: Ability to track number of hours worked and wages paid to employees

C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis: No adverse impact. Credit at issue in the rule will benefit small businesses.

15) Regulatory Agenda on which this rulemaking was summarized: January 2020

The full text of the Proposed Amendment is identical to that of the text of the Emergency Amendment for this Part, and begins in this issue of the *Illinois Register* on Page 4700:

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Dismissal of Tenured Teachers under Article 24 and Dismissal of Tenured Teachers and Principals under Article 34 of the School Code

2) Code Citation: 23 Ill. Adm. Code 51

3)

Section Numbers:	Proposed Actions:
51.10	Amendment
51.235	Amendment

4) Statutory Authority: 105 ILCS 5/2-3.6

5) A Complete Description of the Subjects and Issues Involved: Section 24-16.5 of the School Code provides for the dismissal of teachers by a school board under an optional alternative evaluative dismissal (OAED) process. The OAED process may be used when a tenured teacher has failed to complete a remediation plan with a performance evaluation rating of "proficient" or higher and the teacher received the "unsatisfactory" rating that necessitated the remediation plan through a performance evaluation that incorporated data and indicators of student growth, as authorized under Article 24A of the School Code. Section 24-16.5(f) further provides that a school board, within 45 days after receipt of a hearing officer's findings of fact and recommendation, shall decide, through adoption of a written order, whether the teacher must be dismissed from its employ or retained and requires that only board members who have completed training mandated by the Performance Evaluation Reform Act (PERA) may participate in the vote with respect to the decision. Part 51 provides for the application and approval requirements for providers of PERA training. Currently, the rules require an entity to submit an application with the State Board of Education any time between March 1 and May 1 of each even-numbered year, which application shall be valid for two calendar years. The proposed rules allow for a continuous application submission to ensure sufficient approval of providers in the field.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

ILLINOIS STATE BOARD OF EDUCATION

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 create or enlarge a State mandate.

12) Time, Place and Manner in which interested persons may comment on this rulemaking: Written comments may be submitted within 45 days of the publication of this Notice to:

Azita Kakvand
Illinois State Board of Education
100 North First Street
Springfield IL 62777-0001

217/782-6510
rules@isbe.net

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis: None

15) This rulemaking was not included on the most recent Regulatory Agenda: This rulemaking was not anticipated at the time the Regulatory Agenda was filed.

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

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER b: PERSONNEL

PART 51
DISMISSAL OF TENURED TEACHERS UNDER ARTICLE 24 AND
DISMISSAL OF TENURED TEACHERS AND PRINCIPALS
UNDER ARTICLE 34 OF THE SCHOOL CODE

SUBPART A: GENERAL PROVISIONS

Section
51.10 Definitions

SUBPART B: STANDARD DISMISSAL PROCEDURES
UNDER ARTICLES 24 AND 34 OF THE SCHOOL CODE

51.20 Applicability of this Subpart B
51.30 Notice of Charges to Tenured Teachers
51.35 Suspension without Pay
51.40 Qualifications and Selection of Hearing Officers; Conditions of Service
51.50 Suspension Pending the Hearing (Repealed)
51.55 Pre-Hearing Procedures
51.60 The Hearing
51.70 The Decision: School Districts Not Organized under Article 34 of the School Code
51.75 The Decision: School Districts Organized under Article 34 of the School Code
51.80 Waiver, Interpretation and Application of this Part (Repealed)

SUBPART C: OPTIONAL ALTERNATIVE EVALUATIVE DISMISSAL
UNDER SECTION 24-16.5 OF THE SCHOOL CODE

Section
51.200 Purpose and Applicability of this Subpart C
51.210 Establishment of the List of Second Evaluators; Qualifications
51.220 Selection of Second Evaluators
51.230 Use of a Second Evaluator in Specific Remediations
51.235 Approval of Providers of PERA Training

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

51.240 Hearing Procedures
51.250 Notice of Dismissal to the Affected Tenured Teacher
51.260 Qualifications and Selection of Hearing Officers
51.270 Scope of the Hearing
51.280 Findings of Fact and Recommendation of the Hearing Officer
51.290 Decision of Board

AUTHORITY: Implementing and authorized by Sections 24-12 and 34-85 of the School Code [105 ILCS 5/24-12 and 34-85].

SOURCE: Rules Prescribed by the State Board of Education Governing the Procedure for the Dismissal of Tenured Teachers in Illinois, adopted February 19, 1976; codified at 8 Ill. Reg. 13739; emergency amendment at 9 Ill. Reg. 13116, effective August 9, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 5807, effective April 2, 1986; emergency amendment at 10 Ill. Reg. 19572, effective October 30, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 5950, effective March 23, 1987; amended at 29 Ill. Reg. 10108, effective June 30, 2005; amended at 32 Ill. Reg. 4824, effective March 21, 2008; amended at 36 Ill. Reg. 12829, effective July 25, 2012; amended at 38 Ill. Reg. 21906, effective November 3, 2014; amended at 44 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 51.10 Definitions

As used in this Part:

"Board" means the local school board and not the State Board of Education.

"Day" means calendar day unless otherwise specified in this Part, and the time within which any action required under this Part must occur shall be determined in accordance with the provisions of Section 1.11 of the Statute on Statutes [5 ILCS 70/1.11].

"General Superintendent" means the chief executive officer of City of Chicago School District 299. (See 105 ILCS 5/34-6.)

"Parties" means the tenured teacher against whom charges are brought and the school board bringing the charges.

"PERA" means the Performance Evaluation Reform Act of 2010 (P.A. 96-861, effective January 15, 2010).

"School Code" or "Code" means 105 ILCS 5.

"State Board" means the Illinois State Board of Education.

"Tenured Teacher" means any teacher who has entered upon contractual continued service pursuant to Section 24-11 of the School Code [105 ILCS 5/24-11] and, in school districts organized under Article 34 of the School Code [105 ILCS 5/Art. 34], a teacher or principal (see Sections 34-84 and 34-85 of the School Code [105 ILCS 5/34-84 and 34-85]).

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART C: OPTIONAL ALTERNATIVE EVALUATIVE DISMISSAL UNDER SECTION 24-16.5 OF THE SCHOOL CODE

Section 51.235 Approval of Providers of PERA Training

In accordance with Section 24-16.5(f) of the ~~School~~ Code, only members of the Board who have successfully completed a training program regarding performance evaluations administered or approved by the State Board shall consider the findings of fact and recommendation and make a determination as to whether the affected tenured teacher should be retained or dismissed using procedures set forth in this Subpart C.

a) Training organizations, institutions, regional offices of education, firms, professional associations, universities and colleges, or individuals may apply to the State Board of Education for approval to conduct PERA training.

b) Each entity wishing to receive approval to offer PERA training shall submit an application on a form supplied by the State Board of Education. ~~An entity shall submit the application to the State Board of Education any time between March 1 and May 1 of each even-numbered year. Any application received after May 1 shall not be considered for that approval cycle.~~ The application shall include, but is not limited to:

1) evidence that the entity is knowledgeable about PERA and the optional alternative evaluation process;

2) a description of the training to be provided, to address how the training activities will present participants with:

A) a basic foundation of PERA;

B) information specific to the components of a performance evaluation plan required under Article 24A of the ~~School~~ Code ~~[105 ILCS 5/Art. 24A]~~; and

C) information about the processes and procedures (i.e., professional development plans, remediation plans, dismissal procedures) to take place in the event of a "needs improvement" or "unsatisfactory" performance evaluation rating, as defined in 23 Ill. Adm. Code 50.30 (Evaluation of Educator Licensed Employees under Articles 24A and 34 of the ~~School~~ Code);

3) the qualifications and experience of the entity and of each presenter to be assigned to provide the PERA training, which shall include evidence of a presenter's specific skills and knowledge in this area; and

4) assurances that the requirements of subsection (c) ~~of this Section~~ will be met.

c) Each entity approved to provide training under this Section shall:

1) verify attendance at its training activities, provide to participants a written confirmation of their completion of the training, and require participants to complete an evaluation of the training; and

2) maintain attendance and evaluation records for a period of not less than five years for each event or activity it conducts or sponsors.

d) Applicants may be asked to clarify particular aspects of their materials.

e) The State Superintendent of Education shall respond to each application for approval no later than 30 days after receiving it.

f) An entity shall be approved to offer PERA training if the entity's application presents evidence that the training that it conducts will be developed and presented by persons knowledgeable about PERA.

g) The State Board of Education will post on its website at www.isbe.net the list of all approved providers.

h) Approval as a provider shall be valid for two full fiscal~~calendar~~ years and expires on July 1 immediately following the second full fiscal year after the approval was issued~~(i.e., January 1 through December 31)~~. To request renewal of approval, a provider shall submit a renewal application on a form supplied by the State Board of Education ~~, within the timeframe specified in subsection (b) of this Section, and~~ containing:

1) a description of any significant changes in the material submitted as part of its approved application or a certification that no such changes have occurred; and

2) assurances that the PERA trainings will be provided in a manner consistent with the content of the approved application and any changes proposed for the renewal period.

i) A provider's approval shall be renewed if the application conforms to the requirements of subsection (h), provided that the State Superintendent has received no evidence of noncompliance with the requirements of this Section.

j) The State Board of Education may evaluate an approved provider at any time to ensure compliance with the requirements of this Section. Upon request by the State Board, a provider shall supply information regarding its schedule of training, which the State Board may, at its discretion, monitor at any time. If~~In the event~~ an evaluation indicates that the requirements have not been met, the State Board of Education may withdraw approval of the provider.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

1) Heading of the Part: Registered Apprenticeship Program

2) Code Citation: 23 Ill. Adm. Code 255

3)

Section Numbers:	Proposed Actions:
255.100	New Section
255.200	New Section

4) Statutory Authority: 105 ILCS 5/2-3.175

5) A Complete Description of the Subjects and Issues Involved: Part 255 (Registered Apprenticeship Program) is being created to align with the enactment of PA 100-992, effective Aug. 20, 2018. PA 100-992 requires the State Board of Education to adopt rules to allow students of any high school in this State who are 16 years of age or older to participate in registered apprenticeship programs. The PA requires the rules to include a waiver of all non-academic requirements mandated for graduation from a high school under the School Code that would otherwise prohibit or prevent a student from participating in the program.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

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

12) Time, Place and Manner in which interested persons may comment on this rulemaking: Written comments may be submitted within 45 days of the publication of this Notice to:

Azita Kakvand
Illinois State Board of Education
100 North First Street

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

Springfield IL 62777-0001

217/782-6510
rules@isbe.net

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis: None

15) This rulemaking was not included on the most recent Regulatory Agenda: This rulemaking was not anticipated at the time the Regulatory Agenda was filed.

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

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF PROPOSED RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER g: SPECIAL COURSES OF STUDY

PART 255
REGISTERED APPRENTICESHIP PROGRAM

Section
255.100 Definitions
255.200 Registered Apprenticeship Program

AUTHORITY: Implementing Section 2-3.175 of the School Code [105 ILCS 5].

SOURCE: Adopted at 44 Ill. Reg. _____, effective _____.

Section 255.100 Definitions

"Registered Apprenticeship Program" or "Program" means an industry-based occupational training program of study, with standards reviewed and approved by the United States Department of Labor, that meets each of the following characteristics:

Apprentices in the program are at all times employed by a company participating in the program.

The program features a structured combination of on-the-job learning supported by related technical classroom instruction, delivered either by a high school or a public community college.

The:

apprentices in the program are paid a training wage, of not less than the State minimum wage, that escalates throughout the life of the apprenticeship; and

employment continued with the company following conclusion of the apprenticeship for a period of not less than 2 years.

Apprentices in the program earn an industry-related occupational skills certificate and a high school diploma.

Apprentices in the program may earn postsecondary credit toward a certificate or degree, as applicable.

"Registered Apprenticeship Program" does not include an apprenticeship program related to construction, as defined under the Employee Classification Act [820 ILCS 185].

"School Code" or "Code" means 105 ILCS 5.

"State Board" means the State Board of Education.

Section 255.200 Registered Apprenticeship Program

a) Each school district that maintains any of grades 9 through 12 may adopt a policy to allow a student of any high school who is 16 years of age or older to participate in a registered apprenticeship program.

b) A school district that adopts a policy under this Section shall include all of the following in that policy:

1) Allowing a student enrolled in a registered apprenticeship program to satisfy one or more high school courses or academic graduation requirements by:

A) successfully completing the program; or

B) substituting for, and successfully completing in place of, a high school course or academic graduation requirement, a related career and technical education course that contains at least 50% of the content of the required course or academic graduation requirement for which it is substituted.

2) A definition of an apprenticeship program that meets the criteria outlined in Section 255.100.

3) Opportunities for students enrolled in a registered apprenticeship program to earn postsecondary credit toward a certificate or degree, as applicable.

4) Language confirming that no career and technical education course may be substituted for a required course or academic graduation requirement under any policy adopted by a school board under this Section unless the student's parent or guardian approves the substitution in writing on a form that the school district makes available on its website.

5) A *waiver of all non-academic requirements mandated for graduation from high school under* the Code *that would otherwise prohibit or prevent a student from participating in the registered apprenticeship program* (Section 2-3.175 of the Code).

c) A school district that adopts a policy under this Section shall:

1) Post the policy on its website for students, parents, and members of the business and industry community to access; and

2) Notify students and parents of the opportunities for registered apprenticeships. At a minimum, a school district must provide this notification through the school district's website and the school handbook. This notification must include:

A) a statement that a student may participate in the school district's apprenticeship program; and

B) a statement that a student may find an apprenticeship program with a business or organization, if a registered apprenticeship program is not offered in the school district.

d) A school district shall identify, and submit to the State Board through the Student Information System (see 23 Ill. Adm. Code 1.75), data on those students who are participating in a registered apprenticeship program.

e) A school district shall identify and attempt to eliminate any barriers to student participation in a registered apprenticeship.

f) If a school district awards endorsements under the Postsecondary and Workforce Readiness Act [110 ILCS 148], the registered apprenticeship program must be included in the Career Pathway Endorsement.

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Universities Retirement

2) Code Citation: 80 Ill. Adm. Code 1600

3)

Section Numbers:	Proposed Actions:
1600.205	Amendment
1600.275	Amendment
1600.300	Amendment
1600.305	Amendment
1600.460	Amendment
1600.461	Amendment
1600.510	Amendment
1600.715	Amendment

4) Statutory Authority: 40 ILCS 5/15-177

5) A Complete Description of the Subjects and Issues Involved: The proposed amendments are intended to implement legislative changes to Section 15-139.5 of the Illinois Pension Code [40 ILCS 5/15] made by PA 100-556, effective December 8, 2017 (removing "affected annuitant" status from annuitants receiving annuities of less than $10,000 per year); to allow electronic signatures on beneficiary designations, to permit students who are attending more than one educational institution to qualify for full-time student survivor benefits if their aggregate class load is equivalent to that of a full-time student; to implement changes to Section 15-185.5 and 15-185.6 of the Illinois Pension Code made by PA 101-10, effective June 5, 2019 (extending the date during which accelerated pension benefit payments may be offered); and to make various grammatical and typographical corrections.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENT

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

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

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

217/378-8861

13) Initial Regulatory Flexibility Analysis:

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

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

C) Types of Professional skills necessary for compliance: None

14) Small Business Impact Analysis: There is no impact on small businesses (fewer than 50 full-time employees or less than $4,000,000 in gross annual sales).

15) Regulatory Agenda on which this rulemaking was summarized: January 2019

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

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENT

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

PART 1600
UNIVERSITIES RETIREMENT

SUBPART A: GENERAL

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

SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

Section
1600.202 Return to Employment
1600.203 Independent Contractors
1600.205 Earnings Subject to Withholding and Crediting
1600.210 Crediting Interest on Participant Contributions and Other Reserves
1600.220 Election to Make Contributions Covering Leave of Absence at Less Than 50% Pay
1600.230 Election to Pay Contributions Based upon Employment that Preceded Certification as a Participant
1600.240 Election to Make Contributions Covering Periods of Military Leave Protected under USERRA
1600.241 Survivor Benefits for Members Who Die While on Military Leave Protected under USERRA
1600.250 Sick Leave Accrual Schedule
1600.260 Part-time/Concurrent Service Adjustment
1600.270 Employer Contributions for Benefit Increases Resulting from Earnings Increases Exceeding 6%
1600.271 Employer Contributions for Earnings in Excess of the Governor's Salary
1600.275 Employer Contributions for Employing Affected Annuitants

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENT

SUBPART C: SURVIVORS AND BENEFICIARIES

Section
1600.300 Effective Beneficiary Designations
1600.305 Full-Time Student Survivors Insurance Beneficiaries
1600.310 Dependency of Beneficiaries
1600.320 Disability Claims Procedure (Renumbered)

SUBPART D: BENEFIT CALCULATION AND PAYMENT

Section
1600.400 Determination of Final Rate of Earnings Period
1600.410 Twenty Percent Limitation on Final Rate of Earnings Increases
1600.420 Making Preliminary Estimated Payments
1600.430 Excess Benefit Arrangement
1600.431 Indirect Payments to Minors and Legally Disabled Persons
1600.432 Indirect Payments to Child Survivors Through the Surviving Spouse
1600.440 Voluntary Deductions from Annuity Payments
1600.450 Overpayment Recovery
1600.460 Accelerated Pension Benefit Payment In Lieu of Any Pension Benefit
1600.461 Accelerated Pension Benefit Payment for a Reduction and Delay in AAI

SUBPART E: DISABILITY CLAIMS AND ADMINISTRATIVE REVIEW

Section
1600.500 Administrative Staff Determinations and Rules for Appeal − Nature and Requirements of Formal Hearings
1600.510 Employer-Related Determinations and Rules for Appeal
1600.550 Disability Claims Procedure

SUBPART F: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section
1600.600 Definitions
1600.605 Requirements for a Valid Qualified Illinois Domestic Relations Order
1600.610 Invalid Orders
1600.615 Filing a QILDRO with the System
1600.620 Modified QILDROs

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENT

1600.625 Benefits Affected by a QILDRO
1600.630 Effect of a Valid QILDRO
1600.635 QILDROs Against Persons Who Became Members Prior to July 1, 1999
1600.640 Alternate Payee's Address
1600.645 Electing Form of Payment
1600.650 Automatic Annual Increases
1600.655 Expiration of a QILDRO
1600.660 Reciprocal Systems QILDRO Policy Statement
1600.665 Providing Benefit Information for Divorce Purposes

SUBPART G: BOARD TRUSTEE ELECTION

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

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

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

2005; amended at 29 Ill. Reg. 14060, effective September 1, 2005; amended at 29 Ill. Reg. 14351, effective September 6, 2005; amended at 30 Ill. Reg. 6170, effective March 21, 2006; amended at 30 Ill. Reg. 7778, effective April 5, 2006; amended at 30 Ill. Reg. 9911, effective May 9, 2006; amended at 30 Ill. Reg. 17509, effective October 19, 2006; amended at 31 Ill. Reg. 4267, effective February 22, 2007; amended at 31 Ill. Reg. 4927, effective March 12, 2007; recodified at 31 Ill. Reg. 10194; amended at 32 Ill. Reg. 16515, effective September 25, 2008; emergency amendment at 33 Ill. Reg. 6525, effective April 27, 2009, for a maximum of 150 days; emergency expired September 23, 2009; amended at 33 Ill. Reg. 10757, effective July 1, 2009; amended at 33 Ill. Reg. 16755, effective November 23, 2009; amended at 34 Ill. Reg. 9523, effective June 25, 2010; amended at 35 Ill. Reg. 10952, effective June 22, 2011; amended at 36 Ill. Reg. 3938, effective February 22, 2012; amended at 37 Ill. Reg. 1309, effective January 15, 2013; amended at 37 Ill. Reg. 3866, effective March 15, 2013; amended at 37 Ill. Reg. 10698, effective June 26, 2013; amended at 37 Ill. Reg. 15517, effective September 12, 2013; amended at 38 Ill. Reg. 5659, effective February 11, 2014; emergency amendment at 38 Ill. Reg. 11376, effective May 9, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 16375, effective July 17, 2014; amended at 38 Ill. Reg. 17457, effective July 30, 2014; amended at 39 Ill. Reg. 8317, effective June 1, 2015; amended at 40 Ill. Reg. 8437, effective June 3, 2016; amended at 41 Ill. Reg. 11606, effective September 1, 2017; amended at 41 Ill. Reg. 15353, effective December 5, 2017; amended at 42 Ill. Reg. 19078, effective October 5, 2018; amended at 43 Ill. Reg. 8562, effective July 26, 2019; amended at 44 Ill. Reg. _____, effective _____.

SUBPART B: CONTRIBUTIONS AND SERVICE CREDIT

Section 1600.205 Earnings Subject to Withholding and Crediting

a) Purpose. This Section provides guidance on which payments for compensation constitute "earnings" under Sections 15-111 and 15-111.5 of the Code. Section 15-157 of the Code requires every participating employee to make contributions of 8% of his or her pay to fund the benefits payable under SURS. This contribution is deducted from the participating employee's pay on a pre-tax basis and remitted to SURS via payroll deduction. The contributions are made as a percentage of the participating employee's "earnings".

b) Definition. "Earnings", defined under Section 15-111 of the Code, *is an amount paid for personal services equal to the sum of the basic compensation plus extra compensation for summer teaching, overtime and other extra service*, subject to the following:

1) *For periods for which an employee receives service credit under* Section 15-113.1(c) or 15-113.2 of the Code, *earnings are equal to the basic compensation on which contributions are paid by the employee during such periods.*

2) Earnings shall include the basic compensation on which employee contributions required under Section 15-157 of the Code are paid by the employee for periods of furlough as provided under Section 15-113.11 of the Code.

3) Earnings shall include the amount of a voluntary pay reduction taken in lieu of furlough on which employee contributions required under Section 15-157 of the Code are paid by the employee as provided under Section 15-113.12 of the Code.

4) *Compensation for employment which is irregular, intermittent and temporary shall not be considered earnings, unless the participant is also receiving earnings from the employer as an employee under Section 15-107* of the Code. [40 ILCS 5/15-111(a)]

c) Tier 2 Member Earnings Limitation

1) *For a Tier 2 member, the annual earnings shall not exceed $106,800; however, that amount shall annually thereafter be increased by the lesser of:*

A) *3% of that amount, including all previous adjustments; or*

B) *one-half the annual unadjusted percentage increase (but not less than zero) in the Consumer Price Index-U* (CPI-U) *for the 12 months ending with the September preceding each November 1, including all previous adjustments.*

2) *For the purposes of this Section,* CPI-U *means the index published by the Bureau of Labor Statistics of the United States Department of Labor that measures the average change in prices of goods and services purchased by all urban consumers, United States city average, all items, 1982-84 = 100. The new amount resulting from each annual adjustment shall be determined by the Public Pension Division of the Department of Insurance*

and made available to the boards of the retirement systems and pension funds by November 1 of each year. [40 ILCS 5/15-111(b)]

d) Determination of the Purpose of the Payment

1) If the payment is for services rendered, then the payment is earnings.

2) If the payment is for a reason other than services rendered, it is not earnings.

3) Other Payments
The following list does not limit SURS' authority to determine whether any payment of compensation constitutes earnings on a case-by-case basis.

A) Bonuses; Awards

i) Bonuses received by an employee that are related to services rendered for a specific period of time, not to exceed one academic year, shall be included in earnings subject to SURS withholding.

ii) Awards, such as longevity of service awards or outstanding employee awards, that are not associated with a particular time period are not subject to SURS withholding.

iii) Earnings and basic compensation for an employee who first becomes a participant on or after January 1, 2017 shall not include bonuses.

B) Severance Payments, Salary/Contract Continuation Payments, Retirement Payments or Incentives. Payments made to facilitate termination of employment or to induce someone to retire, or not to retire, are not for services rendered, but are made in conjunction with an employee's termination of employment or retirement and are not earnings. These payments are also not includable in the final rate of earnings under Section 15-112.

C) Group Fringe Benefits. Group fringe benefits provided by the employer are not earnings. However, employer paid premiums on

employer-provided group term life insurance in excess of $50,000 are earnings.

D) Housing Allowance. A housing allowance, whether in the form of a direct salary payment or as a residence in which the employee resides, is earnings. Earnings and basic compensation for an employee who first becomes a participant on or after January 1, 2017 shall not include housing allowances.

E) Automobile Allowance. An automobile allowance in the form of a direct salary payment is earnings. However, neither business use nor personal use of an employer-provided automobile is earnings. Earnings and basic compensation for an employee who first becomes a participant on or after January 1, 2017 shall not include vehicle allowances.

F) Non-Qualified Moving Expenses. Non-qualified moving expenses (see 26 USC 217) are not earnings as they are not furnished in lieu of salary.

G) Unused Sick Leave Paid at Termination of Employment. These payments are not earnings, except for collectively bargained payments made in accordance with Section 15-112 of the Code.

H) Overtime. Overtime is earnings.

I) Miscellaneous Other Benefits. Fringe benefits that are provided in lieu of salary are earnings. Items that are not provided in lieu of salary (such as reimbursement for out-of-pocket travel expenses, relocation expenses, etc.) are not earnings. Items such as country club dues, tuition waivers, tickets to athletic and performing arts events for family members of employees, and other items that are reported as taxable income on the employee's Form W-2 are not earnings, unless those items are a negotiated fringe benefit in lieu of salary. Earnings and basic compensation for an employee who first becomes a participant on or after January 1, 2017 shall not include social club dues or athletic club dues.

J) Military Differential Wage Payments and Salary Continuation Benefits. For payments made on or after January 1, 2009, differential wage payments, as defined under section 414(u)(12) of the IRC (26 USC 414(u)(12)), and payments to an individual who does not currently perform services for an employer by reason of qualified military service, as defined under section 414(u)(1) of the IRC (26 USC 414(u)(1)), to the extent those payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the employer rather than entering qualified military service, shall be earnings and shall be compensation paid or made available during the limitation year for purposes of applying the limitations under section 415 of the IRC.

K) Retroactive Pay Settlements, Court Settlements or Judgments, or Grievance Arbitration Settlements or Awards. The cash amount for back pay or retroactive pay under a settlement agreement, award or order issued by a court or arbitral body for a disputed termination of employment, suspension or demotion shall be earnings if the agreement, award or order:

i) Excludes from back pay any non-wage or non-salary items, such as health insurance reimbursements, payments for medical costs, interest awards, attorneys' fees, or damage awards;

ii) Specifies the months to which the back pay is allocated and the amount is based on the basic compensation (or a portion thereof) the employee would have otherwise received during those months; and

iii) The back pay amounts are paid to the employee within one year after the issuance of the agreement, award or order.

L) Payment for Unused Vacation Days. Pursuant to Section 15-112(h)(4)(iii) of the Code, payments for unused vacation of up to 56 work days paid upon termination of employment are earnings. Payments for unused vacation days that are paid during employment are not earnings.

M) Payments made under the Public Employee Disability Act [5 ILCS 345] are not earnings.

ee) Earning History. Certain earnings may be excludable from the "final rate of earnings" determined under Section 15-112 of the Code. Earnings are always attributable to the period when earned, not when paid. SURS reserves the right to reallocate reported earnings to the period when earned, when this is necessary to accurately reflect the employee's earning history.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1600.275 Employer Contributions for Employing Affected Annuitants

a) Purpose and Applicability

1) This Section implements Section 15-139.5 of the Code concerning employer reporting and contribution requirements for employing or reemploying annuitants and affected annuitants, effective for academic years beginning on or after August 1, 2013.

2) Effective November 19, 2013, this Section *shall not apply to an annuitant if the employer of that annuitant provides documentation to SURS ~~the System~~ that:*

A) *the annuitant is employed in a status appointment position, as that term is defined in 80 Ill. Adm. Code 250.80; and*

B) *due to obligations contained under the State Universities Civil Service Act* [110 ILCS 70], *the employer does not have the ability to limit the earnings or duration of employment for the annuitant while employed in the status appointment position.* [40 ILCS 5/15-139.5(j)]

b) Definitions. For purposes of Section 15-139.5 of the Code and this Section, the following terms shall have the meanings ascribed in this subsection (b).

1) "Academic Year" means *the 12-month period beginning on September 1.* [40 ILCS 5/15-139.5(a)]

2) "Affected Annuitant"

A) Means an annuitant *on the first day of the academic year following the academic year in which the annuitant first met the following conditions:*

i) *While receiving a retirement annuity under Article 15 of the Code, the annuitant was employed on or after August 1, 2013 by one or more employers under that Article and received or became entitled to receive during an academic year compensation for that employment in excess of 40% of his or her highest annual earnings prior to retirement; except that compensation paid from federal, corporate, foundation, or trust funds or grants of State funds that identify the principal investigator by name is excluded.*

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

B) *A person who becomes an affected annuitant remains an affected annuitant, except for:*

i) *any period during which the person returns to active service and does not receive a retirement annuity from SURS~~the System~~; or~~.~~*

ii) *any period on or after December 8, 2017 during which an annuitant received an annualized retirement annuity under Article 15 of the Code that is less than $10,000.* [40 ILCS 5/15-139.5(b)]

3) "Annuitant" means a person who is receiving a retirement annuity or, if the retirement annuity payment or payments have not yet been paid due to

SURS processing, a person whose retirement annuity payment period has commenced. A person is not an annuitant if he or she:

A) has received a lump-sum retirement benefit under the Portable Benefit Package; or

B) is receiving or has received retirement benefits under the Self-Managed Plan.

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

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

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

7) "Disaster" means an event that results in the Governor declaring that a disaster exists pursuant to Section 7 of the Illinois Emergency Management Agency Act [20 ILCS 3305/7] or an event that results in a municipality to declare that a state of emergency exists pursuant to 65 ILCS 5/11-1-6.

8) "Employed or Reemployed" means the employer and annuitant have entered into an employer-employee relationship under common law and the annuitant is not an independent contractor. *For the purposes of this Section, an annuitant whose employment by an employer extends over more than one academic year shall be deemed to be reemployed by that employer in each of those academic years.*[40 ILCS 5/15-139.5(a)]

9) "Highest Annual Earnings" shall have the meaning ascribed in Section 1600.202(d).

10) "Retirement Annuity" means an annuity payable under Section 15-136, 15-136.1, 15-136.3 or 15-136.4 of the Code, excluding any survivor annuitant portion of a joint and survivor annuity.

c) Initial Notification for Employed Annuitants. Within 60 days after the date of employing or reemploying an annuitant, the employer shall submit notification to the System of the following items:

1) *A summary of the contract of employment or specify the rate of compensation and the anticipated length of employment of that annuitant* [40 ILCS 5/15-139.5(a)]. If an employer enters into a new contract with an annuitant during the same academic year of employment or reemployment, the employer shall submit a new summary or rate of compensation and anticipated length of employment within 60 days after the effective date of the contract. The employer shall provide a copy of the contract upon SURS' request.

2) A certification of whether *the annuitant will be compensated from federal, corporate, foundation, or trust funds or grants of State funds that identify the principal investigator by name* [40 ILCS 5/15-139.5(a)].

3) Critical Operations

A) A certification of whether the annuitant has become an affected annuitant and:

i) if the annuitant is an affected annuitant, whether the annuitant was employed *in order to continue critical operations in the event of either an employee's unforeseen illness, accident, or death or a catastrophic incident or disaster; or* [40 ILCS 5/15-139.5(i)]

ii) if the annuitant is an affected annuitant, whether the employer has certified the annuitant as a participating employee under Section 15-139(c) of the Code.

B) If the employment is for critical operations, the notice in this subsection (c) shall be submitted within 5 business days after employing or reemploying the annuitant.

d) Annual Certification of Employed Annuitants. For each employed annuitant, an employer shall submit to SURS ~~the System~~ the following information no later than 30 days following the conclusion of the academic year:

1) *The amount of compensation paid to the annuitant for employment in the academic year; and*

2) *The amount of compensation that comes from federal, corporate, foundation, or trust funds or grants of State funds that identify the principal investigator by name* that has been paid to the annuitant in the academic year. [40 ILCS 5/15-139.5(a)]

e) Affected Annuitants

1) *It is the obligation of the employer to determine whether an annuitant is an affected annuitant before employing the annuitant. For that purpose, the employer may require the annuitant to disclose and document his or her relevant prior employment and earnings history. Failure of the employer to make this determination correctly and in a timely manner or to include this determination with the notification required under subsection* (d) *does not excuse the employer from making the contribution required under subsection* (g).

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

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

1) The annuitant's status as an annuitant or participating employee;

2) Whether an employer has determined and reported to SURS~~the System~~ that the annuitant is an affected annuitant;

3) The annuitant's highest annual earnings;

4) The compensation paid for the annuitant's post-retirement employment in each academic year as reported by employers;

5) Whether any of the annuitant's post-retirement *employment or compensation has been certified to* SURS ~~the System~~ *as being paid from federal, corporate, foundation, or trust funds or grants of State funds that identify the principal investigator by name.* [40 ILCS 5/15-139.5(d)]

g) Payment of Employer Contributions

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

2) Multiple Employers. *If an affected annuitant is employed by more than one employer in an academic year, the employer contribution required under this Section shall be divided among those employers in proportion to their respective portions of the total compensation paid to the affected annuitant for that employment during that academic year.*

3) Double Contribution Penalty

A) *If* SURS ~~the System~~ *determines that an employer, without reasonable justification, has failed to make the determination of affected annuitant status correctly and in a timely manner, or has failed to notify* SURS ~~the System~~ *or to correctly document or certify to* SURS ~~the System~~ *any of the information required by this Section, and that failure results in a delayed determination by* SURS ~~the System~~ *that a contribution is payable under this Section, then the amount of that employer's contribution otherwise determined under this Section shall be doubled.*

B) *SURS will ~~The System shall~~ deem a failure to correctly determine the annuitant's status to be justified if the employer establishes to SURS' ~~the System's~~ satisfaction that the employer, after due diligence, made an erroneous determination that the annuitant was not an affected annuitant due to reasonable reliance on false or misleading information provided by the annuitant or another employer, or an error in the annuitant's official employment or earnings records.* [40 ILCS 5/15-139.5(e)]

4) Payment Deadline and Interest. *The employer may pay the required contribution without interest at any time within one year after receipt of the certification. If the employer fails to pay within that year, then interest shall be charged at a rate equal to SURS' ~~the System's~~ prescribed rate of interest, compounded annually from the 366th day after receipt of the certification from ~~the System~~SURS. Payment must be concluded within 2 years after receipt of the certification by the employer. If the employer fails to make complete payment, including applicable interest, within 2 years, then SURS~~the System~~ may, after giving notice to the employer, certify the delinquent amount to the State Comptroller, and the Comptroller shall thereupon deduct the certified delinquent amount from State funds payable to the employer and pay them instead to SURS~~the System~~.* [40 ILCS 5/15-139.5(f)] The delinquent amount shall be certified to the Comptroller if the employer does not pay the delinquent amount within 90 days after the date on which SURS sent the notice of the delinquency to the employer.

5) Reparticipating Annuitants. *If an employer is required to make a contribution to ~~the System~~SURS as a result of employing an affected annuitant and the annuitant later elects to forgo his or her annuity in that same academic year pursuant to* Section 15-139(c) of the Code, *then the required contribution by the employer shall be waived, and if the contribution has already been paid, it shall be refunded to the employer without interest.* [40 ILCS 5/15-139.5(g)]

6) Employment for Critical Operations. *Notwithstanding any other provision of this Section to the contrary, if an employer employs an affected annuitant in order to continue critical operations in the event of either an employee's unforeseen illness, accident, or death or a catastrophic incident or disaster, then, for one and only one academic year, the*

employer is not required to pay the contribution set forth in Section 15-139.5 of the Code for that annuitant. [40 ILCS 5/15-139.5(i)]

7) Appeals. The employer may appeal a certification of the contribution amount pursuant to Section 1600.510.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART C: SURVIVORS AND BENEFICIARIES

Section 1600.300 Effective Beneficiary Designations

Purpose. Under Section 15-120 of the Code, "beneficiary" is defined as a person or persons designated by the participant or annuitant in the last written designation on file with the Board or, if no person so designated survives or if no designation is on file, the estate of the participant or annuitant.

a) Definitions

1) "Last written designation", for the purposes of Section 15-120 of the Code and this Section, shall mean the last valid beneficiary designation on file with SURS up to and including the date of death of the participant or annuitant.

2) "On file", for the purposes of Section 15-120 of the Code and this Section, shall mean a beneficiary designation that has been received and date stamped by SURS.

3) "Member", for the purposes of this Section, shall mean a participant or annuitant.

4) "Agent", for the purposes of this Section, shall mean a participant's or annuitant's agent expressly authorized to change beneficiaries pursuant to an effective power of attorney or guardianship.

b) Original Signature and Supporting Documentation. A beneficiary designation shall be deemed valid only if the beneficiary designation received contains a valid~~an~~ original or electronic signature of the member or an agent. An electronic signature is valid under this Section only if executed through an electronic signing

process approved by SURS. No electronic signature is valid if a notarized signature is required under the Code or this Part.~~Beneficiary designations containing a copy of the member's or agent's signature, whether electronic or photographic, shall be invalid.~~ A copy of the power of attorney or a certified copy of the guardianship order expressly authorizing the change of beneficiaries must accompany a beneficiary designation executed by an agent. No beneficiary designation that designates the attorney-in-fact or a guardian as the beneficiary shall be deemed valid unless the terms of the power of attorney or guardianship order, respectively, authorizes the attorney-in-fact or guardian to make gifts of the member's property to himself or herself.

c) Disputed Designations. If a dispute arises in the interpretation of the last written designation or, in the opinion of SURS, the designation is ambiguous, then the contesting beneficiaries shall seek a court determination as to the designation's interpretation. If no beneficiary brings a court action within a reasonable time, depending on factors including, but not limited to, delays in obtaining paperwork and the extent to which the parties have attempted to resolve the dispute, SURS may seek a court determination.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1600.305 Full-Time Student Survivors Insurance Beneficiaries

a) For purposes of 40 ILCS 5/15-145(c), a full-time student shall be one who is enrolled in a course of study in an accredited educational institution (other than a program of study by correspondence), and who is carrying a full-time workload as determined by the educational institution during the regular school year for the course of study the student is pursuing. A student who is concurrently enrolled at more than one accredited educational institution during the same timeframe shall be deemed to be carrying a "full-time workload" if the combined course load equals a full-time workload as defined by either of the accredited educational institutions attended.

b) Accredited educational institutions include schools, colleges, universities and post-secondary vocational institutions whose courses of study are approved by appropriate state or federal educational accreditation authorities.

c) A regular school year is the 8 to 9 months that includes two semester terms or three quarter terms (or their equivalent), excluding the summer term. Terms that begin after April 15 and end before September 16 are considered summer terms.

d) Survivors benefits shall be payable during the period between regular school years, such as winter breaks or summer terms, if the benefit recipient carried a full-time workload in the preceding semester and is enrolled for a full-time workload in the following semester.

e) To verify that an eligible child is a full-time student, SURS must receive a certification signed by an official of the educational institution confirming that the student is a full-time student as provided in subsection (a).

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART D: BENEFIT CALCULATION AND PAYMENT

Section 1600.460 Accelerated Pension Benefit Payment In Lieu of Any Pension Benefit

a) Purpose. This Section implements Section 15-185.5 of the Code providing for an accelerated pension benefit payment in lieu of any pension benefit, to be referred to in this Section as the "Vested Inactive Buyout" or "VIB".

b) Definitions. For purposes of Section 15-185.5(a), the following terms shall have the meanings specified in this subsection (b).

1) Eligible Person. An eligible "person" shall mean a person who satisfies the following conditions.

A) The *person has terminated* all *service*, meaning the person has terminated employee status under Section 15-107 of the code as of the date SURS receives the VIB application and has continuously remained in non-employee status as of the date SURS receives the election to accept the VIB offer.

B) The *person has accrued sufficient service credit to be eligible to receive a retirement annuity under Article 15*, meaning the person must meet the applicable retirement eligibility requirements under Section 15-135 of the Code solely with respect to service credit as

of the date SURS receives the VIB application. For this purpose, service credit shall include only service credited under Article 15. No service credited at a reciprocal retirement system or pension fund shall count under this subsection (b)(1)(B).

C) The *person has not received any retirement annuity under Article 15*, meaning the person must not have received any retirement annuity or Preliminary Estimated Payments as of the date SURS receives the VIB application.

D) The *person has not made the election under Section 15-185.6*.

E) The *person is not a participant in the Self-Managed Plan under Section 15-158.2*.

2) Implementation Date. *"Implementation date" means the earliest date upon which the Board authorizes eligible persons to begin irrevocably electing the accelerated pension benefit payment option under Section 15-185.5. The Board shall endeavor to make such participation available as soon as possible after June 4, 2018 and shall establish an implementation date by Board resolution.* [40 ILCS 5/15-185.5(a)]

3) Pension Benefit. The "pension benefit" upon which the VIB shall be calculated shall consist of one or more of the following benefits, as applicable:

A) Traditional Benefit Package

i) Tier 1 Members. Retirement benefits under the applicable provisions of Section 15-136 of the Code and, if a permanent survivor (as defined under subsection (b)(4)) exists, survivors insurance benefits under Section 15-145 of the Code, subject to the minimum total survivors annuity payable under Section 15-146(b) of the Code.

ii) Tier 2 Members. Retirement benefits under the applicable provisions of Section 15-136 and, if a permanent survivor (as defined under subsection (b)(4)) exists, survivors insurance benefits under Section 15-145.1 of the Code.

B) Portable Benefit Package

i) Tier 1 Members. Retirement benefits based on the actuarial equivalent of a single-life annuity described under Section 15-136.4(b) of the Code with automatic annual increases under Section 15-136.4(l).

ii) Tier 2 Members. Retirement benefits based on the actuarial equivalent of a single-life annuity described under Section 15-136.4(b) with automatic annual increases under Section 15-136(d-5).

C) Refund of Survivors Contributions. If the eligible person has no permanent survivor as of the VIB application date, then the refund that would have been payable as of the assumed retirement date under Section 15-154(c) of the Code.

D) Refund of Additional Contributions. The refund that would be payable as of the assumed retirement date under Section 15-154(d), if applicable.

E) Refund of Excess Service Credit. The refund that would be payable as of the assumed retirement date under Section 15-154(e) for excess or waived service credit.

F) Refund of Police and Firefighter Contributions. The refund that would be payable as of the assumed retirement date under Section 15-154(f), if the eligible person elects to waive the application of Rule 4 of Section 15-136 of the Code.

4) Permanent Survivor. For purposes of this Section, the term "permanent survivor" shall mean a person who:

A) is living as of the earlier of the assumed retirement date or the date on which the VIB offer is issued; and

B) is the youngest (i.e., has the longest actuarially assumed life expectancy) from among the following:

i) a "surviving spouse" under Section 15-127 of the Code (without regard to any one-year minimum marriage requirement) or an "eligible spouse" under Section 15-136.4(a) (without regard to any one-year minimum marriage requirement); or

ii) a "child" under Section 15-129 of the Code who is unmarried and dependent upon the person by reason of a physical or mental disability that began prior to the date the child attained age 18.

- If the child is age 18 or older as of the application date, the child will be deemed to be disabled on the basis of a written certificate from one or more licensed and practicing physicians stating that the child is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. The physician's determination of disability shall be determined in accordance with 20 CFR 416.905 through 416.911.

- If the child is under age 18 as of the application date, the child will be deemed to be disabled on the basis of a written certificate from one or more licensed and practicing physicians stating that the child has a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional limitations, and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months. The physician's determination of disability shall be determined in accordance with 20 CFR 416.905 through 416.911.

c) VIB Application. Beginning on the implementation date, an eligible person may apply for a VIB calculation in writing in the form prescribed by SURS, subject to the following conditions:

1) Application Deadline. SURS must receive the application by June 30, 2024~~June 30, 2021~~. However, in no event shall SURS accept an application less than 12 months prior to the date on which the eligible person must begin receiving Required Minimum Distributions under Section 1-116.1 of the Code and IRC section 401(a)(9).

2) Termination of Application

A) A pending application shall terminate prior to SURS' receipt of the election to receive the VIB on the earliest of the eligible person's:

i) revocation of the application;

ii) re-employment;

iii) death;

iv) required beginning date for Required Minimum Distributions under Section 1-116.1; or

v) election to receive an Automatic Annual Increase Buyout (AAI Buyout) under Section 15-185.6 and Section 1600.461 of this Part.

B) No election to accept a VIB offer shall be effective upon or after the termination of a pending application.

C) The eligible person may not withdraw or revoke a pending application as of the date SURS receives the completed VIB election form.

3) Other Benefits. The eligible person may not apply for a refund, disability benefit, or disability retirement annuity while a VIB application is pending.

d) VIB Offer Amount. After receipt of a VIB application, SURS shall calculate the VIB offer amount as soon as practicable. The VIB offer amount shall be 60% of the present value of the applicable pension benefit payable as of the assumed retirement date. The calculation shall be subject to the following conditions:

1) Actuarial Assumptions

A) All actuarial tables used to calculate the VIB offer amount shall use actuarial assumptions most recently adopted by the Board as of the time of the calculation.

B) The present value date shall be the first of the month on or immediately following the date that SURS receives the VIB application.

C) The discount rate used to calculate the present value of any benefit shall be the prescribed rate of interest.

D) The effective rate of interest for fiscal years prior to the fiscal year containing the date of the calculation shall be the historical rates set by the Board or the State Comptroller, as applicable. The effective rate of interest for fiscal years inclusive of and after the fiscal year containing the date of the calculation shall be the last known effective rate of interest set by the Board or the State Comptroller, as applicable.

2) Service Credit

A) All service credit purchases must have been completed by the date SURS receives the VIB application.

B) Service credit for unused, unpaid sick leave under Section 15-113.4 of the Code shall apply only if the eligible person was an employee within 60 days immediately preceding the assumed retirement date.

3) Assumed Retirement Date. The assumed retirement date shall be the retirement annuity commencement date determined as follows.

A) If the eligible person has attained the earliest applicable retirement age under Section 15-135 of the Code as of the date SURS receives the VIB application, the VIB offer amount shall be based on a retirement annuity that commences on the first of the month on or immediately following the date that SURS receives the VIB application (subject to any applicable early age reductions under Section 15-136).

B) If the eligible person has not attained the earliest applicable retirement age under Section 15-135 as of the date SURS receives the VIB application, the VIB offer amount shall be based on a retirement annuity that commences on the first of the month following the birthday on which the person will have attained the earliest applicable retirement age under Section 15-135 (subject to any applicable early age reductions under Section 15-136).

4) Survivor Benefits. The assumed dates of death of the eligible person and eligible permanent survivor with respect to any assumed survivor benefit shall be based on the most recent mortality assumptions adopted by the Board as of the date of the calculation.

5) Frequency. No more than one VIB offer amount shall be calculated in a State fiscal year.

6) Appeals. An eligible person may seek an appeal of the calculation of the VIB offer amount within 35 days after the issuance of the offer, in accordance with Section 1600.500.

e) VIB Election. The election to accept the VIB offer shall be made in the manner and form prescribed by SURS. SURS may require additional documentation or proof to verify any fact or record necessary for the administration of the election.

1) Election Deadline. The eligible person shall elect to accept the VIB offer within 120 days after the date the VIB offer was issued. If no election is submitted by the deadline, the eligible person shall be deemed to have rejected the VIB offer.

2) Election Date. The date of the election to accept the VIB offer shall be the date SURS receives the completed VIB election form.

3) Survivor Consent. The election shall be accompanied by written and notarized consent of any permanent survivor. If a permanent survivor who was identified in the VIB application no longer qualifies as a permanent survivor, then the election shall be, instead, accompanied by documentation proving the disqualifying condition as follows:

A) Death. Death shall be proven by a certified copy of the death certificate.

B) Divorce. A dissolution of marriage shall be proven by a certified copy of the judgment of dissolution of marriage or civil union.

C) Child's Non-Disability. A child's non-disability shall be proven by a written certificate from one or more licensed and practicing physicians stating that the child is no longer disabled under subsection (b)(4)(B)(ii).

4) Effect of Acceptance. Upon SURS' receipt of the election to accept the VIB offer amount, the eligible person shall be subject to the following conditions:

A) The election to accept the VIB offer shall be irrevocable unless:

i) the State Comptroller fails to remit the full VIB amount to SURS within a year after SURS has submitted a voucher under Section 15-185.5(f); or

ii) SURS has knowledge of specific and articulable facts, taken together with rational inferences from those facts, that would lead a reasonable person to believe that the election to accept the VIB was made under fraud, duress, undue influence, illegality or incapacity.

B) The eligible person may not elect to proceed under the Retirement Systems Reciprocal Act [40 ILCS 5/Art. 20] with respect to any service to which the VIB pertains.

C) The eligible person may not purchase service credit under Article 15 of the Code with respect to any service credit attributable to the VIB or any accelerated pension benefit payment under Section 14-147.5, 14-147.6, 16-190.5 or 16-190.6 of the Code.

D) The eligible person shall no longer be a participant of SURS and forfeits all accrued rights and credits in SURS and no other benefit shall be paid under Article 15 based on those forfeited rights and credits, including any retirement, survivor or other benefit; except, to the extent that participation, benefits or premiums under the State Employees Group Insurance Act of 1971 are based on the amount of service credit.

E) The VIB may not be repaid to SURS, and the forfeited rights and credits may not under any circumstances be reinstated.

F) If the eligible person returns to participation under Article 15, any benefits under SURS earned as a result of that return to participation shall be based solely on the person's credits and creditable service arising from the return to participation. Upon return to participation, the person shall be considered a new employee subject to all the qualifying conditions for participation and eligibility for benefits applicable to new employees, except the person shall retain the same Tier status and program elections previously made under Section 15-134.5 of the Code.

G) An election to accept the VIB offer shall be deemed to be a waiver of any appeal rights under Section 1600.500 with respect to the VIB.

f) VIB Voucher and Payment

1) As soon as administratively practicable after SURS' receipt of the election to accept the VIB offer, SURS shall submit one or more vouchers to the State Comptroller for the payment of the VIB. SURS shall pay the VIB as soon as administratively practicable after SURS' receipt of the VIB amount from the State Comptroller. In no event shall SURS pay the VIB without having received the amounts sufficient to pay the VIB in full from the State Comptroller.

2) The VIB shall be paid in the form of a direct rollover to an "eligible retirement plan" as defined under Section 1600.140(h)(6) (including any supplemental defined contribution plan administered by SURS) to the extent permissible under IRC section 401(a)(31), except for any amounts attributable to Required Minimum Distributions under Section 1-116.1 of the Code or amounts paid under the Excess Benefit Arrangement under Section 1600.430 of this Part. The eligible person may not elect to receive any portion of the direct rollover as cash.

3) If the eligible person dies after having elected to accept the VIB offer amount, but prior to payment of the VIB, the VIB shall be payable to the eligible person's estate.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

Section 1600.461 Accelerated Pension Benefit Payment for a Reduction and Delay in AAI

a) Purpose. This Section implements Section 15-185.6 of the Code providing for an accelerated pension benefit payment for a reduction and delay in an automatic annual increase (AAI) to a retirement annuity and an annuity benefit payable as a result of death, to be referred to in this Section as the "AAI Buyout".

b) Definitions. For purposes of Section 15-185.6(a), the following terms shall have the meanings specified in this subsecton (b).

1) Eligible Person. An "eligible person" shall mean a person who satisfies the following conditions:

A) The *person is a Tier 1 member*.

B) The *person has submitted an application for a retirement annuity under Article 15*.

C) The *person has met the age and service requirement for receiving a retirement annuity under Article 15*, meaning the person must meet the applicable retirement eligibility requirements under Section 15-135 of the Code with respect to age and service credit accrued under Article 15 and, if the person elects to retire under

the Retirement Systems Reciprocal Act, any service credit of a participating reciprocal system.

D) The *person* has *not received any retirement annuity under Article 15*, meaning the retirement date specified in the retirement application cannot be prior to the date SURS receives the application for a retirement annuity.

E) The *person has not made the election under Section 15-185.5 of the Code*.

F) The *person is not a participant in the Self-Managed Plan under Section 15-158.2 of the Code*.

2) Implementation Date. *"Implementation date" means the earliest date upon which the Board authorizes eligible persons to begin irrevocably electing the accelerated pension benefit payment option under Section 185.6. The Board shall endeavor to make such participation available as soon as possible after June 4, 2018 and shall establish an implementation date by Board resolution.* [40 ILCS 5/15-185.6(a)]

3) Assumed Annuities. The AAI Buyout shall be based on one or more of the following assumed annuities, as applicable:

A) Traditional Benefit Package. Retirement benefits under the applicable provisions of Section 15-136 of the Code and, if a permanent survivor (as defined under subsection (b)(4)) exists, survivors insurance benefits under Section 15-145 of the Code, subject to the minimum total survivors annuity payable under Section 15-146(b) of the Code.

B) Portable Benefit Package. Retirement benefits based on the actuarial equivalent of a single-life annuity described under Section 15-136.4(b).

4) Permanent Survivor. For purposes of this Section, the term "permanent survivor" shall mean a person who:

A) is living as of the earlier of the assumed retirement date or the date on which the AAI Buyout offer is issued; and

B) is the youngest (i.e., has the longest actuarially assumed life expectancy) from among the following:

i) a "surviving spouse" under Section 15-127 of the Code (without regard to any one-year minimum marriage requirement); or

ii) a "child" under Section 15-129 of the Code who is unmarried and dependent upon the person by reason of a physical or mental disability which began prior to the date the child attained age 18.

- If the child is age 18 or older as of the application date, the child will be deemed to be disabled on the basis of a written certificate from one or more licensed and practicing physicians stating that the child is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months. The physician's determination of disability shall be determined in accordance with 20 CFR 416.905 through 416.911.

- If the child is under age 18 as of the application date, the child will be deemed to be disabled on the basis of a written certificate from one or more licensed and practicing physicians stating that the child has a medically determinable physical or mental impairment or combination of impairments that causes marked and severe functional limitations, and that can be expected to cause death or that has lasted or can be expected to last for a continuous period of not less than 12 months. The physician's determination of disability shall be

determined in accordance with 20 CFR 416.905 through 416.911.

c) AAI Buyout Application. Beginning on the implementation date, an eligible person may apply for an AAI Buyout calculation in writing in the form prescribed by SURS, subject to the following conditions:

1) Application Deadline. SURS must receive the AAI Buyout application by the retirement date specified on the completed retirement application, which can be no later than June 30, 2024~~June 30, 2021~~.

2) Termination of Application

A) A pending application shall terminate on the earliest of the eligible person's:

i) revocation of the application;

ii) cancellation or suspension of the retirement annuity under Section 15-139 of the Code;

iii) death; or

iv) an election to receive a Vested Inactive Buyout under Section 15-185.5 of the Code and Section 1600.460 of this Part.

B) No election to accept an AAI Buyout offer shall be effective upon or after the termination of a pending application.

C) The eligible person may not withdraw or revoke a pending application as of the date SURS receives the completed AAI Buyout election form.

d) AAI Buyout Offer Amount

1) After receipt of an AAI Buyout application, SURS shall calculate the AAI Buyout offer amount as soon as practicable.

2) The AAI Buyout offer amount shall be 70% of the difference of:

A) the present value of the automatic annual increases to the assumed annuities under Sections 15-136(d), 15-136.4(l), and 15-145(j) of the Code, as applicable; and

B) the present value of the automatic annual increases to the assumed annuities, using the formula provided under Section 15-185.6(b-5) of the Code.

3) The calculation shall be subject to the following conditions:

A) Actuarial Assumptions

i) All actuarial tables used to calculate the AAI Buyout offer amount shall use actuarial assumptions most recently adopted by the Board as of the time of the calculation.

ii) The present value date shall be the retirement date.

iii) The discount rate used to calculate the present value shall be the prescribed rate of interest.

B) Survivor Benefits. The assumed dates of death of the eligible person and eligible permanent survivor or contingent annuitant, as applicable, with respect to any assumed survivors insurance benefit or survivor portion of a joint and survivor annuity, as applicable, shall be based on the most recent mortality assumptions adopted by the Board as of the date of the calculation. The AAI to a survivors insurance annuity or the survivor portion of a joint and survivor annuity, as applicable, calculated under Section 15-185.6(b-5) of the Code, shall commence on the January 1 occurring on or after the first anniversary of the commencement of the survivors insurance annuity or survivor portion of a joint and survivor annuity.

C) Frequency. No more than one AAI Buyout offer amount shall be calculated in a State fiscal year.

D) Appeals. An eligible person may seek an appeal of the calculation of the AAI Buyout offer amount within 35 days after the issuance of the offer in accordance with Section 1600.500.

e) AAI Buyout Election. The election to accept the AAI Buyout offer shall be made in the manner and form prescribed by SURS. SURS may require additional documentation or proof to verify any fact or record necessary for administration of the election.

1) Election Deadline. The eligible person shall elect to accept the AAI Buyout offer within 120 days after the date the AAI Buyout offer was issued. If no election is submitted by the deadline, the eligible person shall be deemed to have rejected the AAI Buyout offer.

2) Election Date. The date of the election to accept the AAI Buyout offer shall be the date SURS receives the completed AAI Buyout election form.

3) Termination from Employment. The eligible person must not return to work as an employee under Section 15-107 of the Code until after the date SURS receives the completed AAI Buyout election form.

4) Survivor Consent. The election shall be accompanied by written and notarized consent of any permanent survivor or contingent annuitant, as applicable. If a permanent survivor who was identified in the AAI Buyout application no longer qualifies as a permanent survivor, the election shall be, instead, accompanied by documentation proving the disqualifying condition as follows:

A) Death. Death shall be proven by a certified copy of the death certificate.

B) Divorce. A dissolution of marriage shall be proven by a certified copy of the judgment of dissolution of marriage or civil union.

C) Child's Non-Disability. A child's non-disability shall be proven by a written certificate from one or more licensed and practicing physicians stating that the child is no longer disabled under subsection (b)(4)(B)(ii).

5) Effect of Acceptance. Upon SURS' receipt of the election to accept the AAI Buyout offer amount, the eligible person shall be subject to the following conditions:

A) The election to accept the AAI Buyout offer shall be irrevocable unless:

i) the State Comptroller fails to remit the full AAI Buyout amount to SURS within a year after SURS has submitted a voucher under Section 15-185.6(d-5); or

ii) SURS has knowledge of specific and articulable facts, taken together with rational inferences from those facts, that would lead a reasonable person to believe that the election to accept the AAI Buyout was made under fraud, duress, undue influence, illegality or incapacity.

B) An eligible person who participates in the Traditional Benefit Package and who elects to accept the AAI Buyout offer may not elect to receive a survivors contribution refund under Section 15-154(c) of the Code if a survivors insurance beneficiary exists as of the retirement date. If no survivors insurance beneficiary exists as of the retirement date, the survivors contribution refund shall be payable to the eligible person.

C) An eligible person who elects to accept the AAI Buyout offer shall be deemed to have waived the right to any supplemental payments under Section 15-136.3 and Section 15-146(d) of the Code.

D) An election to accept the AAI Buyout offer shall be deemed to be a waiver of any appeal rights under Section 1600.500 with respect to the AAI Buyout and all underlying calculations.

6) Effect of Rejection. Upon SURS' receipt of a rejection of the AAI Buyout offer amount or upon the failure to make an election within the deadline specified under subsection (e)(1), SURS shall pay automatic annual increases as provided under Sections 15-136(d), 15-136.4(l), and 15-145(j) of the Code, as applicable.

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENT

f) AAI Buyout Voucher and Payment

1) As soon as administratively practicable after the SURS' receipt of the election to accept the AAI Buyout offer amount, SURS shall submit one or more vouchers to the State Comptroller for the payment of the AAI Buyout. SURS shall pay the AAI Buyout as soon as administratively practicable after the SURS' receipt of the AAI Buyout amount from the State Comptroller. In no event shall SURS pay the AAI Buyout without having received the amounts sufficient to pay the AAI Buyout in full from the State Comptroller.

2) The AAI Buyout shall be paid in the form of a direct rollover to an "eligible retirement plan" as defined under Section 1600.140(h)(6) (including any supplemental defined contribution plan administered by SURS) to the extent permissible under IRC section 401(a)(31), except for any amounts attributable to Required Minimum Distributions under Section 1-116.1 of the Code or amounts paid under the Excess Benefit Arrangement under Section 1600.430. The eligible person may not elect to receive any portion of the direct rollover as cash.

3) The AAI Buyout may not be repaid to SURS. However, if the retirement annuity is cancelled under Section 15-139(a) of the Code after the eligible person is paid the AAI Buyout offer amount, the eligible person shall repay to SURS that amount, plus any applicable interest under Section 1600.450.

4) If the eligible person who has received the AAI Buyout returns to participation under Article 15, the calculation of any future automatic annual increase in all retirement and survivor annuities under Section 15-139(c) shall be calculated in accordance with Section 15-185.6(b-5).

5) If the eligible person dies after having elected to accept the AAI Buyout offer, but prior to payment of the AAI Buyout, the AAI Buyout shall be payable to the eligible person's estate.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART E: ADMINISTRATIVE REVIEW

STATE UNIVERSITIES RETIREMENT SYSTEM

NOTICE OF PROPOSED AMENDMENT

Section 1600.510 Employer-Related Determinations and Rules for Appeal

This Section establishes procedures for employer appeals concerning matters of administration under the Illinois Pension Code.

a) Administrative Determination. The Board of Trustees hereby delegates to the SURS administrative staff the responsibility for making determinations that affect the rights and obligations of employers, consistent with the provisions of the ~~Illinois Pension~~ Code.

b) Review by Director of Member Services. Any employer adversely affected by a determination by System administrative staff may file, with the SURS Director of Member Services or other person designated by the Executive Director, a Statement of Employer Appeal. The designee shall have all the powers and duties of the Director of Member Services set forth in this subsection (b). A Statement of Employer Appeal must be received within 35 days after the date of the decision from which review is sought. If a Statement of Employer Appeal is not timely filed, the determination by administrative staff is final for all purposes and not subject to administrative or judicial review. The review by the Director of Member Services shall be based on all materials contained in the record, as well as any additional materials the employer attaches to the Statement of Employer Appeal. All filings or submissions, whether optional or required under this Section, shall be considered timely if date stamped by SURS within the time prescribed. The decision of the Director of Member Services shall be served on the employer's authorized representative by delivery to a third-party commercial carrier or by registered or certified mail, return receipt requested.

c) Review by the Executive Committee

1) Any employer adversely affected by the disposition of a Statement of Employer Appeal made by the Director of Member Services or the designee may request, in writing, review by the Executive Committee of the Board ~~by filing a Statement of Exceptions to the Executive Committee the Board~~ by filing with the SURS General Counsel, within 35 days after the date of the decision from which review is sought, a Statement of Exceptions to the Executive Committee. The Statement of Exceptions shall not exceed 15 pages in length, unless agreed to by the SURS General Counsel. No additional filings or submissions, apart from those already contained in the record, may be enclosed with the Statement of

Exceptions. If a Statement of Exceptions is not timely filed pursuant to this subsection (c)(1), the decision of the Director of Member Services or designee is final for all purposes and not subject to administrative or judicial review.

2) The Executive Committee shall render one of the following decisions with respect to the claim: affirmance of the decision of the Director of Member Services or designee, reversal of that decision, or remand of the case to the administrative staff for further consideration. Remand of the case to the administrative staff shall not be considered a final decision of the Executive Committee. A decision by the Executive Committee either reversing or affirming the decision of the Director of Members Services or designee shall constitute a final decision for the purpose of review under the Administrative Review Law [735 ILCS 5/Art. III].

3) All notices of decisions of the Executive Committee shall indicate that the decision is final and subject to the Administrative Review Law.

4) Parties and their representatives shall be notified, personally, by delivery to a third-party commercial carrier, or by registered or certified mail, return receipt requested, of any decision of the Executive Committee. The date of mailing of the decision shall constitute the date of service for purposes of the Administrative Review Law or any other applicable law.

d) Effect of Appeal on Due Dates, Interest and Penalties

1) Due Dates. If any provision of the Code or SURS regulations requires the employer to make payment by a certain date, the due date shall not be extended during the pendency of the appeal. Any final decision under this Section that partially reduces the payment shall extend the due date of the remaining balance by the time period during which the matter was under appeal.

2) Interest and Penalties on Payments. If any provision of the Code or SURS regulations imposes interest or penalties upon an employer after a certain date for nonpayment, the interest and/or penalties shall continue to accrue during the pendency of the appeal. Any final decision that partially reduces the payment shall also reduce the attributable interest and/or penalties. To avoid the accrual of interest and/or penalties, the employer

may make payment under protest. A payment under protest must be submitted, at the latest, with the Statement of Employer Appeal filed pursuant to subsection (b). If made, the payment shall not be considered an admission of any liability and shall not constitute a waiver of any appeal rights under this Section.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

SUBPART G: BOARD TRUSTEE ELECTION

Section 1600.715 Eligible Voters

a) An individual is eligible to vote for a contributing membership position on the Board of Trustees of the System if he or she was a contributing member, defined as an employee who has been certified as a SURS covered employee by the employee's employer and an employee for whom employee contributions have been received in the previous 31 days, except as provided for in subsection (e), as of March 1 of the year in which the election is held.

b) An individual is eligible to vote for an open annuitant position on the Board of Trustees of the System if he or she was an annuitant as of March 1 of the year in which the election is held.

c) A person who is eligible to vote for a contributing membership position pursuant to subsection (a) is not eligible to vote for an open annuitant position.

d) A person who is eligible to vote for an annuitant position pursuant to subsection (b) is not eligible to vote for an open contributing membership position.

e) A SURS member receiving a disability pursuant to Section 15-150 of the Illinois Pension Code is not an annuitant but is considered a contributing member for purposes of Board elections.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Electric Reliability

2) Code Citation: 83 Ill. Adm. Code 411

3)

Section Numbers:	Adopted Actions:
411.40	Amendment
411.120	Amendment
411.160	Amendment
411.200	Amendment
411.210	Amendment
411.220	Amendment

4) Statutory Authority: Implementing Sections 8-401 and 16-125 and authorized by Sections 10-101 and 16-125 of the Public Utilities Act [220 ILCS 5].

5) Effective Date of Rules: March 4, 2020

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 Commission's Springfield office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 43 Ill. Reg. 3088; March 8, 2019

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

11) Differences between Proposal and Final Version: Amendments originally proposed to Section 411.310, pertaining to customer surveys, and to the reference in the Subpart C header to the 1,000,000-customer threshold are not being made in this rulemaking. (The header will be changed instead through a recodification.) A provision initially intended for deletion, Section 411.210(b)(1), which concerns annual reports, is being retained.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? None were made.

13) Does this rulemaking replace any emergency rule currently in effect? No

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

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

15) Summary and Purpose of Rulemaking: The rulemaking updates and simplifies a number of reporting requirements in Part 411, Electric Reliability. The rulemaking also brings various provisions in the Part into conformity with changes that have been made recently to the underlying statutes. The specific amendments in the rulemaking are described below.

The provisions in Subpart C on record-keeping, notice, and reporting requirements are now applicable to electric utilities with 100,000 or more customers, a reduction from the former threshold of 1,000,000 or more customers. In addition, certain record-keeping, notice, and reporting requirements in Subpart C for electric utilities subject to its provisions are now triggered by service interruptions, surges, and fluctuations that affect either more than 30,000 customers or 0.8 % of the utility's total customers, whichever is less. The threshold for those requirements formerly was set simply at more than 30,000 customers. A corresponding change was made to the provisions concerning proceedings to determine responsibility for power surges and fluctuations. The time limit for those proceedings was also changed, reflecting a statutory amendment that now allows proceedings to be commenced within 30 days after a claim has been filed with the agency seeking damages or expense reimbursement, rather than the former limit of 30 days after the occurrence. These changes make the rules consistent with Sections 16-125(e), (f) and (k) of the Public Utilities Act.

In other changes to Part 411, the rulemaking amends Section 411.120, Notice and Reporting Requirements, which requires a utility to provide an annual reliability report to the Commission, to delete subsection (b)(3)(G)(vii), which required utilities also to include in their reports data for the three previous years. The rulemaking removes from Section 411.160, Format and Disclosure of Reports, an outdated reference to "floppy disks" and revises language regarding acceptable electronic file formats.

An amendment to Section 411.210 repeals subsection (c), which required the filing of a report "on or before June 1, 1999" describing information for calendar year 1997. That deadline passed long ago, and by now information collected under it is of historical rather than regulatory interest.

16) Questions or requests for information about these adopted rules shall be directed to:

Brian W. Allen
Office of General Counsel

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/558-2387

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER c: ELECTRIC UTILITIES

PART 411
ELECTRIC RELIABILITY

SUBPART A: GENERAL

Section
411.10 Purpose
411.20 Definitions
411.30 Applicability of Subpart B
411.40 Applicability of Subpart C
411.50 Commission Design of Customer Survey

SUBPART B: REQUIREMENTS FOR ALL JURISDICTIONAL ENTITIES

Section
411.100 Reliability Obligations
411.110 Record-Keeping Requirements
411.120 Notice and Reporting Requirements
411.130 Interruption Cause Categories
411.140 Reliability Review
411.150 Modification or Exemption
411.160 Format and Disclosure of Reports
411.170 Exclusions
411.180 System Protection
411.190 Approval of Vegetation Management Programs

SUBPART C: UTILITIES WITH 1,000,000 OR MORE CUSTOMERS

Section
411.200 Specific Record-Keeping Requirements
411.210 Specific Notice and Reporting Requirements
411.220 Proceedings to Determine Responsibility Under 220 ILCS 5/16-125(e) & (f)
411.230 Proceedings to Determine Damages Under 220 ILCS 5/16-125(e) & (f)

SUBPART D: ELECTRIC SERVICE CUSTOMER SATISFACTION SURVEY

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section
411.300 Purpose of Subpart D
411.301 Definitions Used in Subpart D
411.305 Customer Survey Requirements
411.310 General Characteristics of the Customer Survey
411.315 Survey Implementation
411.320 Format for Results of the Customer Satisfaction Survey
411.323 Raw Data
411.325 Survey Parameters
411.330 Categories of Responses for Survey Questions
411.332 Descriptive Statistics
411.335 Rating Questions
411.340 Yes/No Questions
411.345 Categorical Questions
411.350 Data Comparisons
411.355 Tracking the Results of the Customer Satisfaction Survey
411.360 Executive Summary

411.TABLE A Causes of Interruptions

AUTHORITY: Implementing Sections 8-401 and 16-125 and authorized by Sections 10-101 and 16-125 of the Public Utilities Act [220 ILCS 5].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 11177, effective June 10, 1998, for a maximum of 150 days; adopted at 22 Ill. Reg. 20042, effective November 7, 1998; amended at 24 Ill. Reg. 12914, effective September 1, 2000; amended at 44 Ill. Reg. 4598, effective March 4, 2020.

SUBPART A: GENERAL

Section 411.40 Applicability of Subpart C

The provisions of Subpart C are applicable to all electric utilities that have 100,000~~1,000,000~~ or more customers.

(Source: Amended at 44 Ill. Reg. 4598, effective March 4, 2020)

SUBPART B: REQUIREMENTS FOR ALL JURISDICTIONAL ENTITIES

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 411.120 Notice and Reporting Requirements

a) Telephone or Facsimile Notice~~facsimile notice~~. A jurisdictional entity must provide notice by telephone or by facsimile transmission to the Consumer Services Division of the Commission when any single event (e.g., storm, tornado, equipment malfunction, etc.) causes interruptions for 10,000 or more of the jurisdictional entity's customers for three hours or more. After these~~such~~ interruptions have continued for three hours, a jurisdictional entity must provide notice within one hour when the notice would be provided during normal business hours, or within the first hour of the next business day. A jurisdictional entity shall provide updates every two hours during the normal business day until service is restored to all customers involved. To the extent that data and information are known, the~~such~~ notice shall include the data and information listed in this subsection (a)~~below~~.

1) An estimate of the number of customers the interruptions affect.

2) Starting date of the interruptions.

3) Starting time of the interruptions.

4) Duration of the interruptions.

5) Locations of the interruptions, described as precisely as possible in generally recognized and geographically oriented terms such as street address, subdivision, or community.

6) Description of the cause of the interruptions.

7) The date and time when the jurisdictional entity expects to restore electric service.

8) The name and telephone number of a jurisdictional entity representative the Commission Staff can contact for more information about the interruptions.

9) Customer call volume to the jurisdictional entity during the interruption as compared to normal call volume and the steps the jurisdictional entity is

taking to address call volume.

b) Annual Report~~report~~. On or before June 1 of each year, each jurisdictional entity, except for jurisdictional entities exempt under Section 411.110(b), shall file with the Chief Clerk of the Commission an annual report for the previous calendar year submitted under oath and verified by an individual responsible for the jurisdictional entity's transmission and distribution reliability.

1) The data requirements incorporated in the annual report are not meant to replace timely reports on outages when they occur or are remedied as required by other provisions of this Part.

2) Supporting data used for more than one purpose or calculation need be submitted only once in each annual report, if submitted with clear cross-references. Data should be consistent and differences reconciled to the extent possible.

3) The annual report shall include the information listed in this subsection (b)(3)~~below~~.

A) A plan for future investment and, where necessary, reliability improvements for the jurisdictional entity's transmission and distribution facilities that will ensure continued reliable delivery of energy to customers and provide the delivery reliability needed for fair and open competition, along with the estimated cost of implementing the plan and any changes to the plan from the previous annual report.

i) The plan must cover all operating areas, including a description of the relevant characteristics of each operating area and the age and condition of the jurisdictional entity's equipment and facilities in each operating area.

ii) The plan shall cover a period of no less than three years following the year in which the report was filed.

iii) The plan shall identify all foreseeable reliability challenges and describe specific projects for addressing each.

iv) The plan shall provide a timetable for achievement of the plan's goals.

v) The plan shall report and address all unresolved reliability complaints about the jurisdictional entity's system received from other utilities, independent system operators, and alternative retail electric suppliers.

vi) The plan shall report the specific actions, if any, the jurisdictional entity is taking to address the concerns raised in ~~such~~ complaints received from other utilities, independent system operators, and alternative retail electric suppliers.

vii) The plan must consider all interruption causes listed in subsection ~~Section 411.120~~(b)(3)(D).

viii) The plan must consider the effects on customers and the cost of reducing the number of interruptions reported as required by subsection ~~Section 411.120~~(b)(3)(C).

B) A report of the jurisdictional entity's implementation of its plan filed pursuant to subsection (b)(3)(A)~~ of this Section~~ for the previous annual reporting period, including an identification of significant deviations from the first year of the previous plan and the reasons for the deviations.

C) The number and duration of planned and unplanned interruptions for the annual reporting period and their impacts on customers.

D) The number and causes of controllable interruptions for the annual reporting period.

E) Customer service interruptions that were due solely to the actions or inactions of another utility, another jurisdictional entity, independent system operator, or alternative retail electric supplier for the annual reporting period.

F) A comparison of interruption frequency and duration for customers

buying electric energy from the jurisdictional entity versus customers buying electric energy from another utility or alternative retail electric supplier for the annual reporting period. A jurisdictional entity may base this comparison on each customer's supplier as of December 31 of each year. A jurisdictional entity need not include this information for customers whose electric energy supplier is not known to the jurisdictional entity.

G) A report of the age, current condition, reliability and performance of the jurisdictional entity's existing transmission and distribution facilities, which shall include, without limitation, the data listed in this subsection (b)(3)(G)~~below~~. In analyzing and reporting the age of the jurisdictional entity's plant and equipment, the jurisdictional entity may utilize book depreciation. Statistical estimation and analysis may be used when actual ages and conditions of facilities are not readily available. The use of these~~such~~ techniques shall be disclosed in the report.

i) A qualitative characterization of the condition of the jurisdictional entity's system defining the criteria used in making the qualitative assessment, and explaining why they are appropriate.

ii) A summary of the jurisdictional entity's interruptions and voltage variances reportable under this Part, including the reliability indices for the annual reporting period.

iii) The jurisdictional entity's expenditures for transmission construction and maintenance for the annual reporting period expressed in constant 1998 dollars, the ratio of those expenditures to the jurisdictional entity's transmission investment, and the average remaining depreciation lives of the entity's transmission facilities, expressed as a percentage of total depreciation lives.

iv) The jurisdictional entity's expenditures for distribution construction and maintenance for the annual reporting period expressed in constant 1998 dollars, the ratio of those expenditures to the jurisdictional entity's distribution

investment, and the average remaining depreciation lives of the entity's distribution facilities, expressed as a percentage of total depreciation lives.

v) The results of a customer satisfaction survey completed during the annual reporting period and covering reliability, customer service, and customer understanding of the jurisdictional entity's services and prices.

vi) An overview pertaining to the number and substance of customers' reliability complaints for the annual reporting period and their distribution over the jurisdictional entity's operating areas.

~~vii) The corresponding information, in the same format, for the previous three annual reporting periods, if available.~~

H) A table showing the achieved level of each of the three reliability indices of each operating area for the annual reporting period (provided, however, that for any reporting period commencing before April 1, 1998, a jurisdictional entity will not be required to report the CAIFI reliability index).

I) A list showing the worst-performing circuits for each operating area for the annual reporting period with the understanding that the designation of circuits as "worst-performing circuits" shall not, in and of itself, indicate a violation of this Part.

J) A statement of the operating and maintenance history of circuits designated as worst-performing circuits; a description of any action taken or planned to improve the performance of any such circuit (which shall include information concerning the cost of that~~such~~ action); and a schedule for completion of any such action. (The jurisdictional entity may decide, based on cost considerations or other factors, that it should take no action to improve the performance of one or more circuits designated as worst-performing circuits. If the jurisdictional entity decides to take no action to improve the performance of one or more circuits designated as worst-performing circuits, the jurisdictional entity

shall explain its decision in its annual report.)

K) Commencing June 10, 2001, tables or graphical representations~~,~~ covering, for the last three years, all of the jurisdictional entity's customers, and showing, in ascending order, the total number of customers that experienced a set number of interruptions during the year (i.e., the number of customers, who experienced zero interruptions, the number of customers who experienced one interruption, etc.).

L) Commencing June 10, 2001, for those customers who experienced interruptions in excess of the service reliability targets, a list of every customer, identified by a unique number assigned by the jurisdictional entity and not the customer's name or account number, the number of interruptions and interruption duration experienced in each of the three preceding years, and the number of consecutive years in which the customer has experienced interruptions in excess of the service reliability targets.

M) The name, address and telephone number of a jurisdictional entity representative who can be contacted for additional information regarding the annual report.

c) Customer Report~~report~~. A jurisdictional entity shall, upon request made by a customer or the Consumer Services Division of the Commission, provide to the customer and/or the Consumer Services Division, within 30~~thirty~~ days after the request, a report on all interruptions that the customer making the request, or subject to the Consumer Service Division's request, has experienced at the customer's current service location during the most recent five calendar years. The report shall identify for each interruption the information specified in Section 411.110(a)(1)(A) through~~-~~ (D). Notwithstanding the provisions of this subsection, a jurisdictional entity is not required to report data pursuant to this Section that Section 411.110(b) does not require a jurisdictional entity to maintain, or that the jurisdictional entity was not required to retain at the time of the interruption. This subsection does not alter the provisions of 83 Ill. Adm. Code 200 and 280 that relate to informal and formal complaint procedures.

(Source: Amended at 44 Ill. Reg. 4598, effective March 4, 2020)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 411.160 Format and Disclosure of Reports

The reports required to be filed by this Part shall be submitted to the Commission and available to the public in both printed and electronic form. The printed version shall be the official version filed with the Commission's Chief Clerk. Computerized data and information filed as part of a report that is stored by a jurisdictional entity on a personal computer shall be provided in Microsoft Office, or other format agreed to by Commission Staff,~~Corel Office, IBM personal computer compatible file formats~~ and delivered to the Commission's offices via ~~Internet~~ electronic mail or ~~on floppy disks or other~~ portable storage media as agreed to by the Commission Staff. Underlying data provided to the Commission shall be available to the public to the extent that it is not proprietary information. A jurisdictional entity shall report the required information on both a system-wide and operating areas basis. A jurisdictional entity shall submit the required information in a consistent format each year that facilitates comparisons across time periods and that uses non-technical language. A jurisdictional entity's reports shall be available to the public from the jurisdictional entity and from the Commission. A jurisdictional entity shall keep copies of its reports at its public offices.

(Source: Amended at 44 Ill. Reg. 4598, effective March 4, 2020)

SUBPART C: UTILITIES WITH 1,000,000 OR MORE CUSTOMERS

Section 411.200 Specific Record-Keeping Requirements

a) Electric utilities with 100,000~~1,000,000~~ or more customers must maintain service records detailing information on each interruption that affects 10 or more customers, or power fluctuations that affect 30,000 or more customers, or 0.8% of the utility's total customers, whichever is less. The service record for each interruption shall be maintained for at least five years and shall include the following information:~~listed below.~~

1) Starting date of the interruption or power fluctuation.

2) Starting time of the interruption or power fluctuation.

3) Interruption or power fluctuation duration.

4) Number of customers affected by the interruption or power fluctuation.

5) Description of the cause of the interruption or power fluctuation.

6) Geographic area affected by the interruption or power fluctuation.

7) Specific equipment involved in the interruption or power fluctuation.

8) Description of measures taken to restore service or eliminate power fluctuation.

9) Description of measures taken to remedy the cause of the interruption or power fluctuation.

10) Description of measures taken to prevent a future interruption or power fluctuation.

11) Amount of remuneration, if any, paid to affected customers.

12) Statement of whether the fixed charge was waived for affected customers.

b) An electric utility with 100,000~~1,000,000~~ or more customers shall not modify its data collection or record-keeping procedures so as to collect or record less information about the reliability of its transmission and distribution facilities under the jurisdiction of the Commission or to collect information for fewer discrete areas than the utility collected in calendar year 1997 without first seeking the comments of the Commission Staff. Any changes in data collection and record-keeping procedures made without agreement of the Staff shall not excuse a later failure to provide information required or requested under the Act or this Part.

(Source: Amended at 44 Ill. Reg. 4598, effective March 4, 2020)

Section 411.210 Specific Notice and Reporting Requirements

Each electric utility having 100,000~~1,000,000~~ or more customers shall provide the following notice and reports: ~~as listed below.~~

a) Make the information, which the utility must maintain in accordance with Section 411.200, available for public inspection at the utility's offices and provide copies of the information to the public upon payment of a fee not exceeding the reasonable cost of reproduction.

b) File, with the Commission's Chief Clerk, an annual report on or before June 1 of each year that includes the following information:~~listed below.~~

1) Each record that Section 411.200 requires the utility to maintain.

2) The projected load and peak demand for each of the utility's operating areas for the following three years.

3) The peak loading (as a percentage of rated normal and emergency capacity) on each transmission and distribution substation transformer operating during its peak loading period at or above 90 percent of normal rated capacity, except when that~~where such~~ data would reveal information about loads of specific customers.

~~c) File, with the Commission's Chief Clerk, a report on or before June 1, 1999 that lists the discrete areas for which it collected reliability data and kept reliability records and that explains its reliability data collection and record-keeping procedures for calendar year 1997.~~

c~~d~~) Notify the Commission, within 72 hours, in the event that more than 30,000 customers, or 0.8% of the utility's total customers, whichever is less, are subjected to a power interruption that meets the conditions set forth in Section 16-125(e) of the Act or more than 30,000 customers, or 0.8% of the utility's total customers, whichever is less, are subjected to a power surge or other fluctuation that meets the conditions in Section 16-125(f) of the Act.

(Source: Amended at 44 Ill. Reg. 4598, effective March 4, 2020)

Section 411.220 Proceedings to Determine Responsibility Under 220 ILCS 5/16-125(e) & (f)

a) In the event that more than 30,000 customers of a utility, or 0.8% of the utility's total customers, whichever is less, are subjected to a power interruption that meets the conditions set forth in Section 16-125(e) of the Act and the utility or the Commission believes that the ~~such~~ interruption is due to one or more of the causes set forth in Section 16-125(e)(1) through ~~-~~(4) of the Act, then the utility may commence a proceeding before the Commission, or the Commission may commence on its own motion a proceeding, seeking a declaration that the subject

interruption was due to one or more of those~~such~~ causes and that liability under Section 16-125(e) of the Act should be waived by the Commission. Any such proceeding shall be commenced by the utility or the Commission no later than 30 days after the date on which a claim is filed with the Commission seeking damages or expense reimbursement~~such power interruption~~. The Commission's decision in that~~such~~ proceeding shall be appealable by any party thereto, and except as reversed or modified on appeal, the determination of the cause of the interruption in this proceeding and the Commission's decision to grant or deny a waiver of liability in connection with the interruption~~therewith~~ shall be final and shall be binding on both the utility and claimants in actions before the Commission to recover damages under Section 16-125(e) of the Act. This proceeding shall determine only the liability of the utility under Section 16-125(e) of the Act and shall not constitute a finding or determination, for the purpose of this or any other proceeding, that the utility was or was not negligent, did or did not breach a contract, or violated or did not violate any other legal duty or obligation.

b) In the event that more than 30,000 customers of a utility, or 0.8% of the utility's total customers, whichever is less, are subjected to a power surge or other fluctuation that meets the conditions set forth in Section 16-125(f) of the Act, and the utility or the Commission believes that the~~such~~ power surge or other fluctuation is due to one or more of the causes set forth in Section 16-125(f)(1) through ~~-~~(4) of the Act, then the utility may commence a proceeding before the Commission, or the Commission may commence on its own motion a proceeding, seeking a determination from the Commission that the subject power surge or other fluctuation was due to one or more of those~~such~~ causes and that, therefore, no liability attaches under Section 16-125(f) of the Act. Any such proceeding shall be commenced by the utility or the Commission no later than 30 days after the date on which a claim is filed with the Commission seeking damages or expense reimbursement~~such power surge or other fluctuation~~. The Commission's decision in the~~such~~ proceeding shall be appealable by any party to the proceeding~~thereto,~~ and, except as reversed or modified on appeal, the determination of the cause of the power surge or other fluctuation in this proceeding shall be final and binding on both the utility and claimants in actions before the Commission to recover damages under Section 16-125(f) of the Act. This proceeding shall determine only the liability of the utility under Section 16-125(f) of the Act and shall not constitute a finding or determination, for the purpose of this or any other proceeding, that the utility was or was not negligent, did or did not breach a contract, or violated or did not violate any other legal duty

or obligation.

c) Any customer affected by the subject interruption, power surge or other fluctuation, or a unit of local government in which the~~such~~ interruption, power surge or other fluctuation occurred, shall be entitled to intervene in a proceeding brought pursuant to this Section. Informal and formal complaints pursuant to the Commission's Rules of Practice (83 Ill. Adm. Code 200) brought by affected customers and units of local government shall be stayed pending disposition of this proceeding and appeals thereof, or consolidated with this proceeding for the purposes of liability.

(Source: Amended at 44 Ill. Reg. 4598, effective March 4, 2020)

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Competition Reporting

2) Code Citation: 83 Ill. Adm. Code 793

3)

Section Numbers:	Adopted Actions:
793.10	Repealed
793.20	Repealed
793.30	Repealed
793.40	Repealed
793.60	Repealed
793.70	Repealed
793.80	Repealed

4) Statutory Authority: Implementing Section 13-407 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/13-407 and 10-101].

5) Effective Date of Repealer: March 9, 2020

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 repealer, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 43 Ill. Reg. 7891; July 26, 2019

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 agreement letter issued by JCAR? No changes were required.

13) Does this rulemaking replace any emergency rule currently in effect? No

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED REPEALER

15) Summary and Purpose of Rulemaking: Part 793, Competition, Reporting, implements Section 13-407 of the Public Utilities Act, which was repealed by PA 100-840, effective August 13, 2018. Section 13-407 required the Commission to report annually to the General Assembly on telecommunications markets in Illinois, using information reported to the Agency by telecom providers pursuant to the same statute. With the repeal of the paired statutory reporting requirements − providers to Agency, Agency to General Assembly − the associated rules may now also be repealed.

16) Questions or requests for information about this adopted repealer shall be directed to:

Brian W. Allen
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/558-2387

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Medical Payment

2) Code Citation: 89 Ill. Adm. Code 140

3)

Section Numbers:	Adopted Actions:
140.75	New Section
140.80	Amendment
140.88	New Section
140.402	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]

5) Effective Date of Rules: March 3, 2020

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 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*: 43 Ill. Reg. 12000; October 25, 2019

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

11) Differences between Proposal and Final Version: The text at 140.75 has been changed in the following ways: in subsection (b)(2) "days" are clarified as "calendar days"; in subsection (d) "address" is changed to "resolve" and a clause is added to clarify a granted extension results in an MCO having 60 calendar days to develop a proposal; and in subsection (d)(1), (d)(2) and (e) text is added to encourage extension requests be made in a timely manner. The text at 140.88 has been clarified in the required documentation section.

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? Yes, Section 88 only.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

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

15) Summary and Purpose of Rulemaking: These amendments and new Sections of rule implement parts of PA 101-10 and PA 101-209. The new Section at 89 Ill. Adm. Code 140.75 creates the dispute resolution process added to 305 ILCS 5/5-30.1(g-5) by PA 101-209. The amendment to 89 Ill. Adm. Code 140.80 implements the hospital assessment related date changes contained in PA 101-10 and PA 101-209. The new Section at 89 Ill. Adm. Code 140.88 implements the federally approved managed care organization provider assessment model. The amendment to 89 Ill. Adm. Code 140.402 ends the collection of copayments for non-institutional services for medical assistance recipients as permitted by PA 101-209.

16) Information and questions regarding these adopted rules shall be directed to:

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

HFS.Rules@Illinois.gov

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section
140.1 Incorporation By Reference
140.2 Medical Assistance Programs
140.3 Covered Services Under Medical Assistance Programs
140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
140.5 Covered Medical Services Under General Assistance
140.6 Medical Services Not Covered
140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
140.8 Medical Assistance For Qualified Severely Impaired Individuals
140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
140.10 Medical Assistance Provided to Persons Confined or Detained by the Criminal Justice System

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section
140.11 Enrollment Conditions for Medical Providers
140.12 Participation Requirements for Medical Providers
140.13 Definitions
140.14 Denial of Application to Participate in the Medical Assistance Program
140.15 Suspension and Denial of Payment, Recovery of Money and Penalties
140.16 Termination, Suspension or Exclusion of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.18 Effect of Termination, Suspension, Exclusion or Revocation on Persons

Associated with Vendor
140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension, Exclusion or Barring
140.20 Submittal of Claims
140.21 Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
140.22 Magnetic Tape Billings (Repealed)
140.23 Payment of Claims
140.24 Payment Procedures
140.25 Overpayment or Underpayment of Claims
140.26 Payment to Factors Prohibited
140.27 Assignment of Vendor Payments
140.28 Record Requirements for Medical Providers
140.30 Audits
140.31 Emergency Services Audits
140.32 Prohibition on Participation, and Special Permission for Participation
140.33 Publication of List of Sanctioned Entities
140.35 False Reporting and Other Fraudulent Activities
140.40 Prior Approval for Medical Services or Items
140.41 Prior Approval in Cases of Emergency
140.42 Limitation on Prior Approval
140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.44 Withholding of Payments Due to Fraud or Misrepresentation
140.45 Withholding of Payments Upon Provider Audit, Quality of Care Review, Credible Allegation of Fraud or Failure to Cooperate
140.55 Electronic Data Interchange Service
140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72 Drug Manual (Recodified)
140.73 Drug Manual Updates (Recodified)
140.74 Resolution of Claims Related to Inaccurate or Updated Enrollment Information
140.75 Managed Care – Disputed Provider Claims Resolution Process

SUBPART C: PROVIDER ASSESSMENTS

Section
140.80 Hospital Provider Fund
140.82 Developmentally Disabled Care Provider Fund

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

140.84	Long Term Care Provider Fund
140.86	Supportive Living Facility Funds
140.88	Managed Care Organization Provider Assessment
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund (Repealed)
140.95	Hospital Services Trust Fund (Repealed)
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)
140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)
140.101	Transplants (Recodified)
140.102	Heart Transplants (Recodified)
140.103	Liver Transplants (Recodified)
140.104	Bone Marrow Transplants (Recodified)
140.110	Disproportionate Share Hospital Adjustments (Recodified)
140.116	Payment for Inpatient Services for GA (Recodified)
140.117	Hospital Outpatient and Clinic Services (Recodified)
140.200	Payment for Hospital Services During Fiscal Year 1982 (Recodified)
140.201	Payment for Hospital Services After June 30, 1982 (Repealed)
140.202	Payment for Hospital Services During Fiscal Year 1983 (Recodified)
140.203	Limits on Length of Stay by Diagnosis (Recodified)
140.300	Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
140.350	Copayments (Recodified)
140.360	Payment Methodology (Recodified)
140.361	Non-Participating Hospitals (Recodified)
140.362	Pre July 1, 1989 Services (Recodified)
140.363	Post June 30, 1989 Services (Recodified)
140.364	Prepayment Review (Recodified)
140.365	Base Year Costs (Recodified)
140.366	Restructuring Adjustment (Recodified)
140.367	Inflation Adjustment (Recodified)
140.368	Volume Adjustment (Repealed)
140.369	Groupings (Recodified)
140.370	Rate Calculation (Recodified)
140.371	Payment (Recodified)
140.372	Review Procedure (Recodified)

140.373 Utilization (Repealed)
140.374 Alternatives (Recodified)
140.375 Exemptions (Recodified)
140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
140.391 Definitions (Recodified)
140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section
140.400 Payment to Practitioners
140.402 Copayments for Noninstitutional Medical Services
140.403 Telehealth Services
140.405 Non-Institutional Rate Reductions
140.410 Physicians' Services
140.411 Covered Services By Physicians
140.412 Services Not Covered By Physicians
140.413 Limitation on Physician Services
140.414 Requirements for Prescriptions and Dispensing of Pharmacy Items – Prescribers
140.416 Optometric Services and Materials
140.417 Limitations on Optometric Services
140.418 Department of Corrections Laboratory
140.420 Dental Services
140.421 Limitations on Dental Services
140.422 Requirements for Prescriptions and Dispensing Items of Pharmacy Items – Dentists (Repealed)
140.423 Licensed Clinical Psychologist Services
140.424 Licensed Clinical Social Worker Services
140.425 Podiatry Services
140.426 Limitations on Podiatry Services
140.427 Requirement for Prescriptions and Dispensing of Pharmacy Items – Podiatry (Repealed)
140.428 Chiropractic Services
140.429 Limitations on Chiropractic Services (Repealed)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

140.430 Independent Clinical Laboratory Services
140.431 Services Not Covered by Independent Clinical Laboratories
140.432 Limitations on Independent Clinical Laboratory Services
140.433 Payment for Clinical Laboratory Services
140.434 Record Requirements for Independent Clinical Laboratories
140.435 Advanced Practice Nurse Services
140.436 Limitations on Advanced Practice Nurse Services
140.438 Diagnostic Imaging Services
140.439 Critical Access Care Pharmacy Payment
140.440 Pharmacy Services
140.441 Pharmacy Services Not Covered
140.442 Prior Approval of Prescriptions
140.443 Filling of Prescriptions
140.444 Compounded Prescriptions
140.445 Legend Prescription Items (Not Compounded)
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140.448 Returned Pharmacy Items
140.449 Payment of Pharmacy Items
140.450 Record Requirements for Pharmacies
140.451 Prospective Drug Review and Patient Counseling
140.452 Community-based Mental Health Providers Qualified for Payment
140.453 Community-based Mental Health Service Definitions and Professional Qualifications
140.454 Types of Mental Health Services
140.455 Payment for Mental Health Services
140.456 Hearings
140.457 Therapy Services
140.458 Prior Approval for Therapy Services
140.459 Payment for Therapy Services
140.460 Clinic Services
140.461 Clinic Participation, Data and Certification Requirements
140.462 Covered Services in Clinics
140.463 Clinic Service Payment
140.464 Hospital-Based and Encounter Rate Clinic Payments
140.465 Speech and Hearing Clinics (Repealed)
140.466 Rural Health Clinics (Repealed)
140.467 Independent Clinics
140.469 Hospice

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

140.470 Eligible Home Health Care, Nursing and Public Health Providers
140.471 Description of Home Health Care Services
140.472 Home Health Care Services
140.473 Prior Approval for Home Health Care Services
140.474 Payment for Home Health Care Services
140.475 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
140.476 Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices for Which Payment Will Not Be Made
140.477 Limitations on Equipment, Prosthetic Devices and Orthotic Devices
140.478 Prior Approval for Medical Equipment, Supplies, Prosthetic Devices and Orthotic Devices
140.479 Limitations, Medical Supplies
140.480 Equipment Rental Limitations
140.481 Payment for Medical Equipment, Supplies, Prosthetic Devices and Hearing Aids
140.482 Family Planning Services
140.483 Limitations on Family Planning Services
140.484 Payment for Family Planning Services
140.485 Healthy Kids Program
140.486 Illinois Healthy Women
140.487 Healthy Kids Program Timeliness Standards
140.488 Periodicity Schedules, Immunizations and Diagnostic Laboratory Procedures
140.490 Medical Transportation
140.491 Medical Transportation Limitations and Authorization Process
140.492 Payment for Medical Transportation
140.493 Payment for Helicopter Transportation
140.494 Record Requirements for Medical Transportation Services
140.495 Psychological Services
140.496 Payment for Psychological Services
140.497 Hearing Aids
140.498 Fingerprint-Based Criminal Background Checks
140.499 Behavioral Health Clinic

SUBPART E: GROUP CARE

Section
140.500 Long Term Care Services
140.502 Cessation of Payment at Federal Direction
140.503 Cessation of Payment for Improper Level of Care
140.504 Cessation of Payment Because of Termination of Facility

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

140.505 Informal Hearing Process for Denial of Payment for New ICF/MR
140.506 Provider Voluntary Withdrawal
140.507 Continuation of Provider Agreement
140.510 Determination of Need for Group Care
140.511 Long Term Care Services Covered By Department Payment
140.512 Utilization Control
140.513 Notification of Change in Resident Status
140.514 Certifications and Recertifications of Care (Repealed)
140.515 Management of Recipient Funds – Personal Allowance Funds
140.516 Recipient Management of Funds
140.517 Correspondent Management of Funds
140.518 Facility Management of Funds
140.519 Use or Accumulation of Funds
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140.523 Bed Reserves
140.524 Cessation of Payment Due to Loss of License
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140.527 Quality Incentive Survey (Repealed)
140.528 Payment of Quality Incentive (Repealed)
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140.530 Basis of Payment for Long Term Care Services
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140.534 Ownership Costs
140.535 Costs for Interest, Taxes and Rent
140.536 Organization and Pre-Operating Costs
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140.541 Salaries Paid to Owners or Related Parties
140.542 Cost Reports – Filing Requirements

140.543 Time Standards for Filing Cost Reports
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140.545 Penalty for Failure to File Cost Reports
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140.551 General Service Costs Updates
140.552 Nursing and Program Costs
140.553 General Administrative Costs Updates
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140.563 Capital Costs
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140.568 Duration of Incentive Payments (Repealed)
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140.581 Qualifying as Mandated Capital Improvement (Repealed)
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DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENTS

140.646 Reimbursement for Developmental Training (DT) Services for Individuals With Developmental Disabilities Who Reside in Long Term Care (ICF and SNF) and Residential (ICF/MR) Facilities
140.647 Description of Developmental Training (DT) Services
140.648 Determination of the Amount of Reimbursement for Developmental Training (DT) Programs
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140.650 Certification of Developmental Training (DT) Programs
140.651 Decertification of Day Programs
140.652 Terms of Assurances and Contracts
140.680 Effective Date Of Payment Rate
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AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency

amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a

maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940 thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14,

1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990; amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992,

for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996;

amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593,

effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150

days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; peremptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days; emergency expired April 10, 2009; peremptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010; amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012; amended at 36 Ill. Reg. 7010, effective April 27, 2012; amended at 36 Ill. Reg. 7545, effective May 7, 2012; amended at 36 Ill. Reg. 9113, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 11329, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 140.442(e)(4) suspended at 36 Ill. Reg. 13736, effective August 15, 2012; suspension withdrawn from Section 140.442(e)(4) at 36 Ill. Reg. 14529, September 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.442(e)(4) at 36 Ill. Reg. 14820, effective September 21, 2012 through June 30, 2013; emergency amendment to Section 140.491 suspended at 36 Ill. Reg. 13738, effective August 15, 2012; suspension withdrawn by the Joint Committee on Administrative Rules from Section 140.491 at 37 Ill. Reg. 890, January 8, 2013;

emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.491 at 37 Ill. Reg. 1330, effective January 15, 2013 through June 30, 2013; amended at 36 Ill. Reg. 15361, effective October 15, 2012; emergency amendment at 37 Ill. Reg. 253, effective January 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 846, effective January 9, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 1774, effective January 28, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2348, effective February 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 3831, effective March 13, 2013; emergency amendment at 37 Ill. Reg. 5058, effective April 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5170, effective April 8, 2013 through June 30, 2013; amended at 37 Ill. Reg. 6196, effective April 29, 2013; amended at 37 Ill. Reg. 7985, effective May 29, 2013; amended at 37 Ill. Reg. 10282, effective June 27, 2013; amended at 37 Ill. Reg. 12855, effective July 24, 2013; emergency amendment at 37 Ill. Reg. 14196, effective August 20, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 17584, effective October 23, 2013; amended at 37 Ill. Reg. 18275, effective November 4, 2013; amended at 37 Ill. Reg. 20339, effective December 9, 2013; amended at 38 Ill. Reg. 859, effective December 23, 2013; emergency amendment at 38 Ill. Reg. 1174, effective January 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 4330, effective January 29, 2014; amended at 38 Ill. Reg. 7156, effective March 13, 2014; amended at 38 Ill. Reg. 12141, effective May 30, 2014; amended at 38 Ill. Reg. 15081, effective July 2, 2014; emergency amendment at 38 Ill. Reg. 15673, effective July 7, 2014, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 18216, effective August 18, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 18462, effective August 19, 2014; amended at 38 Ill. Reg. 23623, effective December 2, 2014; amended at 39 Ill. Reg. 4394, effective March 11, 2015; emergency amendment at 39 Ill. Reg. 6903, effective May 1, 2015 through June 30, 2015; emergency amendment at 39 Ill. Reg. 8137, effective May 20, 2015, for a maximum of 150 days; emergency amendment at 39 Ill. Reg. 10427, effective July 10, 2015, for a maximum of 150 days; emergency expired December 6, 2015; amended at 39 Ill. Reg. 12825, effective September 4, 2015; amended at 39 Ill. Reg. 13380, effective September 25, 2015; amended at 39 Ill. Reg. 14138, effective October 14, 2015; emergency amendment at 40 Ill. Reg. 13677, effective September 16, 2016, for a maximum of 150 days; emergency expired February 12, 2017; amended at 41 Ill. Reg. 999, effective January 19, 2017; amended at 41 Ill. Reg. 3296, effective March 8, 2017; amended at 41 Ill. Reg. 7526, effective June 15, 2017; amended at 41 Ill. Reg. 10950, effective August 9, 2017; amended at 42 Ill. Reg. 4829, effective March 1, 2018; amended at 42 Ill. Reg. 12986, effective June 25, 2018; emergency amendment at 42 Ill. Reg. 13688, effective July 2, 2018, for a maximum of 150 days; emergency amendment to emergency rule at 42 Ill. Reg. 16265, effective August 13, 2018, for the remainder of the 150 days; amended at 42 Ill. Reg. 14383, effective July 23, 2018; amended at 42 Ill. Reg. 20059, effective October 26, 2018; amended at 42 Ill. Reg. 22352, effective November 28, 2018; amended at 43 Ill. Reg. 1014, effective December 31, 2018; amended at 43 Ill. Reg. 2227, effective February 4, 2019; amended at 43 Ill. Reg. 4094, effective March 25, 2019; amended at

43 Ill. Reg. 5706, effective May 2, 2019; amended at 43 Ill. Reg. 6736, effective May 28, 2019; emergency amendment at 43 Ill. Reg. 12093, effective October 15, 2019, for a maximum of 150 days; amended at 44 Ill. Reg. 226, effective December 23, 2019; amended at 44 Ill. Reg. 4616, effective March 3, 2020.

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section 140.75 Managed Care − Disputed Provider Claims Resolution Process

a) The Department will maintain an electronic provider complaint portal through which a disputed claim between a provider and an MCO is documented, monitored, and resolved. A disputed claim is a determination made by an MCO that denies in whole or in part a claim for reimbursement to a provider for services rendered by the provider to an enrollee of the MCO with which the provider disagrees.

b) A provider or its billing agent may submit to the Department's provider complaint portal a disputed claim only after filing with the MCO's internal provider dispute resolution process, as described in this subsection (b). Multiple claim disputes involving the same MCO may be submitted in one complaint, regardless of whether the claims are for different enrollees, when the specific reason for non-payment of the claims involves a common question of fact or policy.

1) The provider's submission to the portal must include the date the disputed claims were filed with the MCO's internal provider dispute resolution process and the corresponding MCO-provided tracking number.

2) Disputes that are submitted to the MCO internal dispute resolution process may be submitted to the provider complaint portal no sooner than 30 calendar days after submitting to the MCO's internal process and not later than 30 calendar days after the unsatisfactory resolution of the internal MCO process or 60 calendar days after submitting the dispute to the MCO internal process.

c) The Department, within 10 business days after a provider's disputed claims submission to the provider complaint portal, will present the disputed claims to the MCO for resolution.

d) The MCO, within 30 calendar days after receiving the disputed claims from the Department's provider complaint portal, will develop a written proposal to resolve the disputed claims, which shall be electronically transmitted to the provider and uploaded to the provider complaint portal, unless an extension is granted pursuant to subsection (e), resulting in an MCO having 60 calendar days to develop a written proposal.

1) In the event the MCO requires additional information from the provider to review the disputed claims, the MCO must request the additional information from the provider within 5 business days after receiving the disputed claims from the Department's provider complaint portal, unless the MCO requests an extension within this 5 business day timeframe and is granted an extension pursuant to subsection (e). When an MCO is granted an extension, the MCO must request the additional information from the provider within 5 business days after receiving the extension.

2) When additional information is requested from the provider by the MCO within the timeframes described in subsection (d)(1), the provider has 5 business days to respond with the requested information, unless the provider requests an extension within this 5 business day response timeframe and is granted an extension pursuant to subsection (e). When a provider is granted an extension, the provider must respond with the requested information within 5 business days after receiving the extension. Failure to timely provide the information will result in the disputed claims being closed.

e) During the disputed claims resolution process described in subsection (d), the MCO or the provider may request, through the provider complaint portal, that the Department authorize a single 30 calendar day extension. The MCO or the provider may submit an extension request during the timeframes established in subsection (d). An extension request, made by either the MCO or the provider, that occurs after the timelines in subsection (d) must be made no later than 7 calendar days prior to the end of the initial 30 calendar day period. Approval of the extension is at the Department's discretion. An approved extension adds 30 calendar days to the initial 30 calendar day period, for a total of 60 calendar days within which the MCO must develop a written proposal to address the disputed claims.

f) A provider that disagrees with the MCO's written proposal or does not receive the MCO's written proposal within the required timeframe has 30 calendar days to request that the Department review the disputed claims and render a final decision.

1) Within 30 calendar days after a provider's request for Department review, both the MCO and the provider shall deliver all relevant information to the Department, including contact information for knowledgeable personnel.

2) Within 30 calendar days after the timeframe established in subsection (f)(1), the Department shall provide a written decision on the disputed claims that reflects, and is consistent with, applicable contract terms, written Department policies and procedures, and State and federal statute and regulations.

3) The decision of the Department is final. Disputes between MCOs and providers presented to the Department for resolution are not contested cases and do not confer any right to an administrative hearing.

(Source: Added at 44 Ill. Reg. 4616, effective March 3, 2020)

SUBPART C: PROVIDER ASSESSMENTS

Section 140.80 Hospital Provider Fund

a) Purpose and Contents

1) The Hospital Provider Fund (Fund) was created in the State Treasury on February 3, 2004 (see 305 ILCS 5/5A-8). Interest earned by the Fund shall be credited to the Fund. The Fund shall not be used to replace any funds appropriated to the Medicaid program by the General Assembly.

2) The Fund is created for the purpose of receiving and disbursing monies in accordance with this Section and Article 5A of the Code.

3) The Fund shall consist of:

A) All monies collected or received by the Department under subsection (b);

B) All federal matching funds received by the Department as a result of expenditures made by the Department that are attributable to monies deposited in the Fund;

C) Any interest or penalty levied in conjunction with the administration of the Fund;

D) Monies transferred from another fund in the State treasury;

E) All other monies received for the Fund from any other source, including interest earned on those monies.

b) Provider Assessments

1) Subject to Sections 5A-3, 5A-10 and 5A-15 of the Code, for State fiscal years 2009 through 2018, or as long as continued under Section 5A-16, an annual assessment on inpatient services is imposed on each hospital provider in an amount equal to $218.38 multiplied by the difference of the hospital's occupied bed days less the hospital's Medicare bed days; provided, however, the amount of $218.38 shall be increased by a uniform percentage to generate an amount equal to 75% of the State share of the payments authorized under Section 5A-12-5 of the Code, with that increase only taking effect upon the date that a State share for those payments is required under federal law. For the period of April through June 2015, the amount of $218.38 used to calculate the assessment under this subsection (b)(1) shall be increased by a uniform percentage to generate $20,250,000 in the aggregate for that period from all hospitals subject to the annual assessment under this Section. For State fiscal years 2009 and after, a hospital's occupied bed days and Medicare bed days shall be determined using the most recent data available from each hospital's 2005 Medicare cost report as contained in the Healthcare Cost Report Information System file, for the quarter ending on December 31, 2006, without regard to any subsequent adjustments or changes to such data. If a hospital's 2005 Medicare cost report is not contained in the Healthcare Cost Report Information System, then the Department may obtain the hospital provider's occupied bed days and Medicare bed days from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business

hours of the day by the Department or its duly authorized agents and employees. Subject to Sections 5A-3, 5A-10, and 5A-16 of the Code, for State fiscal years 2019 and 2020, an annual assessment on inpatient services is imposed on each hospital provider in an amount equal to $197.19 multiplied by the difference of the hospital's occupied bed days less the hospital's Medicare bed days; however, for State fiscal year 2021~~2020~~, the amount of $197.19 shall be increased by a uniform percentage to generate an additional $6,250,000 in the aggregate for that period from all hospitals subject to the annual assessment under this Section. For State fiscal years 2019 and 2020, a hospital's occupied bed days and Medicare bed days shall be determined using the most recent data available from each hospital's 2015 Medicare cost report as contained in the Healthcare Cost Report Information System file, for the quarter ending on March 31, 2017, without regard to any subsequent adjustments or changes to such data. If a hospital's 2015 Medicare cost report is not contained in the Healthcare Cost Report Information System, then the Illinois Department may obtain the hospital provider's occupied bed days and Medicare bed days from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Illinois Department or its duly authorized agents and employees. Notwithstanding any other provision in this Section, for a hospital provider that did not have a 2015 Medicare cost report, but paid an assessment in State fiscal year 2018 on the basis of hypothetical data, that assessment amount shall be used for State fiscal years 2019 and 2020; however, for State fiscal year 2021~~2020~~, the assessment amount shall be increased by the proportion that it represents of the total annual assessment that is generated from all hospitals in order to generate $6,250,000 in the aggregate for that period from all hospitals subject to the annual assessment under this Section. Subject to Sections 5A-3 and 5A-10, for State fiscal 2021 through 2024, an annual assessment on inpatient services is imposed on each hospital provider in an amount equal to $197.19 multiplied by the difference of the hospital's occupied bed days less the hospital's Medicare bed days, provided, however, that the amount of $197.19 used to calculate the assessment under this subsection (b)(1) shall be adjusted by a uniform percentage to generate the same total annual assessment that was generated in State fiscal year 2020 from all hospitals subject to the annual assessment under this subsection (b)(1) plus $6,250,000. For State fiscal years 2021 and 2022, a hospital's occupied bed days and Medicare bed

days shall be determined using the most recent data available from each hospital's 2017 Medicare cost report as contained in the Healthcare Cost Report Information System file, for the quarter ending on March 31, 2019, without regard to any subsequent adjustments or changes to such data. For State fiscal years 2023 and 2024, a hospital's occupied bed days and Medicare bed days shall be determined using the most recent data available from each hospital's 2019 Medicare cost report as contained in the Healthcare Cost Report Information System file, for the quarter ending on March 31, 2021, without regard to any subsequent adjustments or changes to such data.

2) In addition to any other assessments imposed under this Section, effective July 1, 2016 and semiannually thereafter through June 2018, or as provided in Section 5A-16, in addition to any federally required State share as authorized under subsection (b)(1), the amount of $218.38 shall be increased by a uniform percentage to generate an amount equal to 75% of the ACA Assessment Adjustment, as defined in subsection (l)(1).

3) Subject to Sections 5A-3, 5A-10, and 5A-15 of the Code for the portion of State fiscal year 2012 beginning June 10, 2012 through June 30, 2012, and for State fiscal years 2013 through 2018, an annual assessment on outpatient services is imposed on each hospital provider in an amount equal to .008766 multiplied by the hospital's outpatient gross revenue; provided, however, the multiplier of .008766 shall be increased by a uniform percentage to generate an amount equal to 25% of the State share of the payments authorized under Section 5A-12-5, with that increase only taking effect upon the date that a State share for those payments is required under federal law. For the period of April through June 2015, the amount of .008766 used to calculate the assessment under this subsection (b)(3) shall be increased by a uniform percentage to generate $6,750,000 in the aggregate for that period from all hospitals subject to the annual assessment under this Section. For the portion of State fiscal year 2012 beginning June 10, 2012 through June 30, 2012 and for State fiscal years 2013 through 2018, a hospital's outpatient gross revenue shall be determined using the most recent data available from each hospital's 2009 Medicare cost report as contained in the Healthcare Cost Report Information System file, for the quarter ending on June 30, 2011, without regard to any subsequent adjustments or changes to that data. If a hospital's 2009 Medicare cost report is not contained in the Healthcare

Cost Report Information System, then the Department may obtain the hospital provider's outpatient gross revenue from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Department or its duly authorized agents and employees. For the period beginning June 10, 2012 through June 30, 2012, the annual assessment on outpatient services shall be prorated by multiplying the assessment amount by a fraction, the numerator of which is 21 days and the denominator of which is 365 days. Subject to Sections 5A-3, 5A-10, and 5A-16, for State fiscal years 2019 and 2020, an annual assessment on outpatient services is imposed on each hospital provider in an amount equal to .01358 multiplied by the hospital's outpatient gross revenue; however, for State fiscal year 2021~~2020~~, the amount of .01358 shall be increased by a uniform percentage to generate an additional $6,250,000 in the aggregate for that period from all hospitals subject to the annual assessment under this subsection (b)(3). For State fiscal years 2019 and 2020, a hospital's outpatient gross revenue shall be determined using the most recent data available from each hospital's 2015 Medicare cost report as contained in the Healthcare Cost Report Information System file, for the quarter ending on March 31, 2017, without regard to any subsequent adjustments or changes to such data. If a hospital's 2015 Medicare cost report is not contained in the Healthcare Cost Report Information System, then the Department may obtain the hospital provider's outpatient gross revenue from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Department or its duly authorized agents and employees. Notwithstanding any other provision in this Section, for a hospital provider that did not have a 2015 Medicare cost report, but paid an assessment in State fiscal year 2018 on the basis of hypothetical data, that assessment amount shall be used for State fiscal years 2019 and 2020; however, for State fiscal year 2021~~2020~~, the assessment amount shall be increased by the proportion that it represents of the total annual assessment that is generated from all hospitals in order to generate $6,250,000 in the aggregate for that period from all hospitals subject to the annual assessment under this subsection (b)(3). Subject to Sections 5A-3 and 5A-10, for State fiscal years 2021 through 2024, an annual assessment on outpatient services is imposed on each hospital provider in an amount equal to .01358 multiplied by the hospital's outpatient gross revenue, provided however, that the amount of .01358

used to calculate the assessment under this subsection (b)(3) shall be adjusted by a uniform percentage to generate the same total annual assessment that was generated in State fiscal year 2020 from all hospitals subject to the annual assessment under this subsection (b)(3) plus $6,250,000. For State fiscal years 2021 and 2022, a hospital's outpatient gross revenue shall be determined using the most recent data available from each hospital's 2017 Medicare cost report as contained in the Healthcare Cost Report Information System file, for the quarter ending on March 31, 2019, without regard to any subsequent adjustments or changes to such data. For State fiscal years 2023 and 2024, a hospital's outpatient gross revenue shall be determined using the most recent data available from each hospital's 2019 Medicare cost report as contained in the Healthcare Cost Report Information System file, for the quarter ending on March 31, 2021, without regard to any subsequent adjustments or changes to such data.

4) In addition to any other assessments imposed under Article 5A of the Code, effective July 1, 2016 and semiannually thereafter through June 2018, in addition to any federally required State share as authorized under subsection (b)(3), the amount of .008766 shall be increased by a uniform percentage to generate an amount equal to 25% of the ACA Assessment Adjustment, as defined in subsection (l)(1).

5) Final Reconciliation

A) The Department shall complete and apply a final reconciliation of the ACA Assessment Adjustment described in subsections (b)(2) and (b)(4) prior to June 30, 2018 to account for:

i) any differences between the actual payments issued or scheduled to be issued prior to June 30, 2018 as authorized in Section 5A-12.5 of the Code for the period of January 1, 2018 through June 30, 2018 and the estimated payments due and payable in the month of October 2017 multiplied by 6 as described in subsection (l)(1)(D); and

ii) any difference between the estimated fee-for-service payments under Section 5A-12.5(b) of the Code and the

amount of those payments that are actually scheduled to be paid.

B) The Department shall notify hospitals of any additional amounts owed or reduction credits to be applied to the June 2018 ACA Assessment Adjustment. This is to be considered the final reconciliation for the ACA Assessment Adjustment.

C) Notwithstanding any other provision of this Section, if, for any reason, the scheduled payments under Section 5A-12.5(b) of the Code are not issued in full by the final day of the period authorized under that statute, funds collected from each hospital pursuant to subsections (l)(1)(D) and (b)(5)(A), attributable to the scheduled payments authorized under Section 5A-12.5(b) of the Code that are not issued in full by the final day of the period attributable to each payment authorized under that statute, shall be refunded.

6) The increases authorized under subsections (b)(2) and (b)(4) shall be limited to the federally required State share of the total payments authorized under Section 5A-12.5 of the Code if the sum of those payments yields an annualized amount equal to or less than $450,000,000, or if the adjustments authorized under Section 5A-12.2(t) of the Code are found not to be actuarially sound; however, this limitation shall not apply to the fee-for-service payments described in Section 5A-12.5 of the Code.

c) Payment of Assessment Due

1) The inpatient assessment imposed by Section 5A-2 of the Code for State fiscal year 2009 through State fiscal year 2018, or as provided in Section 5A-16, shall be due and payable in monthly installments, each equaling one-twelfth of the assessment for the year, on the 14th State business day of each month. No installment payments of an inpatient assessment shall be due and payable, however, until after the Comptroller has issued the payments required under Section 5A-12.2 of the Code. Assessment payments postmarked on the due date will be considered as paid on time.

2) Except as provided in Section 5A-4(a-5) of the Code, the outpatient assessment imposed by subsection (b)(3) for the portion of State fiscal year 2012 beginning June 10, 2012 through June 30, 2012 and for State

fiscal year 2013 through State fiscal year 2018, or as provided in Section 5A-16, shall be due and payable in monthly installments, each equaling one-twelfth of the assessment for the year, on the 14th State business day of each month.

A) No installment payment of an outpatient assessment imposed by subsection (b)(3) shall be due and payable, however, until after:

i) the Department notifies the hospital provider, in writing, that the payment methodologies to hospitals required under Section 5A-12.4 of the Code have been approved by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services (CMMS), and the waiver under 42 CFR 433.68 for the assessment imposed by subsection (b) of this Section, if necessary, has been granted by CMMS; and

ii) the Comptroller has issued the payments required under Section 5A-12.4 of the Code.

B) Assessment payments postmarked on the due date will be considered as paid on time. Upon notification to the Department of approval of the payment methodologies required under Section 5A-12.4 of the Code and the waiver granted under 42 CFR 433.68, if necessary, all installments otherwise due under subsection (b)(3) of this Section prior to the date of notification shall be due and payable to the Department upon written direction from the Department and issuance by the Comptroller of the payments required under Section 5A-12.4 of the Code.

3) The assessment imposed under Section 5A-2 of the Code for State fiscal year 2019 and each subsequent State fiscal year shall be due and payable in monthly installments, each equaling one-twelfth of the assessment for the year, on the 17th~~14th~~ State business day of each month.

A) No installment payment of an assessment imposed by Section 5A-2 of the Code shall be due and payable, however, until after:

i) The Department notifies the hospital provider, in writing, that the payment methodologies to hospitals required under Section 5A-12.6 of the Code have been approved by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, and the waiver under 42 CFR 433.68 for the assessment imposed by Section 5A-2 of the Code, if necessary, has been granted by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services; and

ii) The Comptroller has issued the payments required under Section 5A-12.6 of the Code.

B) Upon notification to the Department of approval of the payment methodologies required under Section 5A-12.6 of the Code and the waiver granted under 42 CFR 433.68, if necessary, all installments otherwise due under subsection (b)(3) prior to the date of notification shall be due and payable to the Department upon written direction from the Department and issuance by the Comptroller of the payments required under Section 5A-12.6 of the Code.

4) Any assessment amount that is due and payable to the Department more frequently than once per calendar quarter shall be remitted to the Department by the hospital provider by means of electronic funds transfer. The Department may provide for remittance by other means if the amount due is less than $10,000 or electronic funds transfer is unavailable for this purpose.

5) All payments received by the Department shall be credited first to unpaid installment amounts (rather than to penalty or interest), beginning with the most delinquent installments.

d) Notice Requirements, Penalty, and Maintenance of Records

1) The Department shall send a notice of assessment to every hospital provider subject to an assessment under subsection (b), except that no notice shall be sent for the outpatient assessment imposed under subsection (b)(3) until the Department receives written notice that the

payment methodologies to hospitals required under Section 5A-12.4 of the Code has been approved and the waiver under 42 CFR 433.68, if necessary, has been granted by CMMS.

2) If a hospital provider conducts, operates, or maintains more than one hospital licensed by the Illinois Department of Public Health, a separate notice shall be sent for each hospital.

e) Procedure for Partial Year Reporting/Operating Adjustments

1) Cessation of business during the fiscal year in which the assessment is being paid. If a hospital provider ceases to conduct, operate, or maintain a hospital for which the person is subject to assessment under subsection (b), the assessment for the State fiscal year in which the cessation occurs shall be adjusted by multiplying the assessment computed under subsection (d) by a fraction, the numerator of which is the number of days in the year during which the provider conducts, operates, or maintains the hospital and the denominator of which is 365. Immediately upon ceasing to conduct, operate or maintain a hospital, the person shall pay the assessment for the year as adjusted (to the extent not previously paid).

2) Commencing of business during the fiscal year in which the assessment is being paid. A hospital provider who commences conducting, operating, or maintaining a hospital for which the person is subject to assessment under subsection (b), upon notice by the Department, shall pay the assessment under subsection (d) as computed by the Department in installments on the due dates stated on the notices and on the regular installment due dates for the State fiscal year occurring after the due date of the initial assessment notice. For State fiscal years 2009 through 2018, in the case of a hospital provider that did not conduct, operate or maintain a hospital in 2005, the inpatient assessment for that State fiscal year shall be computed on the basis of hypothetical occupied bed days for the full calendar year as determined by the Department. For the portion of State fiscal year 2012 beginning June 10, 2012 through June 30, 2012, and for State fiscal years 2013 through 2018, in the case of a hospital provider that did not conduct, operate or maintain a hospital in 2009, the outpatient assessment imposed under subsection (b)(3) shall be computed on the basis of hypothetical gross outpatient revenue for the full calendar year as determined by the

Department. The assessment determination made by the Department is final.

3) Partial Calendar Year Operation Adjustment. For a hospital provider that did not conduct, operate, or maintain a hospital throughout the entire calendar year reporting period, the assessment for the State fiscal year shall be annualized for the portion of the reporting period the hospital was operational (dividing the assessment due by the number of days the hospital was in operation and then multiplying the amount by 365). Information reported by a prior provider from the same hospital during the calendar year shall be used in the annualization equation, if available.

4) Notwithstanding any other provision in this Section, for State fiscal years 2019 through 2024, in the case of a hospital provider that did not conduct, operate, or maintain a hospital in the year that is the basis of the calculation of the assessment under this Section, the assessment under subsection (b) for the State fiscal year shall be computed on the basis of hypothetical occupied bed days for the full calendar year as determined by the Illinois Department, except that for a hospital provider that did not have a 2015 Medicare cost report, but paid an assessment in State fiscal year 2018 on the basis of hypothetical data, that assessment amount shall be used for State fiscal years 2019 and 2020; however, for State fiscal year 2020, the assessment amount shall be increased by the proportion that it represents of the total annual assessment that is generated from all hospitals in order to generate $6,250,000 in the aggregate for that period from all hospitals subject to the annual assessment under this Section.

5) Notwithstanding any other provision in this Section, for State fiscal years 2019 through 2024, in the case of a hospital provider that did not conduct, operate, or maintain a hospital in the year that is the basis of the calculation of the assessment under this Section, the assessment under subsection (b) for that State fiscal year shall be computed on the basis of hypothetical gross outpatient revenue for the full calendar year as determined by the Illinois Department, except that for a hospital provider that did not have a 2015 Medicare cost report, but paid an assessment in State fiscal year 2018 on the basis of hypothetical data, that assessment amount shall be used for State fiscal years 2019 and 2020; however, for State fiscal year 2020, the assessment amount shall be increased by the proportion that it represents of the total annual assessment that is

generated from all hospitals in order to generate $6,250,000 in the aggregate for that period from all hospitals subject to the annual assessment under this Section.

6) Change in Ownership and/or Operators. The full quarterly installment must be paid on the designated due dates regardless of changes in ownership or operators. Liability for the payment of the assessment amount (including past due assessments and any interest or penalties that may have accrued against the amount) rests on the hospital provider currently operating or maintaining the hospital regardless if these amounts were incurred by the current owner or were incurred by previous owners. Collection of delinquent assessment fees from previous providers will be made against the current provider. Failure of the current provider to pay any outstanding assessment liabilities incurred by previous providers shall result in the application of penalties described in subsection (f)(1).

f) Penalties

1) Any hospital that fails to pay the full amount of an installment when due shall be charged, unless waived by the Department for reasonable cause, a penalty equal to 5% of the amount of the installment not paid on or before the due date, plus 5% of the portion remaining unpaid on the last day of each monthly period thereafter, not to exceed 100% of the installment amount not paid on or before the due date. Waiver due to reasonable cause may include but is not limited to:

A) provider has not been delinquent on payment of an assessment due, within the last three calendar years from the time the delinquency occurs.

B) provider can demonstrate to the Department's satisfaction that a payment was made prior to the due date.

C) provider is a new owner/operator and the late payment occurred in the quarter in which the new owner/operator assumed control of the facility.

2) Within 30 days after the due date, the Department may begin recovery actions against delinquent hospitals participating in the Medicaid Program.

Payments may be withheld from the hospital until the entire assessment, including any interest and penalties, is satisfied or until a reasonable repayment schedule has been approved by the Department. If a reasonable agreement cannot be reached or if a hospital fails to comply with an agreement, the Department reserves the right to recover any outstanding provider assessment, interest and penalty by recouping the amount or a portion thereof from the hospital's future payments from the Department. The provider may appeal this recoupment in accordance with the Department's rules at 89 Ill. Adm. Code 104. The Department has the right to continue recoupment during the appeal process. Penalties pursuant to subsection (f)(1) will continue to accrue during the recoupment process. Recoupment proceedings against the same hospital two times in a fiscal year may be cause for termination from the Medicaid Program. Failure by the Department to initiate recoupment activities within 30 days shall not reduce the provider's liabilities nor shall it preclude the Department from taking action at a later date.

3) If the hospital does not participate in the Medicaid Program, or is no longer doing business with the Department, or the Department cannot recover the full amount due through the claims processing system, within three months after the fee due date, the Department may begin legal action to recover the monies, including penalties and interest owed, plus court costs.

g) Delayed Payment – Groups of Hospitals
The Department may establish delayed payment of assessments and/or waive the payment of interest and penalties for groups of hospitals such as disproportionate share hospitals or all other hospitals when:

1) The State delays payments to hospitals due to problems related to State cash flow; or

2) A cash flow bond pool's, or any other group financing plans', requests from providers for loans are in excess of its scheduled proceeds such that a significant number of hospitals will be unable to obtain a loan to pay the assessment.

h) Delayed Payment – Individual Hospitals
In addition to the provisions of subsection (g), the Department may delay

assessments for individual hospitals that are unable to make timely payments under this Section due to financial difficulties. No delayed payment arrangements shall extend beyond the last business day of the calendar quarter following the quarter in which the assessment was to have been received by the Department as described in subsection (c). The request must be received by the Department prior to the due date of the assessment.

1) Criteria. Delayed payment provisions may be instituted only under extraordinary circumstances. Delayed payment provisions may be made only to qualified hospitals who meet all of the following requirements:

A) The provider has experienced an emergency that necessitates institution of delayed payment provisions. Emergency in this instance is defined as a circumstance under which institution of the payment and penalty provisions described in subsections (c)(1), (c)(2), (f)(1) and (f)(2) would impose severe and irreparable harm to the clients served. Circumstances that may create these emergencies include, but are not limited to, the following:

i) Department system errors (either automated system or clerical) that have precluded payments, or that have caused erroneous payments such that the provider's ability to provide further services to clients is severely impaired;

ii) Cash flow problems encountered by a provider that are unrelated to Department technical system problems and that result in extensive financial problems to a facility, adversely impacting on its ability to serve its clients.

B) The provider serves a significant number of clients under the medical assistance program. "Significant" in this instance means:

i) A hospital that serves a significant number of clients under the medical assistance program; significant in this instance means that the hospital qualifies as a disproportionate share hospital (DSH) under 89 Ill. Adm. Code 148.120(a)(1) through 148.120(a)(2); or qualifies as a Medicare DSH hospital under the current federal guidelines.

ii) A government-owned facility that meets the cash flow criterion under subsection (h)(1)(A)(ii).

iii) A hospital that has filed for Chapter 11 bankruptcy and that meets the cash flow criterion under subsection (h)(1)(A)(ii).

C) The provider must ensure that a delay of payment request, as defined under subsection (h)(3)(A), is received by the Department prior to the payment due date, and the request must include a Cash Position Statement that is based upon current assets, current liabilities and other data for a date that is less than 60 days prior to the date of filing. Any liabilities payable to owners or related parties must not be reported as current liabilities on the Cash Position Statement. A deferral of assessment payments will be denied if any of the following criteria are met:

i) The ratio of current assets divided by current liabilities is greater than 2.0.

ii) Cash, short term investments and long term investments equal or exceed the total of accrued wages payable and the assessment payment. Long term investments that are unavailable for expenditure for current operations due to donor restrictions or contractual requirements will not be used in this calculation.

D) The provider must show evidence of denial of an application to borrow assessment funds through a cash flow bond pool or financial institutions such as a commercial bank. The denial must be 90 days old or less.

E) The provider must sign an agreement with the Department that specifies the terms and conditions of the delayed payment provisions. The agreement shall contain the following provisions:

i) Specific reasons for institution of the delayed payment provisions;

ii) Specific dates on which payments must be received and the

amount of payment that must be received on each specific date described;

iii) The interest or a statement of interest waiver as described in subsection (h)(5) that shall be due from the provider as a result of institution of the delayed payment provisions;

iv) A certification stating that, should the entity be sold, the new owners will be made aware of the liability and any agreement selling the entity will include provisions that the new owners will assume responsibility for repaying the debt to the Department according to the original agreement;

v) A certification stating that all information submitted to the Department in support of the delayed payment request is true and accurate to the best of the signator's knowledge; and

vi) Other terms and conditions that may be required by the Department.

2) A hospital that does not meet the above criteria may request a delayed payment schedule. The Department may approve the request, notwithstanding the hospital not meeting the above criteria, upon a sufficient showing of financial difficulties and good cause by the hospital. If the request for a delayed payment schedule is approved, all other conditions of this subsection (h) shall apply.

3) Approval Process

A) In order to receive consideration for delayed payment provisions, providers must ensure their request is received by the Department prior to the payment due date, in writing (telefax requests are acceptable) to the Bureau of Hospital and Provider Services. The request must be received by the date designated by the Department. Providers will be notified, in writing, as to the due dates for submitting delay of payment requests. Requests must be complete and contain all required information before they are considered to have met the time requirements for filing a delayed

payment request. All telefax requests must be followed up with original written requests, postmarked no later than the date of the telefax. The request must include:

i) An explanation of the circumstances creating the need for the delayed payment provisions;

ii) Supportive documentation to substantiate the emergency nature of the request including a cash position statement as defined in subsection (h)(1)(C), a denial of application to borrow the assessment as defined in subsection (h)(1)(D) and an explanation of the risk of irreparable harm to the clients; and

iii) Specification of the specific arrangements requested by the provider.

B) The hospital shall be notified by the Department, in writing prior to the assessment due date, of the Department's decision with regard to the request for institution of delayed payment provisions. An agreement shall be issued to the provider for all approved requests. The agreement must be signed by the administrator, owner, chief executive officer or other authorized representative and be received by the Department prior to the first scheduled payment date listed in such agreement.

4) Waiver of Penalties. The penalties described in subsections (f)(1) and (f)(2) may be waived upon approval of the provider's request for institution of delayed payment provisions. In the event a provider's request for institution of delayed payment provisions is approved and the Department has received the signed agreement in accordance with subsection (h)(3)(B), the penalties shall be permanently waived for the subject quarter unless the provider fails to meet all of the terms and conditions of the agreement. In the event the provider fails to meet all of the terms and conditions of the agreement, the agreement shall be considered null and void and the penalties shall be fully reinstated.

5) Interest. The delayed payments shall include interest at a rate not to exceed the State of Illinois borrowing rate. The applicable interest rate

shall be identified in the agreement described in subsection (h)(1)(E). The interest may be waived by the Department if the facility's current ratio, as described in subsection (h)(1)(C), is 1.5 or less and the hospital meets the criteria in subsections (h)(1)(A) and (B). Any waivers granted shall be expressly identified in the agreement described in subsection (h)(1)(E).

6) Subsequent Delayed Payment Arrangements. Once a provider has requested and received approval for delayed payment arrangements, the provider shall not receive approval for subsequent delayed payment arrangements until such time as the terms and conditions of any current delayed payment agreement have been satisfied or unless the provider is in full compliance with the terms of the current delayed payment agreement. The waiver of penalties described in subsection (h)(4) shall not apply to a provider that has not satisfied the terms and conditions of any current delayed payment agreement.

i) Administration and Enforcement Provisions
The Department shall establish and maintain a listing of all hospital providers appearing in the licensing records of the Department of Public Health, which shall show each provider's name and principal place of business and the name and address of each hospital operated, conducted, or maintained by the provider in this State. The Department shall administer and enforce Sections 5A-1, 2, 3, 4, 5, 7, 8, 10, 12, 15, and 16 of the Code and collect the assessments and penalty assessments imposed under Sections 5A-2 and 4 of the Code. The Department, its Director, and every hospital provider subject to assessment measured by occupied bed days shall have the following powers, duties and rights:

1) The Department may initiate either administrative or judicial proceedings, or both, to enforce the provisions of Sections 5A-1, 2, 3, 4, 5, 7, 8, 10, 12, 15 and 16 of the Code. Administrative enforcement proceedings initiated shall be governed by the Department's rules at 89 Ill. Adm. Code 104.200 through 104.330. Judicial enforcement proceedings initiated shall be governed by the rules of procedure applicable in the courts of this State.

2) No proceedings for collection, refund, credit, or other adjustment of an assessment amount shall be issued more than three years after the due date of the assessment, except in the case of an extended period agreed to in writing by the Department and the hospital provider before the expiration of this limitation period.

3) Any unpaid assessment under Section 5A-2 of the Code shall become a lien upon the assets of the hospital upon which it was assessed. If any hospital provider, outside the usual course of its business, sells or transfers the major part of any one or more of the real property and improvements, the machinery and equipment, or the furniture or fixtures of any hospital that is subject to the provisions of Sections 5A-1, 2, 3, 4, 5, 7, 8, 10, 12, 15 and 16 of the Code, the seller or transferor shall pay the Department the amount of any assessment, assessment penalty, and interest (if any) due from it under Sections 5A-2 and 4 of the Code up to the date of the sale or transfer. If the seller or transferor fails to pay any assessment, assessment penalty, and interest (if any) due, the purchaser or transferee of the asset shall be liable for the amount of the assessment, penalties and interest (if any) up to the amount of the reasonable value of the property acquired by the purchaser or transferee. The purchaser or transferee shall continue to be liable until the purchaser or transferee pays the full amount of the assessment, penalties, and interest (if any) up to the amount of the reasonable value of the property acquired by the purchaser or transferee or until the purchaser or transferee receives from the Department a certificate showing that the assessment, penalty and interest have been paid or a certificate from the Department showing that no assessment, penalty or interest is due from the seller or transferor under Sections 5A-2, 4 and 5 of the Code.

4) Payments under Section 5A-4 of the Code are not subject to the Illinois Prompt Payment Act [30 ILCS 540]. Credits or refunds shall not bear interest.

5) In addition to any other remedy provided for and without sending a notice of assessment liability, the Department may collect an unpaid assessment by withholding, as payment of the assessment, reimbursements or other amounts otherwise payable by the Department to the hospital provider.

j) Exemptions

The following classes of providers are exempt from the assessment imposed under Section 5A-4 of the Code unless the exemption is adjudged to be unconstitutional or otherwise invalid:

1) A hospital provider that is a State agency, a State university, or a county

with a population of 3,000,000 or more.

2) A hospital provider that is a county with a population of less than 3,000,000 or a township, municipality, hospital district, or any other local governmental unit.

k) Nothing in Section 5A-4 of the Code shall be construed to prevent the Department from collecting all amounts due under this Section pursuant to an assessment imposed before February 3, 2004.

l) Definitions
As used in this Section, unless the context requires otherwise:

1) "ACA Assessment Adjustment" means:

A) For the period of July 1, 2016 through December 31, 2016, the product of .19125 multiplied by the sum of the fee-for-service payments to hospitals authorized under Section 5A-12.5 of the Code and the adjustments authorized under Section 5A-12.2(t) of the Code to managed care organizations for hospital services due and payable in the month of April 2016 multiplied by 6.

B) For the period of January 1, 2017 through June 30, 2017, the product of .19125 multiplied by the sum of the fee-for-service payments to hospitals authorized under Section 5A-12.5 of the Code and the adjustments authorized under Section 5A-12.2(t) to managed care organizations for hospital services due and payable in the month of October 2016 multiplied by 6, except that the amount calculated under this subsection (l)(1)(B) shall be adjusted, either positively or negatively, to account for the difference between the actual payments issued under Code Section 5A-12.5 for the period beginning July 1, 2016 through December 31, 2016 and the estimated payments due and payable in the month of April 2016 multiplied by 6 as described in subsection (l)(1)(A).

C) For the period of July 1, 2017 through December 31, 2017, the product of .19125 multiplied by the sum of the fee-for-service payments to hospitals authorized under Section 5A-12.5 of the Code and the adjustments authorized under Section 5A-12.2(t) of

the Code to managed care organizations for hospital services due and payable in the month of April 2017 multiplied by 6, except that the amount calculated under this subsection (l)(1)(C) shall be adjusted, either positively or negatively, to account for the difference between the actual payments issued under Code Section 5A-12.5 for the period beginning January 1, 2017 through June 30, 2017 and the estimated payments due and payable in the month of October 2016 multiplied by 6 as described in subsection (l)(1)(B).

D) For the period of January 1, 2018 through June 30, 2018, the product of .19125 multiplied by the sum of the fee-for-service payments to hospitals authorized under Section 5A-12.5 of the Code and the adjustments authorized under Section 5A-12.2(t) of the Code to managed care organizations for hospital services due and payable in the month of October 2017 multiplied by 6, except that:

i) the amount calculated under this subsection (l)(1)(D) shall be adjusted, either positively or negatively, to account for the difference between the actual payments issued under Code Section 5A-12.5 for the period of July 1, 2017 through December 31, 2017 and the estimated payments due and payable in the month of April 2017 multiplied by 6 as described in subsection (l)(1)(C); and

ii) the amount calculated under this subsection (l)(1)(D) shall be adjusted to include the product of .19125 multiplied by the sum of the fee-for-service payments, if any, estimated to be paid to hospitals under Section 5A-12.5(b) of the Code.

2) "CMMS" means the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services.

3) "Department" means the Illinois Department of Healthcare and Family Services.

4) "Fund" means the Hospital Provider Fund.

5) "HCRIS" means the federal Centers for Medicare and Medicaid Services Healthcare Cost Report Information System.

6) "Hospital" means an institution, place, building, or agency located in this State that is subject to licensure by the Illinois Department of Public Health under the Hospital Licensing Act, whether public or private and whether organized for profit or not-for-profit.

7) "Hospital Provider" means a person licensed by the Department of Public Health to conduct, operate, or maintain a hospital, regardless of whether the person is a Medicaid provider. For purposes of this definition, "person" means any political subdivision of the State, municipal corporation, individual, firm, partnership, corporation, company, limited liability company, association, joint stock association or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.

8) "Inpatient Gross Revenue" means total inpatient gross revenue, as reported on the HCRIS Worksheet C, Part 1, Column 6, Line 101, less the sum of the following lines (including any subset lines of these lines):

A) Line 34: Skilled Nursing Facility.

B) Line 35: Other Nursing Facility.

C) Line 35.01: Intermediate Care Facility for the Mentally Retarded.

D) Line 36: Other Long Term Care.

E) Line 45: PBC Clinical Laboratory Services – Program Only.

F) Line 60: Clinic.

G) Line 63: Other Outpatient Services.

H) Line 64: Home Program Dialysis.

I) Line 65: Ambulance Services.

J) Line 66: Durable Medical Equipment – Rented.

K) Line 67: Durable Medical Equipment – Sold.

L) Line 68: Other Reimbursable.

9) "Medicare Bed Days" means, for each hospital, the sum of the number of days that each bed was occupied by a patient who was covered by Title XVIII of the Social Security Act, excluding days attributable to the routine services provided to persons receiving skilled or intermediate long term care services. Medicare bed days shall be computed separately for each hospital operated or maintained by a hospital provider.

10) "Medicare Gross Inpatient Revenue" means the sum of the following:

A) The sum of the following lines from the HCRIS Worksheet D-4, Column 2 (excluding the Medicare gross revenue attributable to the routine services provided to patients in a psychiatric hospital, a rehabilitation hospital, a distinct part psychiatric unit, a distinct part rehabilitation unit or swing beds):

i) Line 25: Adults and Pediatrics.

ii) Line 26: Intensive Care Unit.

iii) Line 27: Coronary Care Unit.

iv) Line 28: Burn Intensive Care Unit.

v) Line 29: Surgical Intensive Care Unit.

vi) Line 30: Other Special Care Unit.

B) From Worksheet D-4, Column 2, the amount from Line 103 less the sum of Lines 60, 63, 64, 66, 67 and 68 (and any subset lines of these lines).

C) The amount from Worksheet D-6, Part 3, Column 3, Line 53.

11) "Medicare Gross Outpatient Revenue" means the amount from the HCRIS Worksheet D, Part V, Line 101, Columns 5, 5.01, 5.02, 5.03 and 5.04 less the sum of Lines 45, 60, 63, 64, 65, 66 and 67 (and any subset lines of these lines).

12) "Occupied Bed Days" means the sum of the number of days that each bed was occupied by a patient for all beds, excluding beds classified as long term care beds and assessed a licensed bed fee during calendar year 2001. Occupied bed days shall be computed separately for each hospital operated or maintained by a hospital provider.

13) "Outpatient Gross Revenue" (prior to State fiscal year 2019 from Medicare 2552-96 cost reports) means, for each hospital, its total gross charges attributed to outpatient services as reported on the Medicare cost report at Worksheet C, Part I, Column 7, Line 101 less the sum of lines 45, 60, 63, 64, 65, 66, 67 and 68 (and any subset lines of these lines).

14) "Outpatient Gross Revenue" (for State fiscal year 2019 and thereafter from Medicare 2552-10 cost reports) means, for each hospital, its total gross charges attributed to outpatient services as reported on the Medicare cost report at Worksheet C, Part I, Column 7, Line 200 less the sum of lines 61, 90, 94, 95, 96, 97, 99, 100, 101, 115, 116, and 117 (and any subset lines of these lines).

(Source: Amended at 44 Ill. Reg. 4616, effective March 3, 2020)

Section 140.88 Managed Care Organization Provider Assessment

a) Definitions

1) "Base Year" means the 12 month period from January 1, 2018 to December 31, 2018

2) "Department" means the Department of Healthcare and Family Services.

3) "Federal employee health benefit" means the program of health benefits plans, as defined in 5 USC 8901, available to federal employees under 5 USC 8901 to 8914.

4) "Fund" means the Healthcare Provider Relief Fund.

5) "Managed Care Organization" means an entity operating under a certificate of authority issued pursuant to the Health Maintenance Organization Act [215 ILCS 125] or as a Managed Care Community Network pursuant to Section 5-11 of the Public Aid Code [305 ILCS 5].

6) "Medicaid Managed Care Organization" or "Medicaid MCO" means a Managed Care Organization under contract with the Department to provide services to recipients of benefits in the Medical Assistance Program under Article V of the Public Aid Code, the Children's Health Insurance Program Act [215 ILCS 106], and the Covering ALL KIDS Health Insurance Act [215 ILCS 170]. It does not include contracts the same entity or an affiliated entity maintains for other business.

7) "Medicare" means the federal Medicare program established under Title XVIII of the Social Security Act.

8) "Member months" means the aggregate total number of months all individuals are enrolled for coverage in an MCO during the base year. Member months are determined by the Department for Medicaid MCOs based on enrollment data in its Medicaid Management Information System and by the Department of Insurance for other MCOs based on required filings with the Department of Insurance. Member months do not include months individuals are enrolled in a Limited Health Services Organization, including stand-alone dental or vision plans, a Medicare Advantage Plan, a Medicare Supplement Plan, a Medicaid-Medicare Alignment Initiative Plan pursuant to a Memorandum of Understanding between the Department and the federal Centers for Medicare and Medicaid Services or a Federal Employee Health Benefits Plan.

b) For State Fiscal Years 2020 through 2025, there is imposed upon MCO member months an assessment, calculated on base year data, as follows, for the appropriate tier:

1) Tier 1 − $61.70 per member month;

2) Tier 2 − $1.20 per member month; and

3) Tier 3 − $2.40 per member month.

c) The tiers are established as follows:

1) Tier 1 includes the first 4,195,000 member months in a Medicaid MCO for the base year;

2) Tier 2 includes member months over 4,195,000 in a Medicaid MCO during the base year; and

3) Tier 3 includes member months during the base year in an MCO that is not a Medicaid MCO.

d) The assessment payable for State FY 2020 shall be prorated and due and payable in monthly installments, each equaling one-eighth of the assessment for the year, on the first State business day of each month beginning November 1, 2019. The assessment payable for State FY 2021 through 2025 shall be due and payable in monthly installments, each equaling one-twelfth of the assessment for the year, on the first State business day of each month.

e) The Department shall notify each MCO of its annual assessment and the installment due dates no later than 30 days prior to the first due date of each fiscal year, and the annual assessment and due dates for each subsequent year, at least 30 days prior to the start of each fiscal year.

f) Proceeds from the assessment levied shall be deposited into the Fund.

g) In the event of a merger, acquisition or any similar transaction involving entities subject to the assessment under this Section, the resultant entity shall be responsible for the full amount of the assessment for all entities involved in the transaction, with the member months allotted to tiers as they were prior to the transaction, and no member months shall change tiers as a result of any transaction. An MCO that ceases doing business in the State during any fiscal year shall be liable only for the monthly installments due in months that it operated in the State.

h) An MCO that is liable for the assessment under this Section shall keep accurate and complete records and pertinent documents as may be required by the Department, including but not limited to records of: member months, premium

revenue, and plans that provide coverage to individuals who are eligible for Medicare, Medicaid or a federal employee health benefits program. Records required by the Department shall be retained for a period of 4 years after the assessment imposed under this Act to which the records apply is due, or as otherwise provided by law. The Department or the Department of Insurance may audit all records necessary to ensure compliance with this Section and make adjustments to assessment amounts previously calculated based on the results of any such audit.

i) If an MCO fails to make a payment due under this Section in a timely fashion, it shall pay an additional penalty of 5% of the amount of the installment not paid on or before the due date, or any grace period granted, plus 5% of the portion remaining unpaid on the last day of each 30-day period thereafter. The Department is authorized to grant grace periods of up to 30 days upon request of an MCO for good cause due to financial or other difficulties, as determined by the Department. If an MCO fails to make a payment within 60 days after the due date, the Department shall additionally impose a contractual sanction allowed against a Medicaid MCO and may terminate any such contract.

(Source: Added at 44 Ill. Reg. 4616, effective March 3, 2020)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.402 Copayments for Non-institutional Medical Services

The following implements cost sharing in compliance with 42 USC 1396o (section 1916 of the Social Security Act):

a) Each recipient, with the exception of those classes of recipients identified in subsection (d)~~ of this Section~~, shall be required to pay a copayment of $2.00 for generic legend drugs and over-the-counter drugs billed to the Department, and for other services, with the exception of those services identified in subsection (e), the nominal copayment amount as defined at 42 CFR 447.54. For dates of service beginning July 1, 2012 through March 31, 2013 the nominal copayment amount is $3.65. Beginning with dates of service on April 1, 2013 through August 31, 2019, the nominal copayment amount is $3.90. Beginning with dates of service on or after September 1, 2019, recipients will no longer be required to pay a copayment for medical assistance services. Specific copayment amounts are described and updated on the Department's Web site for the following non-

institutional medical services:

1) Office visits to enrolled practitioners for services reimbursed under the Illinois Public Aid Code.

2) Each brand name legend drug billed to the Department.

3) Each encounter billed to the Department by an Encounter Rate Clinic (ERC), Federally Qualified Health Center (FQHC) or Rural Health Clinic (RHC), but excluding behavioral services provided by these facilities. For dates of service beginning July 1, 2013 through August 31, 2019, copayments for behavioral health services provided by these facilities are no longer excluded and shall be required to be paid by recipients with the exception of those classes of recipients identified in subsection (d).

b) In each instance in which ~~where~~ a copayment is payable, the Department will reduce the amount payable to the affected provider by the respective amount of the required copayment.

c) No provider of services listed in subsection (a) may deny service to an individual who is eligible for service on account of the individual's inability to pay the cost of a copayment.

d) The following individuals receiving medical assistance are exempt from the copayment requirement set forth in subsection (a):

1) Pregnant women, including a postpartum period of 60 days.

2) Children under 19 years of age.

3) All non-institutionalized individuals whose care is subsidized by the Department of Children and Family Services or the Department of Corrections.

4) Hospice patients.

5) Individuals residing in hospitals, nursing facilities, and intermediate care facilities for the developmentally disabled who, as a condition of receiving services, are required to pay all of their income, except an authorized

protected amount for personal use, for the cost of their care. For the purpose of this subsection (d)(5), the protected amount shall be no greater than the protected amount authorized for personal use under 89 Ill. Adm. Code 146.225(c).

6) Residents of a State-certified, State-licensed, or State-contracted residential care program where residents, as a condition of receiving care in that program, are required to pay all of their income, except an authorized protected amount for personal use, for the cost of their residential care program. For the purpose of this subsection (d)(6), the protected amount shall be no greater than the protected amount authorized for personal use under 89 Ill. Adm. Code 146.225(c).

7) Individuals enrolled in the "Health Benefits for Person with Breast or Cervical Cancer" program under 89 Ill. Adm. Code 120.500.

8) American Indians or Alaskan Natives.

e) The following medical services are exempt from any copayments:

1) Renal dialysis treatment.

2) Radiation therapy.

3) Cancer chemotherapy.

4) Insulin.

5) Services for which Medicare is the primary payer.

6) Emergency services as defined at 42 USC 1396u-2(b)(2) (section 1932(b)(2) of the Social Security Act) and 42 CFR 438.114(a).

7) Any pharmacy compounded drugs.

8) Any prescription (legend drug) dispensed or administered by a hospital, clinic or physician.

9) Family planning services and supplies described in 42 USC

1396d(a)(4)(C) (section 1905(a)(4)(C) of the Social Security Act), including contraceptives and other pharmaceuticals for which the State claims or could claim federal financial participation at the enhanced rate under 42 USC 1396b(a)(5) (section 1903(a)(5) of the Social Security Act) for family planning services and supplies.

10) Other therapeutic drug classes as specified by the Department.

11) Preventive services as described in section 4106(b) of the Affordable Care Act.

(Source: Amended at 44 Ill. Reg. 4616, effective March 3, 2020)

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

1) Heading of the Part: Sports Wagering

2) Code Citation: 11 Ill. Adm. Code 1900

3)

Section Numbers:	Emergency Actions:
1900.1040	Amendment
1900.1160	Amendment
1900.1170	Amendment
1900.1430	Amendment
1900.1450	Amendment
1900.1610	Amendment
1900.1650	Amendment
1900.1670	New Section
1900.1730	Amendment

4) Statutory Authority: Section 25-15 (b) of the Sports Wagering Act [230 ILCS 45/25-15 (b)] provides that: "The Board may adopt any rules the Board considers necessary for the successful implementation, administration, and enforcement of this Act, except for Section 25-70. Rules proposed by the Board may be adopted as emergency rules pursuant to Section 5-45 of the Illinois Administrative Procedure Act."

5) Effective Date of Rules: March 9, 2020

6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: The emergency amendment will expire at the end of the 150-day period for the emergency rule published at 44 Ill. Reg. 2900 and effective January 28, 2020, or upon adoption of a permanent amendment, whichever comes first.

7) Date Filed with the Index Department: March 9, 2020

8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the Illinois Gaming Board's principal office and is available for public inspection.

9) Reason for Emergency: The emergency amendments to the emergency rule address concerns raised by members of the public concerning the contents of the originally published emergency rule. If these concerns are not addressed immediately, they can

lead to irreparable harm in the implementation of sports wagering in Illinois as directed by the Sports Wagering Act [230 ILCS 45].

10) A Complete Description of the Subjects and Issues Involved: The emergency amendment to the emergency rule does the following:

Section 1900.1040 (Wagering Tax) is amended in subsection (e) to provide that adjusted gross sports wagering receipts for a given month equal the total value of placed wagers the outcome of which are determined during that month, less the value of all winning wagers the outcome of which are determined that month, regardless of when the wager was placed or when the winning wager was redeemed, plus or minus any adjustments made.

Section 1900.1160 (Redemption of Wagers) is amended by deleting subsection (f), which required a master sports wagering licensee to verify the identity of any patron redeeming a wager for an amount of $500 or greater and check it against the self-exclusion program list.

Section 1900.1170 (Cancelled or Void Wagers) is amended by adding a new subsection (j), and re-lettering the following subsections accordingly. The new subsection authorizes a wagerer to request the Administrator or his or her designee to review any wager declared void by a master sports wagering licensee. If the Administrator or designee concludes there is no reasonable basis to believe there was obvious error in the placement or acceptance of the wager, the Administrator or designee may order the master sports wagering licensee to honor the wager.

Section 1900.1170 is amended at re-lettered subsection (k) by adding "human error in the placement of a wager" to the listed errors for which a master sports wagering licensee may declare a wager void on the basis of a reasonable belief in an obvious error in the placement or acceptance of the wager.

Section 1430 (Internet Wagering System Requirements) is amended at subsection (b) by requiring an internet wagering system to employ a mechanism to detect the physical location of a patron upon logging into the client or prior to placement of the first wager. Previously, this provision required the employment of such a mechanism upon logging into the client at the time of placement of a wager.

Section 1450 (Sports Wagering System Requirements) is amended at subsection (c) to provide that "all servers, other than backup servers, shall be physically located in the

State of Illinois." Previously, this provision stated that "all servers and backups shall be physically located in the State of Illinois within a designed gaming area."

The title of Subpart P is changed from "Facilities" to "Facilities and Operations."

Section 1900.1610 (Wagering Locations) is amended at subsection (c) as follows:

Kiosks need not be supervised by an attendant at all times if they are located inside a portion of a facility restricted to persons age 21 or over. Previously, the supervision of an attendant was not necessary only inside the turnstiles of a gaming area.

Kiosks may accept wagers greater than $500 without intervention of an attendant, unless located within the admissions turnstiles of a gaming operation or organization gaming facility. Previously, kiosks could not accept wagers greater than $100 without intervention of an attendant.

Kiosks shall not redeem wagers for currency in an amount greater than $2,000 without intervention of an attendant. Previously, kiosks could not redeem wagers greater than $500 without intervention of an attendant.

Section 1900.1650 (Required Surveillance Equipment) is amended at subsection (c) to remove the requirement that all controls on a video monitor screen must be front mounted. Subsection (l) is amended to require audio capability in areas where transactions involving cashiers occur. Previously, audio capability was required where transactions occur, including at kiosks.

New Section 1670 (Occupational License Badges) is added, containing the following provisions:

Subsection (a) requires all master sports wagering licensees and management services provider licensees to provide the Board with the necessary equipment to produce temporary and permanent identification badges for occupational licensees and applicants.

Subsection (b) makes master sports wagering licensees and management services provider licensees responsible for the costs of producing badges, including a fee of $10 to be paid to the Board for any replacement of an identification badge.

Subsection (c) provides that badges are not transferable. Upon resignation or termination of employment, badges must be returned to the master sports wagering licensee or

management services provider licensee of the Board. If returned to the master sports wagering licensee or management server provider licensee, that licensee must return the badge to the Board.

Subsection (d) requires badges to meet the following requirements:

Be of a color selected by the master sports wagering licensee for use on all of its occupational licensee identification badges.

Be visually distinct, to the naked eye and surveillance, from any occupational license badges issued pursuant to the Illinois Gambling Act.

Where an individual is issued occupation licenses pursuant to both the Illinois Gambling Act and the Sports Wagering Act, the licensee may be issued a single badge.

Bear the name and logo of the sports wagering operation.

Provide space for a photo with a minimum size of 1" by 1¼".

Provide a space for a 12-digit number.

Display the employee’s first name and job title.

Provide a space for the Administrator's signature, and a separate space for the dates of issuance and expiration of occupational license.

Provide on the reverse side of the card a line for the employee's last name, signature and date of birth.

Subsection (e) provides that an occupational license badge issued pursuant to the Sports Wagering Part of the Illinois Administrative Code may also act as a badge for an occupational license issued pursuant to the Illinois Gambling Act, so long as it meets the requirements of both this Part and 86 Ill. Adm. Code 3000.245 in the Riverboat and Casino Gambling Part.

Section 1900.1730 is amended at subsection (e) to provide that a master sports wagering licensee shall not accept a wager of greater than $500 without first verifying the identity of the patron against the Self-Exclusion List, unless the wager is placed within the admissions turnstiles of a gaming operation or organization facility. Previously, this

subsection provided that a master sports wagering licensee could not accept a wager of $100 or greater without first verifying the identity of the patron against the Self-Exclusion List. Subsection (f) is amended to provide that a master sports wagering licensee shall not redeem a wager for currency in an amount of greater than $2,000 without first verifying the identity of the patron against the Self-Exclusion List, unless the wager is redeemed within the admissions turnstiles of a gaming operation or organization gaming facility. Previously, this subsection provided that a master sports wagering licensee could not redeem a wager of $500 or greater without first verifying the identity of the patron against the Self-Exclusion List.

11) Are there any other rulemakings pending to this Part? Yes

Section Numbers:	Proposed Actions:	*Illinois Register* Citations:
1900.110	New Section	44 Ill. Reg. 84; January 3, 2020
1900.120	New Section	44 Ill. Reg. 84; January 3, 2020
1900.130	New Section	44 Ill. Reg. 84; January 3, 2020
1900.150	New Section	44 Ill. Reg. 84; January 3, 2020
1900.160	New Section	44 Ill. Reg. 84; January 3, 2020
1900.210	New Section	44 Ill. Reg. 84; January 3, 2020
1900.220	New Section	44 Ill. Reg. 84; January 3, 2020
1900.230	New Section	44 Ill. Reg. 84; January 3, 2020
1900.240	New Section	44 Ill. Reg. 84; January 3, 2020
1900.250	New Section	44 Ill. Reg. 84; January 3, 2020
1900.260	New Section	44 Ill. Reg. 84; January 3, 2020
1900.270	New Section	44 Ill. Reg. 84; January 3, 2020
1900.310	New Section	44 Ill. Reg. 84; January 3, 2020
1900.320	New Section	44 Ill. Reg. 84; January 3, 2020
1900.330	New Section	44 Ill. Reg. 84; January 3, 2020
1900.500	New Section	44 Ill. Reg. 84; January 3, 2020
1900.510	New Section	44 Ill. Reg. 84; January 3, 2020
1900.520	New Section	44 Ill. Reg. 84; January 3, 2020
1900.530	New Section	44 Ill. Reg. 84; January 3, 2020
1900.700	New Section	44 Ill. Reg. 84; January 3, 2020
1900.710	New Section	44 Ill. Reg. 84; January 3, 2020
1900.715	New Section	44 Ill. Reg. 84; January 3, 2020
1900.720	New Section	44 Ill. Reg. 84; January 3, 2020
1900.730	New Section	44 Ill. Reg. 84, January 3, 2020
1900.735	New Section	44 Ill. Reg. 84; January 3, 2020
1900.740	New Section	44 Ill. Reg. 84; January 3, 2020

ILLINOIS GAMING BOARD

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1900.750	New Section	44 Ill. Reg. 84; January 3, 2020
1900.760	New Section	44 Ill. Reg. 84; January 3, 2020
1900.770	New Section	44 Ill. Reg. 84; January 3, 2020
1900.780	New Section	44 Ill. Reg. 84; January 3, 2020
1900.790	New Section	44 Ill. Reg. 84; January 3, 2020
1900.795	New Section	44 Ill. Reg. 84; January 3, 2020
1900.810	New Section	44 Ill. Reg. 84; January 3, 2020
1900.815	New Section	44 Ill. Reg. 84; January 3, 2020
1900.820	New Section	44 Ill. Reg. 84; January 3, 2020
1900.825	New Section	44 Ill. Reg. 84; January 3, 2020
1900.830	New Section	44 Ill. Reg. 84; January 3, 2020
1900.835	New Section	44 Ill. Reg. 84; January 3, 2020
1900.840	New Section	44 Ill. Reg. 84; January 3, 2020
1900.850	New Section	44 Ill. Reg. 84; January 3, 2020
1900.860	New Section	44 Ill. Reg. 84; January 3, 2020
1900.870	New Section	44 Ill. Reg. 84; January 3, 2020
1900.880	New Section	44 Ill. Reg. 84; January 3, 2020
1900.890	New Section	44 Ill. Reg. 84; January 3, 2020
1900.895	New Section	44 Ill. Reg. 84; January 3, 2020
1900.910	New Section	44 Ill. Reg. 84; January 3, 2020
1900.915	New Section	44 Ill. Reg. 84; January 3, 2020
1900.920	New Section	44 Ill. Reg. 84; January 3, 2020
1900.925	New Section	44 Ill. Reg. 84; January 3, 2020
1900.930	New Section	44 Ill. Reg. 84; January 3, 2020
1900.935	New Section	44 Ill. Reg. 84; January 3, 2020
1900.940	New Section	44 Ill. Reg. 84; January 3, 2020
1900.945	New Section	44 Ill. Reg. 84; January 3, 2020
1900.950	New Section	44 Ill. Reg. 84; January 3, 2020
1900.960	New Section	44 Ill. Reg. 84; January 3, 2020
1900.970	New Section	44 Ill. Reg. 84; January 3, 2020
1900.980	New Section	44 Ill. Reg. 84; January 3, 2020
1900.990	New Section	44 Ill. Reg. 84; January 3, 2020
1900.995	New Section	44 Ill. Reg. 84; January 3, 2020
1900.340	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.410	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.420	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.600	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.610	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.620	New Section	44 Ill. Reg. 2618; February 14, 2020

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1900.630	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1000	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1010	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1020	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1030	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1040	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1050	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1100	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1110	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1120	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1130	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1140	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1150	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1160	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1170	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1180	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1190	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1210	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1220	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1230	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1240	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1250	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1310	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1320	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1330	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1400	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1410	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1420	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1430	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1440	New Section	44 ill. Reg. 2618; February 14, 2020
1900.1450	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1500	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1510	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1520	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1610	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1620	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1630	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1640	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1650	New Section	44 Ill. Reg. 2618; February 14, 2020

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1800.1660	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1710	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1720	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1730	New Section	44 Ill. Reg. 2618; February 14, 2020
1900.1740	New Section	44 Ill. Reg. 2618; February 14, 2020

12) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate under 30 ILCS 805.

13) Information and questions regarding these emergency rules shall be directed to:

Agostino Lorenzini
General Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago IL 60601

IGB.RuleComments@igb.illinois.gov

The full text of the Emergency Amendments to the Emergency Rules begins on the next page:

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING
SUBTITLE E: SPORTS WAGERING
CHAPTER I: ILLINOIS GAMING BOARD

PART 1900
SPORTS WAGERING

SUBPART C: STANDARDS OF CONDUCT

Section
1900.340 Advertising and Marketing
EMERGENCY

SUBPART D: INVESTIGATING PROHIBITED CONDUCT

Section
1900.410 Reporting Prohibited Conduct
EMERGENCY
1900.420 Referral of Investigations
EMERGENCY

SUBPART F: ONLINE LICENSE COMPETITIVE BIDDING

Section
1900.600 Coverage of Subpart
EMERGENCY
1900.610 Forms and Submissions
EMERGENCY
1900.620 Initial Competitive Selection
EMERGENCY
1900.630 Supplementary Competitive Selection
EMERGENCY

SUBPART J: ACCOUNTING, RECORDS, AND DATA

Section
1900.1000 Ownership Records
EMERGENCY
1900.1010 Accounting Records

ILLINOIS GAMING BOARD

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EMERGENCY
1900.1020 Standard Financial and Statistical Records
EMERGENCY
1900.1030 Annual and Special Audits and Other Reporting Requirements
EMERGENCY
1900.1040 Wagering Tax
EMERGENCY
1900.1050 Reserve Requirements
EMERGENCY

SUBPART K: CONDUCT OF WAGERING

Section
1900.1100 Commencement of Wagering
EMERGENCY
1900.1110 Temporary Suspension of Wagering
EMERGENCY
1900.1120 Prohibited Wagering Activity
EMERGENCY
1900.1130 Requests to Prohibit
EMERGENCY
1900.1140 Authorized Events and Competitions
EMERGENCY
1900.1150 Placement of Wagers
EMERGENCY
1900.1160 Redemption of Wagers
EMERGENCY
1900.1170 Cancelled or Void Wagers
EMERGENCY
1900.1180 General Conduct of Wagering
EMERGENCY
1900.1190 House Rules
EMERGENCY

SUBPART L: CONDUCT OF ONLINE WAGERING

Section
1900.1210 Internet Wagering – General
EMERGENCY

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

1900.1220 Sports Wagering Accounts
EMERGENCY
1900.1230 Client Requirements
EMERGENCY
1900.1240 Account Suspension
EMERGENCY
1900.1250 Responsible Gaming Limits
EMERGENCY

SUBPART M: TIER 2 WAGERING

Section
1900.1310 General
EMERGENCY
1900.1320 Official League Data
EMERGENCY
1900.1330 Commercial Reasonableness
EMERGENCY

SUBPART N: EQUIPMENT AND TESTING

Section
1900.1400 Technology Fee
EMERGENCY
1900.1410 Testing and Certification of Wagering Equipment
EMERGENCY
1900.1420 Wagering Equipment Requirements
EMERGENCY
1900.1430 Internet Wagering System Requirements
EMERGENCY
1900.1440 Transfer, Maintenance and Disposal of Wagering Equipment
EMERGENCY
1900.1450 Sports Wagering System Requirements
EMERGENCY

SUBPART O: INTERNAL CONTROLS

Section
1900.1500 General Requirements – Internal Control System

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

EMERGENCY
1900.1510 Approval of Internal Control System
EMERGENCY
1900.1520 Minimum Standards for Internal Control Systems
EMERGENCY

SUBPART P: FACILITIES AND OPERATIONS

Section
1900.1610 Wagering Locations
EMERGENCY
1900.1620 Sports Facilities
EMERGENCY
1900.1630 Inter-track Wagering Locations
EMERGENCY
1900.1640 Surveillance Requirements
EMERGENCY
1900.1650 Required Surveillance Equipment
EMERGENCY
1900.1660 Signage
EMERGENCY
1900.1670 Occupational License Badges
EMERGENCY

SUBPART Q: SELF-EXCLUSION

Section
1900.1710 Self-Exclusion Program
EMERGENCY
1900.1720 Distribution and Availability of Confidential Self-Exclusion List
EMERGENCY
1900.1730 Duties of Licensees Regarding Self-Excluded Persons
EMERGENCY
1900.1740 Effect of Enrollment
EMERGENCY

AUTHORITY: Implementing and authorized by the Video Gaming Act [230 ILCS 40].

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

SOURCE: Emergency rules adopted at 44 Ill. Reg. 314, effective December 19, 2019, for a maximum of 150 days; emergency rules adopted at 44 Ill. Reg. 2900, effective January 28, 2020, for a maximum of 150 days; emergency rule effective December 19, 2019 amended by emergency rulemaking at 44 Ill. Reg. 4062, effective February 26, 2020, for the remainder of the 150 days; emergency rule effective January 28, 2020 amended by emergency rulemaking at 44 Ill. Reg. 4670, effective March 9, 2020, for the remainder of the 150 days.

SUBPART J: ACCOUNTING, RECORDS, AND DATA

Section 1900.1040 Wagering Tax
EMERGENCY

a) For the purposes of this section, "wagering tax" means the tax assessment due pursuant to subsection 25-90(a) of the Act. Each holder of a master sports wagering license is subject to tax and fee liability assessment under the Act.

b) Wagering taxes shall be paid via an electronic funds transfer system employing an Automated Clearinghouse Debit method (ACH-Debit). Each master sports wagering licensee shall maintain an account with sufficient funds to pay, in a timely fashion, all tax and fee liabilities due under the Act. The account shall be maintained at a financial institution capable of making payments to the State under the electronic funds transfer requirements imposed by the State.

c) The Administrator shall prescribe and make available to each master sports wagering licensee and manager forms, instructions and reporting requirements for taxes. Forms may be provided by the Administrator to master sports wagering licensees in computer-based format and include a computer program that, upon input by the licensee of requisite data, provides for the calculation of tax and fee reporting information and tax and fee liability.

d) The Tax and Fee Schedules must be filed with the Board no later than 12:00 noon on the due date. Wagering tax payments shall be transferred electronically on the due date to the Board's designated financial institution by the end of that financial institution's business day. For purposes of tax and fee schedules and tax and fee payments, the due date shall be defined as the last day of the month following the calendar month in which the adjusted gross sports wagering receipts were received and the wagering tax obligation was accrued.

e) The wagering tax imposed on the master sports wagering licensee shall be based on adjusted gross sports wagering receipts from sports wagering. Adjusted gross sports wagering receipts for a given month equal the total value of placed wagers the outcome of which are determined during that month, less the value of all winning wagers the outcome of which are determined that month, regardless of when the wager was placed or when the winning wager was redeemed, plus or minus any adjustments made~~Adjusted gross sports wagering receipts equal the total value of placed wagers during the reporting month less the payouts on redeemed winning wagers paid during the reporting month along with any adjustments made~~. The wagering tax imposed on the master sports wagering licensee shall be 15% of adjusted gross sports wagering receipts.

f) Pursuant to Section 25-90(a-5) of the Act, the State shall impose and collect 2% of the adjusted gross receipts from sports wagers that are placed within a home rule county with a population of over 3,000,000 inhabitants. For the purposes of this tax, a wager is considered placed within the county if the patron is physically located within the county at the time the wager is placed.

g) Monthly Tax and Fee Schedules shall include all information necessary for adjustments and reconciliation of tax and fee liability and shall be subject to audit by the Board and its audit agents. Adjustments to previously reported tax and fee information shall be made by the master sports wagering licensee, except that no adjustment of $25,000 or more shall be made to previously reported adjusted gross sports wagering receipts without the prior written approval of the Administrator or the Administrator's designee.

h) In the event that a Tax and Fee Schedule properly reflects a net loss experienced by the master sports wagering licensee, an adjustment for the amount of any remaining net wagering loss (negative adjusted gross sports wagering receipts) shall be carried forward on the subsequent Tax and Fee Schedules until such loss is offset by net win (positive adjusted gross sports wagering receipts).

i) All Wagering Taxes paid pursuant to the requirements of the Act shall be deposited by the Board into the Sports Wagering Fund. On the 25th of each month, the Board shall transfer excess funds in the Sports Gaming Fund to the Capital Projects Fund.

j) Failure to comply.

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

1) A master sports wagering licensee's failure to comply with the provisions of this Section may subject the master sports wagering licensee to penalty and interest amounts pursuant to the Uniform Penalty and Interest Act [35 ILCS 735].

2) The Administrator is authorized to waive any penalty and interest for the late filing of a tax schedule or late tax payment, if the master sports wagering licensee can show good cause. "Good cause" shall include, but not be limited to, detection and correction of a deficiency in filing or payment that resulted from a documented inadvertent or unintentional error that was corrected within one business day after the applicable due date.

3) The master sports wagering licensee shall be notified by the Administrator in writing of any penalty or interest payable because of a late tax schedule filing or late tax payment.

4) The master sports wagering licensee may, within 10 business days after receiving the notice, file with the Administrator a written request for a waiver of any penalty or interest. The Administrator shall act on the request for waiver and notify the master sports wagering licensee in writing of the decision within 15 calendar days after receiving the request. If the Administrator fails to act within the 15 day period, the waiver is deemed granted.

5) If the Administrator denies the request for waiver, the master sports wagering licensee may ask the Board for a hearing. The request for hearing must be in writing and filed not later than 15 calendar days after receipt of the notice of denial. Section 1900.110(b) does not apply to such a request.

6) Except as provided in this subsection, the provisions for hearings under Subpart H shall apply to any hearing conducted under this Section. The licensee has the burden of showing good cause by clear and convincing evidence.

(Source: Added by emergency rulemaking at 44 Ill. Reg. 2900, effective January 28, 2020, for a maximum of 150 days; emergency rule amended by emergency rulemaking at 44 Ill. Reg. 4670, effective March 9, 2020, for the remainder of the 150 days)

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

SUBPART K: CONDUCT OF WAGERING

Section 1900.1160 Redemption of Wagers
EMERGENCY

a) A master sports wagering licensee shall redeem any winning ticket it has issued that has not expired.

b) A ticket shall expire one year after date of the conclusion of the sports event or combination of sports events that is the subject of the wager.

c) The proceeds of any winning ticket that expires shall be deposited into the Sports Wagering Fund and deducted from the adjusted gross sports wagering receipts in the same manner as a redeemed wager, pursuant to Section 1900.1040.

d) A master sports wagering licensee, other than one holding a license pursuant to Section 25-45 of the Act, shall provide for in-person redemption of winning wagers at least eight hours per day, five days per week.

e) All wagers shall be redeemed in United States currency. The currency amount may be provided to the patron in any form that has been documented in the internal control system, subject to the following minimum requirements:

1) Any redeemed wager for an amount of $1,000 or less shall provide the patron the option of receiving cash or chips issued by the master sports wagering licensee pursuant to an owners license or organizational gaming license.

2) Any redeemed wager for an amount greater than $1,000 shall provide the patron the option of receiving a check issued at the time of redemption.

~~f) A master sports wagering licensee shall verify the identity of any patron redeeming a wager for an amount of $500 or greater and check it against the self-exclusion program list.~~

(Source: Added by emergency rulemaking at 44 Ill. Reg. 2900, effective January 28, 2020, for a maximum of 150 days; emergency rule amended by emergency rulemaking at 44 Ill. Reg. 4670, effective March 9, 2020, for the remainder of the 150 days)

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

Section 1900.1170 Cancelled or Void Wagers
EMERGENCY

a) A master sports wagering licensee shall not cancel any wager except in accordance with this section.

b) A master sports wagering licensee shall cancel a wager under the following circumstances:

1) Any wager where a sports event that is the subject of the wager is cancelled, or postponed or rescheduled to a different date prior to completion of the sports event;

2) Any tier 1 wager in a non-team event when an individual athlete or competitor fails to participate in a sports event and the outcome of the wager is solely based upon that one individual's performance;

3) Any tier 2 wager when an individual athlete or competitor fails to participate in a sports event and the outcome of the wager is solely based upon that one individual's performance; or

4) When ordered by the Administrator pursuant to this section.

c) A master sports wagering licensee may request the Administrator to order the cancellation of all wagers of a specific type, kind, or subject. A request to cancel shall be in writing, and contain the following:

1) A description of the type, kind, or subject of wager the licensee is requesting to cancel;

2) A description of any facts relevant to the request; and

3) An explanation why cancelling the wagers is in the best interests of the State of Illinois or ensures the integrity of the Illinois sports wagering industry.

d) The Administrator shall issue an order in writing granting or denying the request to cancel. In determining whether to grant or deny the request, the Administrator shall consider any relevant factors, including but not limited to the following:

1) Whether the alleged facts implicate the integrity of the sports event subject to the wager or the Illinois sports wagering industry;

2) Whether the alleged facts implicate possible illegal activity relating to the sports event or the Illinois sports wagering industry;

3) Whether allowing the wager would be unfair to wagering patrons; or

4) Whether allowing the wager is contrary to public policy.

e) No wager subject to the request to cancel shall be redeemed until the Administrator issues an order granting or denying the request to cancel.

f) If the Administrator grants the request to cancel, the master sports wagering licensee shall make commercially reasonable efforts to notify patrons of the cancellation.

g) The Administrator has discretion to order all master sports wagering licensees to cancel all wagers on a specific sports event or wagers of a specific type or kind on a specific sports event. In exercising his or her discretion, the Administrator shall apply the same factors described in paragraph (b).

h) Any cancelled wager shall be refunded upon request by a patron. The request must be made prior to the expiration of the original redemption period, and shall be deducted from adjusted gross sports wagering receipts.

i) At the expiration of any outstanding cancelled wager which has not been refunded, the original amount of the outstanding wager shall be deducted from adjusted sports wagering receipts and remitted to the Sports Wagering Fund.

j) A wagerer may request the Administrator or his or her designee review any wager declared void by a master sports wagering licensee. If the Administrator or his or her designee concludes there is no reasonable basis to believe there was obvious error in the placement or acceptance of the wager, the Administrator or his or her designee may order the master sports wagering licensee to honor the wager.

k~~j~~) A master sports wagering licensee may declare a wager to be void if the licensee has reasonable basis to believe there was obvious error in the placement or acceptance of the wager. Such errors include, but are not limited to:

1) The wager was placed with incorrect odds;

2) Human error in the placement of the wager:

3~~2~~) ~~The~~ ticket does not correctly reflect the wager; or

4~~3~~) Equipment failure rendering a ticket unreadable.

l~~k~~) If a wager is declared void pursuant to subsection (g), the wager shall be refunded to the patron and that amount shall be deducted from the adjusted gross sports wagering receipts.

m~~l~~) A wager shall not be declared void pursuant to subsection (g) without the approval of a supervisory employee of the master sports wagering licensee.

n~~m~~) All voided or cancelled wagers and all refunds of any voided or cancelled wager pursuant to any rule shall be logged at the time they occur.

o~~n~~) A master sports wagering licensee shall provide a monthly summary report to the Board of all cancelled, voided, and refunded wagers in a manner or on such form as prescribed by the Administrator.

(Source: Added by emergency rulemaking at 44 Ill. Reg. 2900, effective January 28, 2020, for a maximum of 150 days; emergency rule amended by emergency rulemaking at 44 Ill. Reg. 4670, effective March 9, 2020, for the remainder of the 150 days)

SUBPART N: EQUIPMENT AND TESTING

Section 1900.1430 Internet Wagering System Requirements
EMERGENCY

a) A master sports wagering licensee conducting sports wagering over the internet shall use an internet wagering system, all the integral components of which have been tested and certified pursuant to Section 1900.1410.

b) An internet wagering system shall employ a mechanism to detect the physical location of a patron upon logging into the client, or prior to placement of the first wager after logging in~~at the time of placement of a wager~~, and at a frequency to be specified in the master sports wagering licensee's internal control system.

c) An internet wagering system must have methods to detect and prevent efforts to defeat or circumvent the location detection mechanisms.

d) An internet wagering system shall not permit placement of wagers if it detects attempts to defeat or circumvent the location detection mechanisms.

e) Client software shall not engage in any other data collection other than that which is necessary for compliance with the Act and Rules, without the express approval of the Administrator.

f) Any data collected by the internet wagering system shall be considered confidential and shall not be disclosed except in accordance with this Part.

g) Data collected by client software shall not be used for any purpose other than compliance with the Act and Rules, and shall not be disclosed to any third party other than the Board, a licensed supplier of any component of the internet wagering system which collected the data, or a management services provider licensee acting as the designee of the master sports wagering licensee that collected the data, unless:

1) Approved by the Administrator where the Administrator concludes that doing so would further the public interests of the people of the State of Illinois; or

2) As required pursuant to Section 1900.130.

h) Any data disclosed pursuant to this Part shall not include personally identifying information of wagering patrons unless deemed necessary for law enforcement or investigative purposes by the Administrator. Such determination shall be in writing.

i) Each master sports wagering licensee shall maintain modern best practices to ensure the security and integrity of the internet wagering system, including but not limited to:

1) Network security;

2) Patron identity authentication;

3) Location detection;

4) Error detection; and

5) Data security.

j) If a master sports wagering licensee becomes aware of a reproducible error in the internet wagering system that relates to network security, data security, location detection, or otherwise calls into question the security and integrity of the internet wagering system, the licensee shall notify the Board immediately. Such notification shall include:

1) A description of the error;

2) Risks created or imposed by the error; and

3) Efforts being taken by the master sports wagering licensee to prevent any impact to the security and integrity of the internet wagering system or sports wagering system.

(Source: Added by emergency rulemaking at 44 Ill. Reg. 2900, effective January 28, 2020, for a maximum of 150 days; emergency rule amended by emergency rulemaking at 44 Ill. Reg. 4670, effective March 9, 2020, for the remainder of the 150 days)

Section 1900.1450 Sports Wagering System Requirements
EMERGENCY

a) Each master sports wagering licensee shall operate a single sports wagering system through which all sports wagering activity is conducted and recorded.

b) At no cost to the Board, each master sports wagering licensee shall provide the Board remote, read only, real time access to the sports wagering system. Such access shall include, at minimum:

1) Complete access to all records of wagers, including canceled, voided, pending, and redeemed wagers;

2) Current and historical lines and odds;

3) Ability to query or sort wagering data; and

4) Ability to export wagering data in a non-proprietary format.

c) The sports wagering system shall have the capability to provide to a sports governing body real-time information regarding wagers placed on that sports governing body's events, when required under a request for cooperation pursuant to Section 1900.130. Such information shall include:

1) A record of all wagers placed;

2) Amount and type of wager;

3) Location the wager was placed if it was placed in person;

4) If the wager was placed via the internet wagering system, the internet protocol address;

5) If the wager was placed via the internet wagering system, geolocation data no more detailed than~~to~~ the nearest quarter mile;

6) If the wager was placed via a sports wagering account, a unique, non-personally identifying account number; and

7) Any records of abnormal wagering activity identified by the master sports wagering licensee.

d) The Board may develop and implement a central sports wagering monitoring system for the purpose of compiling all sports wagering activity data from all master sports wagering licensees. In such event, each master sports wagering

licensee shall provide all sports wagering activity data in a format compatible with the central sports wagering monitoring system.

e) All servers, other than backup servers, ~~and backups~~ shall be physically located in the State of Illinois ~~within a designated gaming area~~.

f) Each master sports wagering licensee shall maintain modern best practices to ensure the security and integrity of the sports wagering system, including, but not limited to:

1) Physical security;

2) Access control;

3) Network security;

4) Resistance to manipulation;

5) Redundancy; and

6) Error detection.

g) A sports wagering system shall maintain records of all wagers for a period of not less than ten years.

h) A sports wagering system shall record at minimum the following information for each wager:

1) Description of event or contest;

2) Unique identifier for the event or contest;

3) Wager selection;

4) Type of wager;

5) Amount of wager;

6) Odds and amount of potential payout;

7) Date and time of wager;

8) Unique identifier for the wager;

9) Unique identifier of the sports wagering account or patron, if applicable;

10) Internet protocol address and geolocation information, if the wager is placed through a mobile device;

11) Unique identifier of the kiosk or point of sale device through which the wager was placed, if applicable;

12) Unique identifier of the kiosk or point of sale device through which the wager was redeemed, if applicable; and

13) Whether a wager was cancelled or voided, and the reason, if applicable.

i) A sports wagering system shall perform, at least once every 24 hours, a self-authentication process on all software used to offer, record and process wagers to ensure there have been no unauthorized modifications. In the event of an authentication failure, a master sports wagering licensee shall immediately notify the Board. The results of all self-authentication attempts shall be recorded by the system and maintained for a period of not less than 90 days.

j) A master sports wagering licensee shall ensure the accuracy and timeliness of any data feeds used to offer or settle wagers. In the event that an incident or error occurs that results in a loss of communication with data feeds used to offer or redeem wagers, such error shall be recorded in a log capturing the date and time of the error, the nature of the error and a description of its impact on the system's performance. Such information shall be maintained for a period of not less than six months.

(Source: Added by emergency rulemaking at 44 Ill. Reg. 2900, effective January 28, 2020, for a maximum of 150 days; emergency rule amended by emergency rulemaking at 44 Ill. Reg. 4670, effective March 9, 2020, for the remainder of the 150 days)

SUBPART P: FACILITIES AND OPERATIONS

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

Section 1900.1610 Wagering Locations
EMERGENCY

a) Sports wagers may be placed or redeemed at:

1) One or more fixed windows or counters through a clerk, cashier, or other employee; or

2) Self-service kiosks.

b) Fixed windows or counters. Fixed windows or counters with cashiers may be operated at any location within a gaming operation, racetrack facility, or sports facility operated by a master sports wagering licensee.

c) Kiosks.

1) Kiosks may be operated at any location within a gaming operation, racetrack facility, or sports facility operated by a master sports wagering licensee.

2) Kiosks must be supervised by an attendant at all times unless located inside the admissions turnstiles of a gaming operation or organization gaming facility, or located inside a portion of a facility restricted to persons age 21 or over.

3) When kiosks are not located inside the admissions turnstiles of a gaming operation or organization gaming facility, or within a portion of a facility restricted to persons age 21 or over, the attendant shall be responsible for verifying the age of wagerers.

4) Kiosks shall not accept wagers greater than $500~~$100~~ without intervention of an attendant, unless located within the admissions turnstiles of a gaming operation or organization gaming facility.

5) Kiosks shall not redeem wagers for currency in an amount greater than $2,000~~$500~~ without intervention of an attendant.

ILLINOIS GAMING BOARD

NOTICE OF EMERGENCY AMENDMENT TO EMERGENCY RULE

(Source: Added by emergency rulemaking at 44 Ill. Reg. 2900, effective January 28, 2020, for a maximum of 150 days; emergency rule amended by emergency rulemaking at 44 Ill. Reg. 4670, effective March 9, 2020, for the remainder of the 150 days)

Section 1900.1650 Required Surveillance Equipment
EMERGENCY

A master sports wagering licensee shall install and maintain a closed circuit television system in accord with the specifications herein and shall provide access to the system or its signal by the Board upon request. The closed circuit television must meet or exceed the following specifications:

a) Solid state, color cameras, ⅔, ½, ⅓ or ¼ format, with minimum 400 plus line resolution, installed in fixed positions with matrix control and/or with pan, tilt and zoom capabilities, secreted from public and non-surveillance personnel view to effectively and clandestinely monitor in detail, from various vantage points, the following:

1) All sports wagering transactions occurring at counters, windows, or kiosks;

2) The count processes conducted in any count rooms;

3) All portions of the designated gaming areas and any portions of the facility immediately adjoining the designated gaming area;

4) The area immediately surrounding any kiosk or redemption machine;

5) The movement of cash or cash equivalents within the designated gaming area or between the designated gaming area and any kiosk or redemption machine;

6) The entrance and exits to any designated gaming area; and

7) Such other areas as the Administrator designates.

b) All closed circuit cameras equipped with lenses of sufficient magnification to allow the operator to clearly distinguish the value of cash used in any transaction.

c) Video monitors that meet or exceed the resolution requirement for video cameras with solid state circuitry, and time and date insertion capabilities for recording what is being viewed by any camera in the system. Each video monitor screen must measure diagonally at least 12 inches~~ and all controls must be front mounted~~.

d) Video printers capable of adjustment and possessing the capability to generate instantaneously, upon command, a clear, color copy of the image depicted on the recording.

e) Date and time generators based on a synchronized, central or master clock, and visible on any monitor and when recorded.

f) Wiring to prevent tampering. The system must be supplemented with a back-up gas/diesel generator power source that is automatically engaged in case of a power outage and capable of returning to full power within seven to ten seconds.

g) An additional uninterrupted power supply system so that time and date generators remain active and accurate, and switching gear memory and video surveillance is continuous.

h) Video switchers capable of both manual and automatic sequential switching for the appropriate cameras.

i) Licensees shall utilize digitally recorded channels and must provide the IGB with the necessary software to review digitally recorded information.

j) All digital channels record at a minimum of 10 per second, or 30 frames per second when recording transactions. Such systems must allow the secure and audited export of video files at the resolution originally recorded, including the capability of providing watermarked recordings or non-editable formatting to insure the integrity of the recorded images.

k) All digital recording systems shall be on a secure network independent and separated from any sports wagering systems or related information technology.

l) Audio capability in areas where transactions involving cashiers occur~~, including at kiosks~~.

m) Adequate lighting in all areas where camera coverage is required. The lighting shall be of sufficient intensity to produce clear recording and still picture production, and correct color correction. The video must demonstrate a clear picture in existing light under normal operating conditions.

(Source: Added by emergency rulemaking at 44 Ill. Reg. 2900, effective January 28, 2020, for a maximum of 150 days; emergency rule amended by emergency rulemaking at 44 Ill. Reg. 4670, effective March 9, 2020, for the remainder of the 150 days)

Section 1900.1670 Occupational License Badges
EMERGENCY

a) All master sports wagering licensees and management services provider licensees shall provide the Board with the necessary equipment to produce temporary and permanent identification badges for occupational licensees and applicants.

b) Master sports wagering licensees and management services provider licensees shall be responsible for the costs of producing badges, including a fee of $10.00 to be paid to the Board for any replacement of an identification badge.

c) Badges are not transferable. Upon resignation or termination of employment, badges must be returned to the master sports wagering licensee or management services provider licensee or the Board. If returned to the master sports wagering licensee or management services provider licensee, the master sports wagering licensee or management services provider licensee shall return the badge to the Board.

d) Badges shall meet the following requirements:

1) Be of a color selected by the master sports wagering licensee for use on all identification badges used by its occupational licensees;

2) Be visually distinct, to the naked eye and surveillance, from any occupational license badges issued pursuant to the Illinois Gambling Act;

3) When an individual is issued occupation licenses pursuant to both the Illinois Gambling Act and the Sports Wagering Act, the licensee may be issued a single badge;

4) Bear the name and logo of the sports wagering operation;

5) Provide a space for a photograph with a minimum size of 1" by 1¼";

6) Provide a space for a 12-digit number;

7) Display the employee's first name and job title;

8) Provide a space for the Administrator's signature;

9) Provide a space for the dates of issuance and expiration of occupational license; and

10) Provide on the reverse side of the card a line for the employee's last name, signature and date of birth.

e) An occupational license badge issued pursuant to this part may also act as a badge for an occupational license issued pursuant to the Illinois Gambling Act, so long as it meets the requirements of both this part and 86 Ill. Adm. Code 3000.245.

(Source: Added, by emergency amendment to the emergency rule effective January 28, 2020, at 44 Ill. Reg. 4670, effective March 9, 2020, for the remainder of the 150 days)

SUBPART Q: SELF-EXCLUSION

Section 1900.1730 Duties of Licensees Regarding Self-Excluded Persons
EMERGENCY

a) A master sports wagering licensee shall cause the name, address, and birthdate of any person on the Self-Exclusion List to be flagged on all mailing, marketing or promotional lists or databases, except as provided in this Part.

b) A master sports wagering licensee shall not send marketing or promotional materials to any person placed on the Self-Exclusion List.

c) A master sports wagering licensee shall maintain a system designed to detect persons on the Self-Exclusion List so as to enforce this Part.

d) A master sports wagering licensee shall not cash checks for, extend credit to, or otherwise assist a person on the Self-Exclusion List to obtain funds for gambling purposes.

e) A master sports wagering licensee shall not accept a wager of greater than $500~~$100 or greater~~ without first verifying the identity of the patron against the Self-Exclusion List unless the wager is placed within the admissions turnstiles of a gaming operation or organization gaming facility.

f) A master sports wagering licensee shall not redeem a wager for currency in an amount of ~~$500 or~~ greater than $2,000 without first verifying the identity of the patron against the Self-Exclusion List unless the wager is redeemed within the admissions turnstiles of a gaming operation or organization gaming facility.

g) A master sports wagering licensee that holds an owners license or organization gaming license shall provide a means by which an individual on the Self-Exclusion List may turn in unredeemed tickets prior to the commencement of a sports event to obtain refunds pursuant to Section 1900.1740.

h) For any master sports wagering licensee that conducts internet wagering:

1) The licensee shall not allow an individual on the Self-Exclusion List to open a new sports wagering account;

2) The licensee shall identify and suspend any sports wagering account of any individual on the Self-Exclusion List;

3) The licensee shall void all outstanding wagers; and

4) The licensee shall refund any remaining balance to the patron in a manner consistent with the licensee's internal control system.

(Source: Added by emergency rulemaking at 44 Ill. Reg. 2900, effective January 28, 2020, for a maximum of 150 days; emergency rule amended by emergency rulemaking at 44 Ill. Reg. 4670, effective March 9, 2020, for the remainder of the 150 days)

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: Income Tax

2) Code Citation: 86 Ill. Adm. Code 100

3) Section Number: 100.7390 — Emergency Action: New Section

4) Statutory Authority: 35 ILCS 5/704A(i)

5) Effective Date of Emergency Rule: March 4, 2020

6) If this Emergency Rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: This rulemaking will not expire prior to the conclusion of the 150 days.

7) Date Filed with the Index Department: March 4, 2020

8) A copy of the emergency rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Reason for Emergency: PA 101-1 created a new minimum wage credit under 35 ILCS 5/704A(i) which goes into effect for the first reporting period of 2020 which begins on January 1, 2020 and ends on March 31, 2020. Taxpayers will be eligible to claim the credit beginning in April of 2020. This rulemaking implements the new minimum wage credit and is required to assist taxpayers in properly claiming the credit.

10) A Complete Description of the Subjects and Issues Involved: This rulemaking implements the new minimum wage credit found in Section 704A(i) of the Illinois Income Tax Act, 35 ILCS 5/704A(i), created by PA 101-1. For reporting periods beginning on or after January 1, 2020, taxpayers may claim a withholding credit based on the increased wages attributable to the new minimum wage which took effect on January 1, 2020. The credit is reduced every year until it expires for reporting periods beginning on January 1, 2028.

11) Are there any rulemakings to this Part pending? Yes

Section Numbers:	Proposed Actions:	*Illinois Register* Citations:
100.2197	Amendment	44 Ill. Reg. 97; January 3, 2020
100.2590	Amendment	44 Ill. Reg. 97; January 3, 2020

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

100.3100	Amendment	44 Ill. Reg. 97; January 3, 2020
100.3120	Amendment	44 Ill. Reg. 97; January 3, 2020
100.7010	Amendment	44 Ill. Reg. 97; January 3, 2020
100.2430	Amendment	44 Ill. Reg. 1785; January 24, 2020

12) Statement of Statewide Policy Objective: This rulemaking neither imposes a State mandate, nor modifies an existing mandate.

13) Information and questions regarding this emergency rule shall be directed to:

Michael D. Mankowski
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF EMERGENCY AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section
100.2000 Introduction
100.2050 Net Income (IITA Section 202)
100.2055 Standard Exemption (IITA Section 204)
100.2060 Compassionate Use of Medical Cannabis Pilot Program Act Surcharge (IITA Section 201(o))

SUBPART B: CREDITS

Section
100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA Section 201(e))
100.2101 Replacement Tax Investment Credit (IITA 201(e))
100.2110 Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA Section 201(f))
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone and River Edge Redevelopment Zone (IITA Section 201(g))
100.2130 Investment Credit; High Impact Business (IITA 201(h))
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150 Training Expense Credit (IITA 201(j))
100.2160 Research and Development Credit (IITA Section 201(k))
100.2163 Environmental Remediation Credit (IITA 201(l))
100.2165 Education Expense Credit (IITA 201(m))
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2171 Angel Investment Credit (IITA 220)
100.2175 Invest in Kids Credit (IITA 224)
100.2180 Credit for Residential Real Property Taxes (IITA 208)
100.2181 Credit for Instructional Materials and Supplies (IITA) Section 225)
100.2185 Film Production Services Credit (IITA Section 213)
100.2190 Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2193 Student-Assistance Contributions Credit (IITA 218)

100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196 Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197 Foreign Tax Credit (IITA Section 601(b)(3))
100.2198 Economic Development for a Growing Economy Credit (IITA 211)
100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS OCCURRING PRIOR TO DECEMBER 31, 1986

Section
100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) − Scope
100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) − Definitions
100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) − Current Net Operating Losses: Offsets Between Members
100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) − Carrybacks and Carryforwards
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100.TABLE A Example of Unitary Business Apportionment (Repealed)
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AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29,

1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010; amended at 35 Ill. Reg. 4223, effective February 25, 2011; amended at 35 Ill. Reg. 15092,

effective August 24, 2011; amended at 36 Ill. Reg. 2363, effective January 25, 2012; amended at 36 Ill. Reg. 9247, effective June 5, 2012; amended at 37 Ill. Reg. 5823, effective April 19, 2013; amended at 37 Ill. Reg. 20751, effective December 13, 2013; recodified at 38 Ill. Reg. 4527; amended at 38 Ill. Reg. 9550, effective April 21, 2014; amended at 38 Ill. Reg. 13941, effective June 19, 2014; amended at 38 Ill. Reg. 15994, effective July 9, 2014; amended at 38 Ill. Reg. 17043, effective July 23, 2014; amended at 38 Ill. Reg. 18568, effective August 20, 2014; amended at 38 Ill. Reg. 23158, effective November 21, 2014; emergency amendment at 39 Ill. Reg. 483, effective December 23, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 1768, effective January 7, 2015; amended at 39 Ill. Reg. 5057, effective March 17, 2015; amended at 39 Ill. Reg. 6884, effective April 29, 2015; amended at 39 Ill. Reg. 15594, effective November 18, 2015; amended at 40 Ill. Reg. 1848, effective January 5, 2016; amended at 40 Ill. Reg. 10925, effective July 29, 2016; amended at 40 Ill. Reg. 13432, effective September 7, 2016; amended at 40 Ill. Reg. 14762, effective October 12, 2016; amended at 40 Ill. Reg. 15575, effective November 2, 2016; amended at 41 Ill. Reg. 4193, effective March 27, 2017; amended at 41 Ill. Reg. 6379, effective May 22, 2017; amended at 41 Ill. Reg. 10662, effective August 3, 2017; amended at 41 Ill. Reg. 12608, effective September 21, 2017; amended at 41 Ill. Reg. 14217, effective November 7, 2017; emergency amendment at 41 Ill. Reg. 15097, effective November 30, 2017, for a maximum of 150 days; amended at 42 Ill. Reg. 4953, effective February 28, 2018; amended at 42 Ill. Reg. 6451, effective March 21, 2018; recodified Subpart H to Subpart G at 42 Ill. Reg. 7980; amended at 42 Ill. Reg. 17852, effective September 24, 2018; amended at 42 Ill. Reg. 19190, effective October 12, 2018; amended at 43 Ill. Reg. 727, effective December 18, 2018; amended at 43 Ill. Reg. 10124, effective August 27, 2019; amended at 44 Ill. Reg. 2363, effective January 17, 2020; amended at 44 Ill. Reg. 2845, effective January 30, 2020; emergency amendment at 44 Ill. Reg. 4700, effective March 4, 2020, for a maximum of 150 days.

SUBPART V: EMPLOYER'S RETURN AND PAYMENT OF TAX WITHHELD

Section 100.7390 Minimum Wage Tax Credit (IITA Section 704A(i)) EMERGENCY

a) Minimum Wage Credit. *Each employer with 50 or fewer full-time equivalent employees during the current reporting period may claim a credit against the payments due under* IITA Section 704A *in an amount equal to the maximum credit allowable. The credit may be taken against payments due for reporting periods that begin on or after January 1, 2020 and end on or before December 31, 2027. In no event may the credit exceed the employer's liability for the reporting period.* (IITA Section 704A(i)) No carryover of excess credit is allowed.

b) Definitions Applicable to this Section.

"Applicable percentage" means:

25% for reporting periods beginning on or after January 1, 2020 and ending on or before December 31, 2020;

21% for reporting periods beginning on or after January 1, 2021 and ending on or before December 31, 2021;

17% for reporting periods beginning on or after January 1, 2022 and ending on or before December 31, 2022;

13% for reporting periods beginning on or after January 1, 2023 and ending on or before December 31, 2023;

9% for reporting periods beginning on or after January 1, 2024 and ending on or before December 31, 2024;

5% for reporting periods beginning on or after January 1, 2025 and ending on or before:

December 31, 2026, for employers with more than 5 employees; and

December 31, 2027, for employers with no more than 5 employees. (IITA Section 704A(i))

"Base compensation" for a reporting period means the total compensation paid in Illinois during the fourth quarter of the calendar year prior to the reporting period to employees who earned less than the current minimum wage during that fourth quarter.

Compensation or wages "paid in Illinois" *has the meaning ascribed to that term under* IITA Section 304(a)(2)(B). If an employee's compensation is not subject to tax in another state, the compensation is presumed, subject to rebuttal, to be paid in Illinois.

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"Current compensation" for a reporting period means the sum of:

the total compensation paid in Illinois to eligible employees who earned no more than the current minimum wage during the reporting period, plus

for eligible employees who earned more than the current minimum wage at any time during the reporting period, the total hours worked in Illinois times the current minimum wage.

"Current employee" means an employee who was employed by the taxpayer during the current reporting period.

"Current minimum wage" means the minimum or reduced wage applicable to an employee by the Minimum Wage Law, 820 ILCS 105, for the current reporting period.

"Current reporting period" means the reporting period for which the taxpayer is calculating the minimum wage credit under this Section.

"Eligible employee" means any employee who earned no more than the current minimum wage for hours worked in Illinois for the employer during the reporting period and any employee who earned more than the current minimum wage for hours worked in Illinois for the employer at any time during the reporting period, but who earned less than the current minimum wage for hours worked in Illinois for the employer during the calendar year prior to the effective date of the current minimum wage. A recently hired employee is not an eligible employee. The total number of eligible employees for a current reporting period may not exceed the total number of employees who earned less than the current minimum wage for hours worked in Illinois for the employer at any time during the fourth quarter of the preceding calendar year.

"Employer" and "employee" *have the meaning ascribed to those terms in the Minimum Wage Law* [820 ILCS 105] *except that "employee" also includes employees who work for an employer with fewer than 4 employees.* (IITA Section 704A(i)) Members of a limited liability company who are treated as partners for federal and Illinois income tax purposes, but are employees within the meaning of the Minimum Wage Law, are employees for purposes of this credit.

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"Full-time equivalent employees" *means the ratio of the number of paid hours during the reporting period and the number of working hours in that period.* (IITA Section 704A(i)) A full-time equivalent employee shall be assumed to work 40 hours per week for 13 weeks for a total of 520 hours during a reporting period. The number of full-time equivalent employees for a reporting period means the number of employees working 40 hours per week that would be required to work the number of paid hours actually worked by all employees of the employer for that reporting period.

EXAMPLE: Taxpayer employs 56 employees who work 25,480 paid hours during a reporting period. 25,480 hours divided by 520 hours equals 49. Although employer employs 56 actual employees, only 49 full-time equivalent employees would be required to work the number of paid hours worked by all of the taxpayer's employees during the reporting period.

Hour "worked in Illinois" means an hour worked by an employee for which the compensation is paid in Illinois.

"Hourly employee" means an employee whose working hours are tracked and recorded by the employer during the reporting period, regardless of whether the employee is paid by the hour, by salary, by commission or any other measure.

"Maximum credit" for a current reporting period means the excess, if any, of the current compensation for the reporting period over the base compensation, multiplied by the applicable percentage, plus the credit for new eligible employees.

"New eligible employee" means an employee whose 90th consecutive day of employment for the employer occurred during the reporting period immediately preceding the current reporting period.

"Recently hired employee" means an employee who has been employed by the employer for less than 90 consecutive days as of the last day before the current reporting period.

"Reporting period" *means the quarter for which a return is required to be filed under* IITA Section 704A(b). (IITA Section 704A(i))

"Salaried employee" means an employee whose hours are not tracked and recorded by the employer during the reporting period. Salaried employees are deemed to have worked 40 hours per week for each week in which they were employed during a reporting period.

"Tipped employee" has the same meaning as found in 56 Ill. Adm. Code 210.110.

"Wages" means compensation, including bonus, overtime, and commission pay, of employees, but does not include fringe benefits.

Week "worked in Illinois" means a week worked by an employee for which the majority of hours worked by the employee were worked in Illinois.

c) Eligibility for the Credit − Maximum Number of Full-Time Equivalent Employees. A credit may be claimed under this section only by *an employer with 50 or fewer full-time equivalent employees during the current reporting period.* (IITA Section 704A(i)) Eligibility for the credit under this subsection shall be determined as follows:

1) Determine the number of hours worked by all salaried employees. Total the weeks worked by all salaried employees during the reporting period, rounded to the nearest whole week. Multiply the resulting number of weeks by 40 hours. Round the result to the nearest hour.

2) Total the hours worked by all hourly employees during the reporting period.

3) Determine the total hours worked by all employees by adding the number of hours worked by salaried employees to the number of hours worked by all hourly employees during the reporting period.

4) Determine the number of full-time equivalent employees by dividing the total hours worked by all employees during the reporting period by the 520 hours a full-time employee would work during the reporting period. Round the result up to the next higher whole number.

EXAMPLE: During a reporting period, the taxpayer employs 10 salaried employees who worked a total of 100 weeks during the reporting period and 30 hourly employees who worked a total of 15,000 hours. The salaried

employees are deemed to have worked 4,000 hours during the reporting period. All employees worked a total of 19,000 hours during the reporting period. Therefore, during the reporting period, 37 full-time equivalent employees would have been required to work all of the paid hours worked by the taxpayer's employees. ((100 weeks x 40 hours) + 15,000 hours)/520 = 36.54, rounded up to 37 full-time equivalent employees

5) If the total number of full-time equivalent employees is greater than 50, the taxpayer is not eligible for the credit.

d) Eligibility for the Credit − Increase in Compensation. *An employer shall not be eligible for credits under this Section for a reporting period unless the average wage paid by the employer per employee for all employees making less than $55,000 during the reporting period is greater than the average wage paid by the employer per employee for all employees making less than $55,000 during the same reporting period of the prior calendar year.* (IITA Section 704A(i)) Eligibility for the credit under this subsection shall be determined by computing the average wage paid to employees earning less than $55,000 during the current reporting period and during the same reporting period for the preceding calendar year as follows.

1) Total the actual amount of wages paid in Illinois to each employee earning less than $55,000 during the reporting period.

2) Determine the number of hours worked by all employees earning less than $55,000 during the reporting period by adding:

A) The total weeks worked by all salaried employees earning less than $55,000 during the reporting period, rounded to the nearest whole week, multiplied by 40 hours and rounded to the nearest hour, plus

B) The total hours worked by all hourly employees earning less than $55,000 during the reporting period.

3) Determine the average wage paid in Illinois during the reporting period to employees earning less than $55,000 by dividing the total wages paid to all employees earning less than $55,000 during the reporting period in subsection (d)(1), by the total number of hours worked by all employees

earning less than $55,000 during the reporting period, as calculated according to subsection (d)(2).

4) If the average wage paid in Illinois to all employees earning less than $55,000 during the current reporting period is less than or equal to the amount computed for the same reporting period during the preceding calendar year, the taxpayer does not qualify for the credit.

EXAMPLE: In the fourth reporting period of 2019, the taxpayer employed 10 salaried employees who worked a total of 100 weeks and 30 hourly employees who worked a total of 15,000 hours during the reporting period. All employees earned less than $55,000 during the reporting period. The taxpayer paid a total of $183,000 in wages to all 40 employees during the reporting period. The average wage paid in Illinois to all employees earning less than $55,000 during the reporting period was $9.63 per hour. $183,000/((100 weeks x 40 hours) + 15,000 hours) = $9.63/hour. During the fourth reporting period of 2020 the taxpayer employed 8 salaried employees who worked a total of 100 weeks and 32 hourly employees who worked a total of 16,000 hours during the reporting period. All employees earned less than $55,000 during the reporting period. The taxpayer paid a total of $224,000 in wages to all 40 employees during the reporting period. The average wage paid in Illinois to all employees earning less than $55,000 during the reporting period was $11.20 per hour. $224,000/((100 weeks x 40 hours) + 16,000 hours) = $11.20 per hour. $11.20 is greater than $9.63, therefore the taxpayer is eligible for the credit for the fourth reporting period of 2020.

e) Calculation of the Credit.

1) *For each reporting period, the number of eligible employees may not exceed the number of employees who, during the last reporting period of the preceding calendar year, made less than the current minimum wage* required by the Minimum Wage Law, 820 ILCS 105, *for the current reporting period.* (IITA Section 704A(i)) If the number of employees who would be eligible employees exceeds this limitation, the employer may choose which of the otherwise-eligible employees will be treated as eligible employees.

2) Recently hired employees. *An employer may not claim a credit for recently hired employees; however, such credits may accrue during the* current reporting period *and be claimed against payments under* IITA Section 704A *for future reporting periods after the employee has worked for the employer at least 90 consecutive days.* (IITA Section 704A(i))

A) Any credits accrued during the initial 90-day employment period must be used to calculate the credit during the reporting period directly following the reporting period during which the employee reached their 90th day of employment. Determine if any of the current employees qualify as recently hired employees who began their employment less than 90 consecutive days immediately preceding the start of the current reporting period.

B) The wages paid to recently hired employees cannot be used to calculate the credit for the current reporting period. Taxpayer shall record the wages paid to such employees for possible use in a future reporting period. The wages paid during the employee's first 90 consecutive days of employment may only be used to calculate the minimum wage credit in the reporting period immediately following the reporting period in which the employee reaches their 90th consecutive day of employment. If an employee does not reach their 91st day of employment, any wages earned by the employee are ineligible to be used to calculate the credit in future reporting periods.

EXAMPLE: Employee is hired by the taxpayer on January 6, 2020 and continues to be employed through December 31, 2020. During that time, the employee earns the minimum wage required for each reporting period in 2020. The employee's 90th day of consecutive employment is April 5, 2020, which occurs during the second reporting period of 2020. Because the employee's 90th consecutive day of employment did not occur prior to the start of the second reporting period of 2020, the taxpayer must use the wages earned by the employee during their first 90 consecutive days of employment to calculate the credit for the third reporting period in 2020.

3) Number of Eligible Employees. Determine the number of eligible employees for a reporting period as follows:

A) Determine the number of employees who earned less than the current minimum or reduced wage at any time during the last reporting period of the preceding calendar year.

B) Determine the number of current employees who were paid no more than the current minimum wage during the reporting period plus the number of current employees who earned more than the current minimum wage at any time during the reporting period, but were employed by the taxpayer and earned less than the current minimum wage at any time during the fourth reporting period of the preceding calendar year.

C) The number of eligible employees for the reporting period is the lesser of the amounts in (A) and (B).

f) Calculation of the Maximum Credit. The maximum credit for a current reporting period is comprised of two components: a credit for wages paid in the current reporting period to eligible employees, based on the increase in their wages attributable to an increase in the minimum wage, plus a credit for newly eligible employees equal to the credit that would have been earned for their increased wages in earlier reporting periods if they had been eligible employees during those reporting periods.

1) Computation of Credit for Eligible Employees. The credit for eligible employees is equal to the current compensation minus the base compensation, multiplied by the applicable percentage.

A) Current compensation is the sum of the total compensation paid in Illinois to eligible employees who earned no more than the current minimum wage during the reporting period, plus, for eligible employees who earned more than the current minimum wage at any time during the reporting period, the total hours worked in Illinois times the current minimum wage.

B) Base compensation is the total compensation paid in Illinois to employees earning less than the current minimum wage during the fourth quarter of the calendar year prior to the reporting period.

C) Applicable rate is the percentage in subsection (b).

EXAMPLE: In the fourth reporting period of 2019, taxpayer employed 10 tipped employees who earned the reduced wage of $4.95 authorized by Section 4(c) of the Minimum Wage Law, 820 ILCS 105. All employees were hired more than 90 days prior to the beginning of the reporting period. The employees worked a total of 5,200 hours during that reporting period. In the first reporting period of 2020, the taxpayer employed the same 10 employees who earned the applicable subminimum wage of $5.55 authorized by Section 4(c) of the Minimum Wage Law, 820 ILCS 105, and worked 5,200 hours. Taxpayer is entitled to a credit of $780. ((5,200 hours x $5.55) – (5,200 hours x $4.95)) x .25 = $780

2) Computation of Credit for New Eligible Employees. The credit for new eligible employees is equal to the excess, if any, of the credit for eligible employees for prior reporting periods, recomputed by determining the current compensation for each reporting period for which a new eligible employee was a recent employee as if that new eligible employee had been an eligible employee for that reporting period.

A) If treating all the new eligible employees as eligible employees for a prior reporting period would cause the number of eligible employees to exceed the maximum number determined under subsection (e)(3) for that reporting period, the employer shall determine the current compensation for that reporting period by including only the maximum number. For this purpose, the employer may choose which employees will be treated as eligible employees without regard to which employees were treated as eligible employees in the original computation of the credit for the reporting period.

B) The recomputed credit for a prior reporting period may not exceed the employer's liability for that reporting period.

C) The base compensation is not recomputed for purposes of computing this component of the maximum credit.

EXAMPLE: In the fourth reporting period of 2019, taxpayer employed 10 tipped employees who earned the reduced wage of $4.95 authorized by Section 4(c) of the Minimum Wage Law, 820 ILCS 105. All employees were hired more than 90 days prior to the beginning of the reporting period. The employees worked a total of 5,200 hours during that reporting period. 1 of the 10 employees resigned effective December 31, 2019. In the first reporting period of 2020, the taxpayer employed the remaining 9 employees. Taxpayer hired 1 additional employee on January 6, 2020 who continued to work for the employer through December 31, 2020. For the first 2 reporting periods of 2020, all 10 employees earned the applicable subminimum wage of $5.55 authorized by Section 4(c) of the Minimum Wage Law, 820 ILCS 105. During the 3rd reporting period of 2020, all 10 employees earned the applicable subminimum wage of $6.00 authorized by Section 4(c) of the Minimum Wage Law, 820 ILCS 105. During the first 3 reporting periods of 2020, the original 9 employees worked 4,680 hours and the 1 recently hired employee worked 520 hours during each reporting period. The 1 recently hired employee reached the 90th day of employment on April 5, 2010, during the 2nd reporting period of 2020. For the first reporting period of 2020, the taxpayer is entitled to a credit of $58.50. ((4,680 hours x $5.55) – (5,200 hours x $4.95)) x .25 = $58.50. The $2,886 in wages paid to the recently hired employee during the 1st reporting period does not count toward the 1st reporting period credit. 520 hours x $5.55 = $2,866. During the 2nd reporting period of 2020, the recently hired employee worked 30 hours between April 1, 2020 and April 5, 2020. Between April 6, 2020 and April 30, 2020, the recently hired employee worked 490 hours. The $166.50 in wages paid to the recently hired employee between April 1, 2020 and April 5, 2020, does not count towards the 2nd reporting period credit. 30 hours x $5.55 = $166.50. The remaining $2,719.50 in wages paid to the recently hired employee does count toward the 2nd reporting period credit. 490 hours x $5.55 = $2,719.50. Therefore, for the 2nd reporting period of 2020, the taxpayer is

entitled to a credit of $738.36. ((5,170 hours x $5.55) – (5,200 hours x $49.5)) x .25 = $738.36 The $3,032.50 in wages paid to the recently hired employee during the first 90 days may be applied to the 3rd reporting period credit calculation. 550 hours x $5.55 = $3,032.50. Therefore, for the 3rd reporting period of 2020, the taxpayer is entitled to a credit of $2,123.13. (((5,200 hours x $6.00) + (550 hours x $5.55)) – (5,200 hours x $4.95)) x .25 = $2,123.13.

g) *Each employer who deducts and withholds or is required to deduct and withhold tax under* the IITA *and who retains income tax withholdings* as a result of the credit allowed under IITA Section 704A(i) and this Section *must make a return with respect to those taxes and retained amounts in the form and manner that the Department, by rule, requires and pay to the Department or to a depositary designated by the Department those withheld taxes not retained by the employer.* (IITA Section 704A(i)) The amount of taxes withheld, and the credit claimed under this section for a current withholding period shall be reported on the taxpayer's Form IL-941, Illinois Withholding Income Tax Return, for the current reporting period.

(Source: Added by emergency rulemaking at 44 Ill. Reg. 4700, effective March 4, 2020, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SECOND NOTICES RECEIVED

The following second notices were received during the period of March 3, 2020 through March 9, 2020. The DES, HFS and DFPR rulemakings are scheduled for the March 18, 2020 meeting; other listed rulemakings are scheduled for the April 21, 2020 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
4/16/20	Employment Security, Payment of Unemployment Contribution, Interest and Penalties (56 Ill. Adm. Code 2765)	1/3/20 44 Ill. Reg. 38	3/18/20
4/16/20	Healthcare and Family Services, Child Support Services (89 Ill. Adm. Code 160)	11/1/19 43 Ill. Reg. 12811	3/18/20
4/18/20	Financial and Professional Regulation, Corporate Fiduciary Applications and Notices (38 Ill. Adm. Code 396)	1/3/20 44 Ill. Reg. 50	3/18/20
4/22/20	Children and Family Services, Employee Conflict of Interest (89 Ill. Adm. Code 437)	12/6/19 43 Ill. Reg. 13853	4/21/20
4/22/20	Education, Requirements for Accounting, Budgeting, Financial Reporting, and Auditing (23 Ill. Adm. Code 100)	12/2/19 43 Ill. Reg. 13700	4/21/20

PROCLAMATIONS

2020-15
Rare Disease Day

WHEREAS, there are nearly 7,000 diseases and conditions considered rare (each affecting fewer than 200,000 Americans) in the United States, according to the National Institutes of Health (NIH); and,

WHEREAS, while each of these diseases may affect small numbers of people, rare diseases as a group affect almost 30 million Americans; and,

WHEREAS, many rare diseases are serious and debilitating conditions that have a significant impact on the lives of those affected; and,

WHEREAS, while more than 450 drugs and biologics have been approved for the treatment of rare diseases according to the Food and Drug Administration (FDA), millions of Americans still have rare diseases for which there is no approved treatment; and,

WHEREAS, individuals and families affected by rare diseases often experience problems such as diagnosis delay, difficulty finding a medical expert, and lack of access to treatments or ancillary services; and,

WHEREAS, while the public is familiar with some rare diseases such as "Lou Gehrig's disease" and sympathetic to those affected, many patients and families affected by less widely known rare diseases bear a large share of the burden of funding research and raising public awareness to support the search for treatments; and,

WHEREAS, thousands of residents of Illinois are among those affected by rare diseases since nearly one in 10 Americans have rare diseases; and,

WHEREAS, the National Organization for Rare Disorders (NORD) is organizing a nationwide observance of Rare Disease Day on February 29, 2020; and,

WHEREAS, thousands of patients and caregivers, medical professionals, researchers, companies developing orphan products to treat people with rare diseases, and others in the state of Illinois will participate in that observance;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim February 29, 2020 as Rare Disease Day in Illinois.

Issued by the Governor February 4, 2020
Filed by the Secretary of State March 3, 2020

2020-16
Colon Cancer Awareness Month

WHEREAS, in Illinois and across the nation, we continue to see incidences of colorectal cancer (CRC) rise, especially in younger generations, with many lives lost far too soon; and,

WHEREAS, according to Fight CRC, 60 percent of colon cancer deaths could be prevented with early screenings, but there were an estimated 140,000 new cases of colon cancer in 2019; and,

WHEREAS, this horrendous disease does not discriminate based on gender, age, or race with one in 20 people diagnosed with colorectal cancer in their lifetimes; and,

WHEREAS, research is ongoing and crucial and important advances in treatments and genetic factors are being discovered every day; however, there is no cure, and many more lives will be cut short; and,

WHEREAS, more awareness of the risks factors for colorectal cancer, prevention methods and support, medical options and assistance for the patients, survivors, and families is vital;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby recognize the month of March 2020, as Colon Cancer Awareness Month in Illinois.

Issued by the Governor February 7, 2020
Filed by the Secretary of State March 3, 2020

2020-17
School Social Work Week

WHEREAS, school social workers in the state of Illinois and across the nation serve as vital members of the educational team, playing a central role in creating a positive school environment and facilitating partnerships among a student's home, school, and community to ensure academic success; and,

WHEREAS, school social workers are skilled in providing services to students who face serious challenges to school success, including poverty, disability, abuse, addiction, bullying, the divorce of parents, the loss of a loved one, and other barriers of learning; and,

WHEREAS, there is a growing need for local school districts and other educational agencies to address students' emotional, physical, and environmental needs so they can achieve academic success; and,

WHEREAS, school social workers have expertise in many areas such as mental health intervention, human growth and behavior, how family dynamics affect student achievement, child abuse and neglect, chemical health, and community resources; and,

WHEREAS, the celebration of School Social Work Week during the week of March 1-7, 2020 highlights the vital role school social workers play in the lives of students and families in the United States;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim March 1-7, 2020, as School Social Work Week in Illinois, in recognition of the contributions social workers make in the lives of students.

Issued by the Governor February 7, 2020
Filed by the Secretary of State March 3, 2020

2020-18
Arts Education Week

WHEREAS, the State of Illinois recognizes that arts education - which includes dance, media arts, music, theater and visual arts - is an essential part of basic education for all students, providing them with a balanced education that will aid in developing their full potential; and,

WHEREAS, the arts enrich the lives of students in Illinois and throughout the country by helping them to develop creative ability, self-expression, self-reflection, cognitive skills, discipline, and a heightened appreciation of beauty and cross cultural understanding; and,

WHEREAS, the arts are collectively an important repository of our culture and experience in the arts develops insights and abilities central to the experience of life; and,

WHEREAS, many national and state professional education associations hold celebrations in the month of March focused on students' participation in the arts; and,

WHEREAS, these celebrations give Illinois schools a unique opportunity to focus on the value of the arts for all students, to foster cross-cultural understanding, to recognize the state's outstanding young artists, to focus on careers in the arts available to Illinois students, and to enhance public support for this important part of their curriculum; and,

WHEREAS, the fine arts are a significant component of students' educational development, teaching them the language and production of the arts, and helping them understand the role of the arts in civilizations, past and present;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim March 16-20, 2020, as Arts Education Week in Illinois and encourage all citizens to celebrate the arts with meaningful student activities and programs that demonstrate learning and understanding in the visual and performing arts.

Issued by the Governor February 7, 2020
Filed by the Secretary of State March 3, 2020

2020-19
Endometriosis Awareness Month

WHEREAS, endometriosis affects thousands of individuals throughout Illinois, more than five million throughout the United States, and more than 200 million worldwide; and,

WHEREAS, the Endometriosis community is wide and diverse and includes all individuals living with endometriosis; and,

WHEREAS, widespread awareness, increased community engagement, and ongoing advocacy is critical to improving patients' quality of life and access to care; and,

WHEREAS, Endometriosis Awareness Day is supported by the Chronic Disease Coalition, a nonprofit organization dedicated to raising awareness, protecting the rights of chronic disease patients, and advocating for patient-first policies throughout the United States;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim March 10, 2020 as Endometriosis Awareness Day in Illinois and encourage all Illinoisans to join in this observance.

Issued by the Governor February 14, 2020
Filed by the Secretary of State March 3, 2020

2020-20
Multiple System Atrophy Awareness Month

WHEREAS, Multiple System Atrophy is a rare degenerative and terminal neurological disease, which has a distinctive impact on each patient; and,

WHEREAS, according to the Multiple System Atrophy Coalition, MSA affects approximately 50,000 Americans, including 2,000 in Illinois; and,

WHEREAS, symptoms include problems with balance, coordination, gait, bladder and bowel functions, speech, swallowing, and breathing ; and,

WHEREAS, a multidisciplinary approach to MSA care includes physical, psychological, and financial support for patients and caregivers, including support groups; and,

WHEREAS, there are some medications that treat the symptoms and some clinical trials for the development of improved treatment, much more research is needed for better management of the disease and ultimately, a cure; and,

WHEREAS, increased education and awareness are needed to assist in accurately diagnosing MSA and to raise funds for research for treatments with fewer side effects and ultimately a cure;

THEREFORE, I, JB Pritzker, Governor of the State Illinois, do hereby proclaim March 15, 2020 as Multiple System Atrophy Awareness Month in Illinois.

Issued by the Governor February 18, 2020
Filed by the Secretary of State March 3, 2020

2020-21
Sudden Unexplained Death in Childhood Awareness Month

WHEREAS, Sudden Unexplained Death in Childhood (SUDC) is a category of death in children between the ages of one and 18 that remains unexplained after a thorough investigation, including an autopsy; and,

WHEREAS, each year, there are approximately 400 cases of SUDC in the United States - including more than 240 younger children under the age of five – who die without any clear cause or explanation; and,

WHEREAS, while less common than Sudden Infant Death Syndrome (SIDS), which occurs before the first birthday, SUDC is an important health concern deserving of increased public awareness and research; and,

WHEREAS, SUDC is the fifth leading cause of death among children ages one to four, and at the present time, there is no way to prevent SUDC as its cause(s) is unknown, but it is hoped that future research will identify means by which SUDC can be prevented; and,

WHEREAS, we recognize the dedicated efforts of organizations such as the SUDC Foundation, medical professionals, medicolegal death investigators, and volunteers that are working to better understand the causes of sudden unexplained death, improve the health of infants and children,

and provide much needed hope and support for those families grieving the heartbreaking, sudden unexplained death of a child; and,

WHEREAS, Sudden Unexplained Death in Childhood Awareness Month provides an opportunity to honor the memory of the young lives that ended too soon, show encouragement and support for the families and loved ones forever devastated by their loss, and increase public awareness of SUDC and the ongoing search for answers;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim March 2020 as Sudden Unexplained Death In Childhood Awareness Month in Illinois.

Issued by the Governor February 18, 2020
Filed by the Secretary of State March 3, 2020

2020-22
National Engineering Week

WHEREAS, engineers use their scientific knowledge and specialized skills to improve nearly every aspect of our lives, including building our nation's infrastructure; and,

WHEREAS, engineers face the foremost challenges of our time – increasing transportation safety, protecting infrastructure, and safeguarding the vital connections of a vibrant transportation network – while anticipating future needs and leveraging new technology to positively impact generations to come; and,

WHEREAS, the Illinois Department of Transportation values the work of its nearly 1,100 civil, electrical, geotechnical, structural, hydraulic, and construction engineers to advance Illinois' evolving transportation infrastructure; and,

WHEREAS, the Illinois Department of Transportation's engineers create economic opportunity throughout the state by improving safety, connecting communities, and enhancing quality of life; and,

WHEREAS, the completion in 2019 of almost 700 highway and bridge projects, as well as investments in transit, aviation, rail, pedestrian, and bicycle accommodations, which provide access to jobs and facilitate long-term community growth throughout Illinois, would not have been possible without the contributions of engineers; and,

WHEREAS, Rebuild Illinois, adopted in 2019, will invest $33.2 billion in the state's horizontal infrastructure over the next six years, requiring the expertise of engineers to implement and deliver the largest capital program in state history; and,

WHEREAS, the Illinois Department of Transportation engineering team is dedicated to fostering the next generation of engineers through learning opportunities for students, such as career days and mentorship programs; and,

WHEREAS, the Illinois Department of Transportation proudly joins the country in celebrating National Engineers Week and its theme for 2020, "Engineers: Pioneers of Progress";

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim February 16-22, 2020 as National Engineering Week in Illinois

Issued by the Governor February 18, 2020
Filed by the Secretary of State March 3, 2020

2020-23
Poison Prevention Month

WHEREAS, all citizens of Illinois should be made aware of the ever-present dangers posed by potentially harmful household substances; and,

WHEREAS, children too often have access to over-the-counter and prescription medications and potentially toxic household products; and,

WHEREAS, during the past 58 years, the nation has observed National Poison Prevention Week to help prevent accidental poisonings and offer tips for promoting community involvement in poison prevention; and,

WHEREAS, as the oldest and one of the largest poison centers in the nation, the Illinois Poison Center has provided timely poison prevention and treatment services to the people of Illinois for more than 65 years; and,

WHEREAS, the Illinois Poison Center is a mainstay in the emergency medical care system of the State of Illinois and is recognized nationally for its contributions to poison treatment and prevention; and,

WHEREAS, 42 percent of nearly 80,000 poisonings reported last year to the Illinois Poison Center involved children younger than the age of five, and could have been prevented; and,

WHEREAS, the Illinois Poison Center manages 90 percent of the poison exposure calls from the public at the site of exposure eliminating the need for a referral to a health care facility, saving

the State of Illinois more than $60 million a year in reduced health care and lost productivity costs;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim March 2020 as Poison Prevention Month in Illinois and encourage all citizens to learn more about the Illinois Poison Center's prevention programs and alert citizens of the continuous problem of accidental poisonings and steps that can be taken to create healthy and safe home, play, learning and work environments.

Issued by the Governor February 18, 2020
Filed by the Secretary of State March 3, 2020

2020-24
Seed Month

WHEREAS, the abundance of Illinois' crops relies on fertile soil, diligent farmers, and high-quality seeds; and,

WHEREAS, to ensure seeds are of the highest quality, there must be agricultural-minded seed producers, conscientious inspectors, skilled technicians, and concerned dealers; and,

WHEREAS, agriculture and the seed industry significantly contribute to our state's economy with value-added products marketed throughout the world; and,

WHEREAS, the Bureau of Agricultural Products Inspection within the Illinois Department of Agriculture tests the purity and germination of seeds, validates the accuracy of product labels, and cooperates with the Illinois Crop Improvement Association, which is the state's official seed-certifying agency and an independent, non-profit organization; and,

WHEREAS, in cooperation with educational and regulatory agencies, the Illinois Seed (Trade) Association has sustained an informed membership, the latest research developments, the production of high-quality seed, and developed an effective seed program, advocating for their members' interests;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim April 2020 as Seed Month in Illinois in appreciation of the seed industry's contribution to supplying food and fiber to the world through the production of Illinois crops.

Issued by the Governor February 18, 2020
Filed by the Secretary of State March 3, 2020

PROCLAMATIONS

2020-25
Telecommunications Week

WHEREAS, specialists in operating state-of-the-art radio and computer aided communications systems, known as public safety telecommunicators, are a cornerstone of the public safety community; and,

WHEREAS, every hour of every day telecommunicators access, monitor, and disseminate information of critical importance to the safety of public officials and success of public safety goals; and,

WHEREAS, these professional men and women effectively and efficiently function to help ensure the safety and protection of life, property, and individual rights of the residents of the state of Illinois; and,

WHEREAS, it is appropriate that we demonstrate our appreciation of their knowledge, training, service, and dedication;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim April 12 - 18, 2020 as Telecommunications Week in Illinois in recognition of the vital contributions telecommunicators make to the safety and well-being of our state.

Issued by the Governor February 18, 2020
Filed by the Secretary of State March 3, 2020

2020-26
National Kidney Month

WHEREAS, chronic kidney disease is the progressive, gradual loss of kidney function which results in a decrease in the ability of the kidneys to remove waste from the body; and,

WHEREAS, it is estimated that 37 million adults in the United States have chronic kidney disease, and of those, approximately 90 percent remain undiagnosed; and,

WHEREAS, without diagnosis and treatment to slow the progression of the disease, chronic kidney disease can progress to end-stage renal failure which is fatal without dialysis or kidney transplant; and,

WHEREAS, kidney disease is the ninth leading cause of death in the United States and the eighth leading cause of death in the state of Illinois; and,

WHEREAS, regular screening and early detection can prevent the progression of kidney disease to kidney failure, so the month of March is designated as National Kidney Month to raise awareness of kidney disease and the importance of prevention and early detection;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby recognize March 2020 as National Kidney Month in the state of Illinois.

Issued by the Governor February 18, 2020
Filed by the Secretary of State March 3, 2020

2020-27
Bleeding Disorders Awareness Month

WHEREAS, in 2019, 25 states and 54 local governments passed a proclamation declaring March as Bleeding Disorders Awareness Month; and,

WHEREAS, these bleeding disorders, which share the inability to form a proper blood clot, are characterized by extended bleeding after injury, surgery, trauma or menstruation and can lead to significant morbidity or fatality if not treated effectively; and,

WHEREAS, Bleeding Disorders Awareness Month will generate greater awareness and understanding of not only hemophilia but all inheritable bleeding disorders, including von Willebrand disease, which alone impacts an estimated one percent of the U.S. population or more than 3.2 million individuals; and,

WHEREAS, Bleeding Disorders Awareness Month will elevate awareness of and engagement in the inheritable bleeding disorders journey beyond those impacted to the general public, enabling the prevention of illness, unnecessary procedures, and disability;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim the month of March 2020, as Bleeding Disorders Awareness Month in the State of Illinois.

Issued by the Governor February 19, 2020
Filed by the Secretary of State March 3, 2020

2020-28
National Foreign Language Week

WHEREAS, Alpha Mu Gamma, founded in 1931, is one of the largest foreign language honorary societies in the nation, with 353 chapters in 44 states, Puerto Rico, and the US Virgin Islands; and,

WHEREAS, Alpha Mu Gamma recognizes academic excellence and highlights the importance of world language study; its motto "Enlightenment, Friendship and Sympathetic Understanding of Other Peoples," underscores how the study of other languages can contribute to cross-cultural exchange and to the development of international understanding; and,

WHEREAS, these cross-cultural skills can play a crucial role in the education of our young people for the challenges of the 21st century, and Illinois needs residents with knowledge of foreign languages to become the educators, leaders, and entrepreneurs of a vibrant new economy in our state; and,

WHEREAS, National Foreign Language Week began in 1957, when then-president of Alpha Mu Gamma, Sister Eloise-Thérèse, petitioned U.S. President Dwight D. Eisenhower to set aside a week of observance for foreign languages; thereafter, each succeeding President of the United States and many state governors have endorsed the celebration, officially proclaimed on the first full week of March each year;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim March 1-7, 2020 as National Foreign Language Week in Illinois.

Issued by the Governor February 19, 2020
Filed by the Secretary of State March 3, 2020

2020-29
Turner Syndrome Awareness Month

WHEREAS, Turner Syndrome (TS) is a chromosomal condition that occurs when one of the two X chromosomes normally found in females is missing or contains structural defects; and,

WHEREAS, there is currently no known cause for TS, which affects approximately one out of every 2,500 live female births; and,

WHEREAS, there are over 70,000 women and girls with TS living in the United States; and,

WHEREAS, the symptoms of TS can vary depending on the severity of the chromosomal defect, but almost all girls and women with the syndrome experience ovarian failure and infertility; and,

WHEREAS, other characteristics of TS may include congenital heart disease, osteoporosis, type II diabetes, obesity, and non-verbal learning disabilities; and,

WHEREAS, TS Awareness Month will also provide the opportunity to share experiences and information with the general public to raise awareness about TS to provide support and comfort to those living with the disorder;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim the month of February 2020 as Turner Syndrome Awareness Month in Illinois and encourage all citizens to join me in this worthy observance.

Issued by the Governor February 19, 2020
Filed by the Secretary of State March 3, 2020

2020-30
Illinois Early Hearing Detection and Intervention (EHDI) Day

WHEREAS, in Illinois over 300 children are identified as Deaf and Hard of Hearing; and,

WHEREAS, approximately 143,000 infants receive hearing screenings in Illinois every year; and,

WHEREAS, the state of Illinois realizes the importance of universal hearing screening for newborns and their impact on the lives of our children as well as their families and communities; and,

WHEREAS, the Illinois Department of Human Services, Illinois Department of Public Health, Division of Specialized Care for Children, Bureau of Early Intervention, hospital personnel, healthcare professionals, community-based organizations, and individuals who are Deaf, DeafBlind, and Hard of Hearing work together to ensure that families receive follow-up diagnostic testing and information about language, communication, opportunities, and services for their children; and,

WHEREAS, community members and advocates strive to create ongoing awareness of the importance of early hearing detection and intervention so that babies identified as Deaf, DeafBlind, and Hard of Hearing receive early intervention services in a timely fashion;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim March 5, 2020 to be Illinois Early Hearing Detection and Intervention (EHDI) Day.

Issued by the Governor February 19, 2020
Filed by the Secretary of State March 3, 2020

2020-31

PROCLAMATIONS

Operation Endangered Species Day

WHEREAS, the protection and recovery of animal and plant species threatened with extinction is a priority not only to enhance our quality of life but also to ensure survival of humankind into the future; and,

WHEREAS, Operation Endangered Species, an educational program first established in 2011 at Pontiac Township High School, seeks to develop new educational strategies to increase student awareness of the critical need for environmental protection and the recovery of endangered species populations; and,

WHEREAS, starting with seven endangered alligator snapping turtles, the Pontiac Operation Endangered Species organization successfully increased the species numbers to more than 500 turtles now dwelling in the species' historic southern Illinois range; and,

WHEREAS, Operation Endangered Species is now established in 20 schools throughout Illinois, with students from each school learning and working to protect and recover endangered species populations; and,

WHEREAS, Operation Endangered Species has joined nominees from throughout around the globe as a finalist for the Indianapolis Prize from the Indianapolis Zoo, the world's leading award for animal conservation efforts, recognizing Illinois students' position at the forefront of innovative research, scientific advances and efforts to bring back species from the brink of extinction; and,

WHEREAS, Operation Endangered Species encourages citizens and public officials to protect remaining ecosystem fragments for the benefit of endangered species; mainstream sustainable farming practices such as reducing soil erosion and preventing nitrogen from entering freshwater resources; establish "Green" cities to reduce carbon emissions, prevent urban sprawl and provide access to nature for urban dwellers' health and well-being; and,

WHEREAS, Operation Endangered Species continues to expand and encourage students to take advantage of their right to improve the environment as well as their communities by participating in programs to protect endangered species;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim March 20, 2020, to be Operation Endangered Species Day to raise awareness of the plight of our endangered species and encourage efforts to protect them from extinction.

Issued by the Governor February 20, 2020
Filed by the Secretary of State March 3, 2020

2020-32
Illinois Reads Day

WHEREAS, "Illinois Reads" is a yearly statewide project meant to promote reading and literacy for all Illinois citizens and is brought to you annually by the Illinois Reading Council; and,

WHEREAS, Honorary Chair, Secretary of State and State Librarian, Jesse White, along with officials of the Illinois State Library, local organizations and book sellers, annually choose 36 books written by Illinois authors for all ages; and,

WHEREAS, "Illinois Reads" focuses on reading at home and in the classroom and also emphasizes summer reading as a way to not only bring the family closer together, but also to combat what is known as "summer learning loss" in children; and,

WHEREAS, this initiative encourages people to read books by Illinois authors and each year "Illinois Reads" celebrates in March with a Book Festival and concludes in November with Jesse White's annual statewide "Family Reading Night," and,

WHEREAS, this year's celebration of "Illinois Reads" and yearly Book Festival will be held on Saturday, March 14 from 10 am to 2 pm at the Illinois Valley Community College at 815 North Orlando Smith Road, Oglesby, Illinois, and everyone is invited to participate; and,

WHEREAS, 25 Illinois authors will be on-hand for the event and participants are encouraged to bring their own books or purchase them on-site for autographs during various workshops and meet and greets held at the event;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim, March 14, 2020, as Illinois Reads Day in Illinois, in support of promoting literacy for all throughout our state.

Issued by the Governor February 24, 2020
Filed by the Secretary of State March 3, 2020

2020-33
Small Business Development Center Day

WHEREAS, America's Small Business Development Center (SBDC) network is the most comprehensive small business assistance network in the United States and its territories; and,

WHEREAS, SBDCs have been helping small businesses succeed and aspiring entrepreneurs achieve the American dream of owning their own business for 40 years; and,

WHEREAS, Illinois joined America's SBDC network in 1984; and,

WHEREAS, the Illinois SBDC network provides one-on-one business advice, training, information, access to critical resources, and ongoing guidance to help existing small companies and pre-venture entrepreneurs grow their businesses; and,

WHEREAS, in 2019, the Illinois network of SBDCs served 21,909 customers and created or retained 5,484 jobs across 35 centers; and,

WHEREAS, 654 new Illinois businesses were started and expanded in 2019 due to the work done by these centers; and,

WHEREAS, clients of the Illinois SBDC network generated $5.1 million in state and federal tax revenues, and Illinois taxpayers saw a $3.94 return on each dollar invested; and,

WHEREAS, Illinois is committed to creating a business-friendly environment that supports business and entrepreneurs in every corner of the state;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim March 18, 2020 as Small Business Development Center Day in Illinois.

Issued by the Governor February 24, 2020
Filed by the Secretary of State March 3, 2020

2020-34
Youth Art Month

WHEREAS, the study of art leads to a fuller, more meaningful life; and,

WHEREAS, art education provides substantial educational benefits to all elementary, middle and secondary students; and,

WHEREAS, art education develops students' creative potential and improves problem-solving and critical thinking skills by reinforcing and bringing to life what students learn in other subjects; and,

WHEREAS, art education teaches sensitivity to beauty, order and other expressive qualities, and also gives students a deeper understanding of multi-cultural values and beliefs; and,

WHEREAS, art education advances student mastery in art production, art history, art criticism and aesthetics; and,

WHEREAS, our national leaders have acknowledged the necessity of including art experiences in all students' education; and,

WHEREAS, the National Art Education Association, in conjunction with the Illinois Art Education Association strives to improve the wellbeing of our communities by upgrading visual awareness of the cultural strengths of Illinois and the United States as a whole; and,

WHEREAS, the residents of Illinois have joined the National Art Education Association and the Illinois Art Education Foundation in supporting the youth of our community in their intellectual development through artistic endeavors, and offering support to our committed art teachers;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim March 2020 as Youth Art Month, and all residents are urged to give their full support to quality school arts programs for our youth.

Issued by the Governor February 24, 2020
Filed by the Secretary of State March 3, 2020

2020-35
Child Abuse Prevention Month

WHEREAS, every child deserves to grow up in a nurturing environment, free from abuse, neglect, violence, or endangerment of any kind; and,

WHEREAS, child abuse and neglect cause serious harm to child development and has lifelong effects that endanger safety, hinder permanency in relationships, and reduces well-being, creating greater demands on society; and,

WHEREAS, child abuse prevention is a shared responsibility and finding solutions requires the involvement and collaboration of citizens, organizations, and government entities throughout Illinois and the country; and,

WHEREAS, Illinoisans make more than 250,000 calls to the Illinois Child Abuse Hotline each year, offer temporary safe haven for more than 16,000 children as foster families, and have provided permanent, loving homes for more than 16,000 children through adoption over the last decade; and,

WHEREAS, child abuse prevention programs in Illinois are effective because of partnerships created by the Illinois Department of Children and Family Services, Prevent Child Abuse Illinois, Children's Home + Aid Society of Illinois, Children's Advocacy Centers of Illinois, Voices for Illinois Children and other government entities, social services agencies, schools, religious organizations, law enforcement agencies, businesses, and individual citizens;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim April 2020 as Child Abuse Prevention Month in Illinois, and encourage all citizens to respond to the call of "How will you help?" by supporting child abuse prevention programs and reporting suspected cases of abuse to the Illinois Child Abuse Hotline at (800) 25-ABUSE.

Issued by the Governor February 25, 2020
Filed by the Secretary of State March 3, 2020

2020-36
National Black Nurses Day

WHEREAS, the World Health Organization has designated 2020 the "Year of the Nurse and Midwife"; and,

WHEREAS, nurses and midwives account for more than 50 percent of the global health workforce; and,

WHEREAS, in 1988, Congress declared the first Friday of February as National Black Nurses Day to acknowledge Black nurses and their contribution to healthcare; and,

WHEREAS, this year the Chicago Chapter of the National Black Nurses' Association, Alpha Eta Chapter of Chi Eta Phi Sorority, Inc., Beta Mu Chapter of Lambda Pi Alpha Sorority and Provident Hospital Nurses Alumni Association are joining hands to celebrate this day which falls on February 1;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim February 1, 2020 as NATIONAL BLACK NURSES DAY in Illinois, to promote the nursing profession and recognize all of the Black nurses for their commitment and dedication to the medical profession and to the wellbeing of their patients.

Issued by the Governor February 27, 2020
Filed by the Secretary of State March 3, 2020

2020-37
Day of the Horse

WHEREAS, the State of Illinois recognizes the role of equines in the economy, history, and character of Illinois, which can be traced back to when our forefathers used horses to transport people and goods, clear and till the land, harvest and thresh grains, herd cattle, power mills, pull barges, serve in the military, fight fires, and deliver mail; and,

WHEREAS, the horses of today are vital in providing therapeutic aid to veterans and persons with disabilities, continuing to work our farms, and using for pleasure riding and race at tracks across Illinois; and,

WHEREAS, there are equine properties of all sizes in Illinois, including breeding farms, boarding and training facilities, riding schools, small acreage farmettes, showgrounds, equine-based therapy centers; and,

WHEREAS, equine operations encompass thousands of acres, making for a significant part of our land kept in open space, pasture and forestland; and,

WHEREAS, horses are the source of Illinois jobs and income for thousands of residents, both directly and indirectly, including services such as veterinarians, trainers, farriers, chiropractors, grooms, stable hands, entertainers, carriage/sleigh/hay wagon drivers, jockeys, and sellers of goods such as lumber, hay, grain, grass seed, bedding, tack, trucks, horse trailers, and more; and,

WHEREAS, the Horsemen's Council of Illinois helps promote and educate the public about the importance of horses in Illinois; and,

WHEREAS, there are many significant benefits brought to Illinois agriculture, tourism, and quality of life through the equine industry;

THEREFORE, I, JB Pritzker, Governor of the State of Illinois, do hereby proclaim March 6, 2020, as Day of the Horse in Illinois, and urge our citizens to recognize the importance of horses to our security, economy, recreation, and heritage, and to lend their enthusiastic support to Illinois' equine industry.

Issued by the Governor February 27, 2020
Filed by the Secretary of State March 3, 2020

2020-38
Gubernatorial Disaster Proclamation

WHEREAS, in late 2019, a new and significant outbreak of Coronavirus Disease 2019 (COVID-19) emerged in China; and,

WHEREAS, COVID-19 is a novel severe acute respiratory illness that can spread among people through respiratory transmissions and present with symptoms similar to those of influenza; and

WHEREAS, certain populations are at higher risk of experiencing more severe illness as a result of COVID-19, including older adults and people who have serious chronic medical conditions such as heart disease, diabetes, or lung disease; and

WHEREAS, we are continuing our efforts to prepare for any eventuality given that this is a novel illness and given the known health risks it poses for the elderly and those with serious chronic medical conditions; and

WHEREAS, the World Health Organization declared COVID-19 a Public Health Emergency of International Concern on January 30, 2020, and the United States Secretary of Health and Human Services declared that COVID-19 presents a public health emergency on January 27, 2020; and

WHEREAS, the World Health Organization has reported 109,578 confirmed cases of COVID-19 and 3,809 deaths attributable to COVID-19 globally as of March 9, 2020; and

WHEREAS, in response to the recent COVID-19 outbreaks in China, Iran, Italy and South Korea, the Centers for Disease Control and Prevention ("CDC") has deemed it necessary to prohibit or restrict non-essential travel to or from those countries; and

WHEREAS, the CDC has advised older travelers and those with chronic medical conditions to avoid nonessential travel, and has advised all travelers to exercise enhanced precautions; and

WHEREAS, the CDC currently recommends community preparedness and everyday prevention measures be taken by all individuals and families in the United States, including voluntary home isolation when individuals are sick with respiratory symptoms, covering coughs and sneezes with a tissue, washing hands often with soap and water for at least 20 seconds, use of alcohol-based hand sanitizers with at least 60% alcohol if soap and water are not readily available, and routinely cleaning frequently touched surfaces and objects to increase community resilience and readiness for responding to an outbreak; and

WHEREAS, a vaccine or drug is currently not available for COVID-19; and

WHEREAS, in communities with confirmed COVID-19 cases, the CDC currently recommends mitigation measures, including staying at home when sick, when a household member is sick with respiratory disease symptoms or when instructed to do so by public health officials or a health care provider and keeping away from others who are sick; and

WHEREAS, despite efforts to contain COVID-19, the World Health Organization and the CDC indicate that it is expected to spread; and

WHEREAS, there are currently 11 confirmed cases of COVID-19 and an additional 260 persons under investigation in Illinois; and

WHEREAS, one of the confirmed cases of COVID-19 in Illinois has not been linked to any travel activity or to an already-confirmed COVID-19 case, which indicates community transmission in Illinois; and

WHEREAS, based on the foregoing, the circumstances surrounding COVID-19 constitute a public health emergency under Section 4 of the Illinois Emergency Management Agency Act; and

WHEREAS, it is the policy of the State of Illinois that the State will be prepared to address any disasters and, therefore, it is necessary and appropriate to make additional State resources available to ensure that the effects of COVID-19 are mitigated and minimized and that residents and visitors in the State remain safe and secure; and

WHEREAS, this proclamation will assist Illinois agencies in coordinating State and Federal resources, including the Strategic National Stockpile of medicines and protective equipment, to support local governments in preparation for any action that may be necessary related to the potential impact of COVID-19 in the State of Illinois; and

WHEREAS, these conditions provide legal justification under Section 7 of the Illinois Emergency Management Agency Act for the issuance of a proclamation of disaster.

NOW, THEREFORE, in the interest of aiding the people of Illinois and the local governments responsible for ensuring public health and safety, I, JB Pritzker, Governor of the State of Illinois, hereby proclaim as follows:

Section 1. Pursuant to the provisions of Section 7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7, I find that a disaster exists within the State of Illinois and specifically declare all counties in the State of Illinois as a disaster area.

Section 2. The Illinois Department of Public Health and the Illinois Emergency Management Agency are directed to coordinate with each other with respect to planning for and responding to the present public health emergency.

Section 3. The Illinois Department of Public Health is further directed to cooperate with the Governor, other State agencies and local authorities, including local public health authorities, in the development of strategies and plans to protect the public health in connection with the present public health emergency.

Section 4. The Illinois Emergency Management Agency is directed to implement the State Emergency Operations Plan to coordinate State resources to support local governments in disaster response and recovery operations.

Section 5. To aid with emergency purchases necessary for response and other emergency powers as authorized by the Illinois Emergency Management Agency Act, the provisions of the Illinois Procurement Code that would in any way prevent, hinder or delay necessary action in coping with the disaster are suspended to the extent they are not required by federal law. If necessary, and in accordance with Section 7(1) of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7(1), the Governor may take appropriate executive action to suspend additional statutes, orders, rules, and regulations.

Section 6. Pursuant to Section 7(3) of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7(3), this proclamation activates the Governor's authority, as necessary, to transfer the direction, personnel or functions of State departments and agencies or units thereof for the purpose of performing or facilitating emergency response programs.

Section 7. The Illinois Department of Public Health, Illinois Department of Insurance and the Illinois Department of Healthcare and Family Services are directed to recommend, and, as appropriate, take necessary actions to ensure consumers do not face financial barriers in accessing diagnostic testing and treatment services for COVID-19.

Section 8. The Illinois State Board of Education is directed to recommend, and, as appropriate, take necessary actions to address chronic absenteeism due to transmission of COVID-19 and to alleviate any barriers to the use of e-learning during the effect of this proclamation that exist in the Illinois School Code, 105 ILCS 5/1-1 et. seq.

Section 9. Pursuant to Section 7(14) of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7(14), increases in the selling price of goods or services, including medical supplies, protective equipment, medications and other commodities intended to assist in the prevention of or treatment and recovery of COVID-19, shall be prohibited in the State of Illinois while this proclamation is in effect:

Section 10. This proclamation can facilitate a request for Federal emergency and/or disaster assistance if a complete and comprehensive assessment of damage indicates that effective recovery is beyond the capabilities of the State and affected local governments.

Section 11. This proclamation shall be effective immediately and remain in effect for 30 days.

Issued by the Governor: March 9, 2020
Filed by the Secretary of State: March 9, 2020

ILLINOIS ADMINISTRATIVE CODE
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